

OBSERVING REVOLUTION

A special edition of the Susquehanna • Community Environmental Legal Defense Fund



TIMES OF SYSTEM CHANGE

In the midst of historic Black Lives Matter uprisings, critics say: “but what is it really accomplishing?” not realizing that the protests are shifting the conditions of political action itself. Indeed, when movements are so structural—as to seek transformations of “public safety” and self-governance—it may be hard to observe their immediate impact.

The impact of rights-based community organizing (pg. 3), complementary and in solidarity with aims of the police abolition movement (pg. 2), can similarly take a trained eye to notice.

How can we develop creative forms of governance? How do we recreate public safety? What ends should it serve? Who and what should it serve? What is the purpose of the law?

Through “Community Rights” and “Rights of Nature” lawmaking, fundamental changes to the purpose of the law are being articulated, drafted, and enacted at the local level.

Like prior people’s movements, the Community Rights

and Rights of Nature movement has experienced consistent, though nonlinear, growth. Tireless hours of community engagement, petition gathering, and other forms of collective action and community building have produced historic victories along with periods of dormancy, and setbacks—all leading up to what is today a moment of accelerated interest and momentum.

Some of the world’s most famous press outlets are starting to notice. Culture is shifting. Alternatives are forming.

A dedicated and defiant movement is emerging in the context of state austerity, corporate welfare, and movements for racial justice that challenge the purpose of the law.

CENSORING THE BALLOT

Across the nation, judges and unelected officials, including boards of elections, have undercut ballot access for initiatives. This has been exacerbated by the pandemic. We see, from coast-to-coast, blatant political handling of the process that benefits the existing political structures, at the detriment of needed and often transformative change that direct democracy can provide. Many ballots this November will not feature questions that rightfully should be on the ballot.

CELDF has been engaged in ongoing litigation in *Lyons v. City of Columbus* and *Beiersdorfer v. LaRose* (now in appeal) to defend direct democracy powers for communities in Ohio. It isn’t just about the system controlling who gets to vote, but also what we get to vote on. Check CELDF.org for updates.

DEFUNDING THE POLICE

CELDF and partner attorneys are crafting a rights-based ordinance for structural municipal policing change. It advances a framework of law that guarantees the exercise of human and civil rights free from state-funded violence, nourishing community services, local community self-government, and the right of people regardless of material wealth, to survive and enjoy freedom of movement. It also offers planned phase-out policies for police budgets, new responsibilities for municipal governments, and language for a slew of actionable short-term reforms. For more information contact info@celdf.org.

Our corporate state needs police to keep racial capitalism going. However, politicians, corporations, and the media go to extreme lengths to distort what police abolitionists mean when we say "defund the police," in order to protect their power.

"Defund the police" means drastically reducing the amount of public money and resources our government spends on police while prioritizing restorative alternatives. Defunding the police is not about undermining public safety—but rather about advancing alternatives to modern policing and recognizing that police are a toxic way of responding to social issues, and that in fact they are a driver of violence, not a deterrent or a solution to it.

As Angela Davis recently said: "I would say that abolition is not primarily a negative strategy. It's not primarily about dismantling, getting rid of, but it's about reenvisioning. It's about building anew. And I would argue that abolition is a feminist strategy. And one sees in these abolitionist demands that are emerging the pivotal influence of feminist theories and practices." It moves us closer to a form of government that does not see law as merely coercive.

Police are the solution that politicians offer society, to provide "law and order." But the police don't actually provide "order" for people. They merely implement "laws" to secure the status quo that undermines life and places a privileged class above the law. Police are a false solution because the root of societal violence is systemic

oppression, not the inherent criminality of certain (poor, Black, disabled, queer, immigrant) people. Police allow politicians to criminalize and further profit from systemic poverty rather than protect people and the planet.

Not only do police cause violence directly, as seen in streets across the nation, police also fail to prevent it. Police show up after violence has already happened, rarely in time to intervene.

To effectively reduce violence we must allocate public resources towards harm prevention rather than criminal punishment, which is itself incredibly violent. Abolitionists recognize that police budgets take resources away from communities that could otherwise begin to address the root cause of the behaviors that make us believe we need police in the first place. Progressively shifting funding away from police and towards meeting people's basic needs can create a positive feedback loop until even the perceived need for modern policing no longer exists.

Public resources make us safer. Meeting people's needs ends the cycles of violence. We must defund the police to free up resources to invest in things like education, health care, housing, retirement, mental health and addiction treatment, sustainable food systems, and work.

It is long past the time for us to realize that existing laws and the existing enforcement mechanisms for these laws have the dual goals of appearing to protect us while in reality doing the exact opposite. It is time to reject the current of governance that guarantees the safety of privileged corporate property over the safety of people.

Those questions lead to larger questions: What is the purpose of the law? How does a law become legitimate and who does it serve?

Contact info@celdf.org for more information about CELDF's draft rights-based policing ordinance.



NEW HAMPSHIRE

In New Hampshire, at the 2006 annual town meeting in Barnstead, residents enacted a first-in-the-nation law prohibiting corporate water extractions. The law asserts the rights of residents to water and to local self-government, and rejects the corporate-claimed right to take community water for profit. Nearly a dozen other communities in New Hampshire have adopted similar rights-based ordinances in the years since, addressing a range of corporate threats.

Building on this statewide momentum, in 2016, neighboring Barrington passed a law protecting townspeople and ecosystems from commercial water and mineral mining, and toxic waste disposal. Barrington's law recognizes rights for both human and natural communities to access pure, uncontaminated water, air, and soil, and the right to scenic preservation of unspoiled vistas. Together, these laws provide the foundation for their rural life and the economic sustainability of local businesses.

In 2019, a first-in-the-state "Right to a Healthy Climate Ordinance" was passed by the townspeople of Exeter. A proposed fracked gas pipeline was planned to cut through the middle of town. Exeter residents adopted the healthy climate ordinance to protect local waterways, ground water, and the Piscataqua River Watershed, which provides drinking water to hundreds of thousands of people in New Hampshire, Maine, and Massachusetts. Exeter's healthy climate ordinance secures the right of all inhabitants of the town, both human and natural, to a healthy climate system. It bans all corporate activities that would infringe on those rights, including fossil fuel pipelines.

CLAIMED DISCRIMINATION AGAINST CORPORATIONS

Four days after Exeter's law was passed, the townspeople of Nottingham passed a law of their own to secure an enforceable right to a climate that is "capable of sustaining human societies." Eleven days later, corporate

interests filed a lawsuit to overturn Nottingham's law. Among the objections: the law discriminates against corporations.

The ordinance bans corporate toxic waste dumping, hazardous waste landfills, and new fossil fuel infrastructure. It builds upon a 2008 law that stands today and which successfully defeated an effort to privatize local water in the town.

Local New Hampshire rights-based laws have recognized the rights of people and ecosystems to protect themselves from the highly controversial Northern Pass project, the Kinder Morgan Northeast Energy Direct project, the Granite Bridge Pipeline, and others. Work has been ongoing in New Hampshire for over a decade, including in communities like Alexandria, Danbury, Hebron, and Grafton. Organizing efforts have led to the state legislature voting on Community Rights and Rights of Nature state constitutional change three times.

OHIO

Recently, community efforts in Ohio have gained international acclaim. Toledo, Ohio, residents drafted and, in 2019, adopted a Rights of Nature law using Ohio's local ballot initiative process. The adoption of the Lake Erie Bill of Rights has permanently altered the political consciousness of the Great Lakes region. Toledo residents' action inspired communities globally—and locally—to engage in radical lawmaking. LEBOR captured the imagination of millions, advancing an uncompromising vision for rights of ecosystems that compliments a powerful human right to water—all in defiance of corporate legal supremacy. Toledoans understand that people and Nature are not separate living entities. They understand that what happens to Nature, Lake Erie in particular, directly affects them.

LEBOR helped launch the broader movement's tactics and visions into the mainstream. But it does not exist in

a vacuum; rather, is part of a movement ecosystem.

Organizing in Ohio has been ongoing since 2012, leading to the passage of six community rights laws and the proposal of 35 more. These efforts have navigated, confronted, and adapted to calculated backlash and intimidation from the State of Ohio and highly influential corporate lobbies. Like water, the movement has morphed and adapted to whatever opposition it confronts—while maintaining its strength.

HOW MOVEMENTS GROW

LEBOR, the latest community rights and Rights of Nature law to be adopted in Ohio, was the first law passed in the United States that focused on the rights of a specific ecosystem. The larger movement, with all its setbacks, successes, and lessons learned, are responsible for LEBOR's passage and success. More communities are building off LEBOR.

These dynamics within the movement can be hard to notice or appreciate. When LEBOR is observed in isolation, people see it as a law that lived for one year, in the traditional sense: a loss. (In February 2020, a single federal judge decided to strike the peoples' law down.)

But that "loss" came only after legal theories in favor of the recognition and enforcement of the rights of Lake Erie and to Due Process to water were heard in federal court for the first time. Thousands of groups and individuals took a stance in defense of LEBOR; local politics were altered to make it politically inevitable for the City of Toledo to defend the people's law; and, it inspired others to take up the fight and advanced the concept of Rights of Nature further into the mainstream. This is very much a win.

LEBOR is like a maple tree, which releases "helicopter" seeds. Those seeds root at unpredictable times and in unpredictable places. A single maple can release thousands of these helicopters, but only a few seeds ever find a suitable place to grow. There, the seed sprouts. That seedling, though it may appear isolated and forced to withstand assaults on its own, is in fact part of a wider ecosystem that helps sustain it. Eventually it releases its own seeds. This is how movements for change grow.

A HIDDEN NETWORK CONTINUES TO GROW.

As LEBOR was being featured in The New York Times, The Guardian, VOX, The Daily Show, CNN, Le Monde, and other publications, a neighboring county was advancing a "Rights of the Michindoh Aquifer" county charter to protect that massive underground freshwater system from privatization and exploitation. The aquifer is the sole source for drinking water for over 385,000 people and is under threat by private water corporations.

Williams County residents' first effort was suppressed by government officials. Though petitioners gathered the required signatures, corporate attorneys were able to convince local officials to interfere with the local democratic process to stop the voting process. (This has happened in over a dozen other Ohio communities since 2015.) While Williams did not gain international attention, they are very much a part of a larger growing movement.

Today, petitioners in Columbus, Ohio are fighting to similarly preserve democracy, during the Covid-19 crisis. The movement continues.

OREGON

Lincoln County, Oregon is coming off two years of successful implementation of a Rights of Nature law that outlawed industrial aerial pesticide spraying. Such spraying is a dangerous, yet common, corporate timber industry activity that threatens aquatic ecosystems and humans. After court challenges to the county's law, new litigation is now underway to defend and enforce the law and the rights of the Siletz River watershed.

Opposition to the organizing was orchestrated in part by CropLife America, a national industry group that collects dues from some of the world's most powerful chemical and industrial agriculture corporations, including: Monsanto, Syngenta, Dow AgroSciences LLC, and DuPont Crop Protection. According to documents obtained by The Intercept, CropLife ranked state and local issues as the top 'tier 1' concern for both 2017 and 2018. The documents "pinpointed Oregon as

ground zero for the fight," according to The Intercept. In 2017, CropLife America launched a national campaign to provide "intense levels of support where the most dire battles are," according to the documents. A public relations firm hired by CropLife spent 44 percent of its budget in Lincoln County, and its neighbor Lane County, where other community rights organizing has been ongoing for years.

STAY ON OFFENSE

As these fights continue, new county petitions are in the works to advance water and watershed protection rights-based laws in Lane and Lincoln counties. (These efforts are now being impacted by COVID-19-imposed restrictions on petition gathering.) These campaigns are supported by years of learning, building and adaptation, from across the Pacific Northwest and the nation.

Lincoln would not be engaging in this work if Benton County, Oregon, had not taken on the agri-business industry and corporate control of land. In 2015, Benton County petitioners advanced a "Food Bill of Rights." The proposed law would protect ecosystems and the right to save seed while banning genetically modified agriculture and the harmful pesticide practices that accompany that form of industrial agriculture. A full court press by the agri-business industry, along with Oregon State University managed to block the affirming vote. They were funded by millions of dollars from agri-business like Monsanto. In addition, state legislators adopted law that "preempted" all local control over agricultural seed including GMOs.

In Coos County, Oregon, residents shared a vision for a sustainable energy system. They petitioned and put it up for a vote in 2017. The county law would ban the unpopular Jordan Cove liquified natural gas terminal and Pacific Connector pipeline (which was recently approved by the federal government). Fossil fuel interests spent \$1 million to defeat the Coos effort. Despite colossal efforts to crush the people's vision, Coos County residents' work was a beacon for other communities.

"Our work continues to be inspired and informed by our neighbors and communities across the nation,"

says Maria Sauss, founding member of Lincoln County Community Rights.

COMMUNITY RIGHTS NOW! - ORGANIZED EFFORT UNDERWAY TO REIMAGINE LOCAL DEMOCRACY IN OREGON

In the build up to Oregon's 2021 legislative session the ORCRN and its partner chapters are actively reaching out to legislators, local officials, and issue groups to build support for the introduction and ultimately ballot placement for a constitutional amendment that would boost local control. Known as the Community Rights or Right of Local Self-Government amendment it would shift power away from corporate forces and negligent legislators into the hands of people and their local governments to enact laws that protect and expand health, safety, and welfare. By putting corporations in check it will allow Baker City to Bend to Medford to Hood River to Portland to make critical decisions about advancing rights protections for housing, the environment, worker rights, policing, and many other issues that make communities viable, liveable, sustainable, and equitable. To get involved contact the ORCRN: www.orcrn.org

PENNSYLVANIA

In 2020, members of the Pennsylvania Community Rights Network engaged in a statewide outreach campaign to gather support for a state constitutional amendment to place the rights of people over the interests of private corporations and empower communities to heighten state protections for civil, human and ecosystem rights. It is slowly gathering support, including but not limited to Dale Borough of Cambria County, Carbon County Council of Government, Highland Township of Elk County, Grant Township of Indiana County, West Chester Borough of Chester County, Federation of Women of Indiana County, The Green Party, Lancaster, Conestoga Community Group, Warren Ad Hoc Environmental Group, Lancaster Against Pipelines, March on Harrisburg, Moms Demand Action, Chester County, among others.

The amendment was introduced into the Pennsylvania House of Representatives in 2019 as House Bill 1813.

CONTINUED ON PAGE 6

The following letter was sent to every municipality in the state. It has been edited for length.

Dear Fellow Municipal Officials,

We are the Board of Supervisors in Grant Township, Indiana County. We recently received good news that you might be interested in hearing.

You may have heard about our fight against a hazardous and radioactive frack waste injection well. It's trying to be forced into our Township, against our will and the will of our residents. Our fight gets regular local news coverage, but has also received national and even global attention. We've been sued in federal court by the industry. We've been sued in state court by our own PA Department of Environmental Protection (DEP). Yep, you read that right: our DEP is suing us for trying to protect the environment....

A few weeks ago, something major happened: the PA DEP reversed course, and rescinded the injection well permit they had issued to allow the frack waste dumping. The DEP cited our local, municipal law as good law to deny the permit. This is the first time in PA history, that we are aware of, where a locally-crafted law has been cited as the reason a PA state agency has denied a permit. It's huge news for us....

There is a window of opportunity to take advantage of the DEP's decision to uphold our local law. The more communities that stand up to return power to our municipalities, the more power we will have to do what's right for all of us, as the elected officials who are sworn to protect the constituents who elected us....

Have you been told by your solicitor that you were 'preempted' or prohibited by state laws from protecting your constituents? Have you been threatened by an industry that you believe would be detrimental to your community's health and safety?

A constitutional amendment was introduced into the PA House in 2019 that would give municipalities, like Grant Township, the powers they need to protect their constituents.

Signed,

*Jon Perry (Chairman) Stacy Long (Vice-Chairman)
Ron Jarvie (Supervisor)*

VIRGINIA

COMMUNITY RIGHTS NETWORK ESTABLISHED IN VIRGINIA

Community Rights organizing has been active in Virginia since 2008. That's the year the Town of Halifax enacted an ordinance amending town code Article VI to oppose initiating uranium mining over a broad swath of southern Virginia.

Other Virginia communities had attempted vigorously, but unsuccessfully, to enact local community bills of rights similar to the Halifax law. They came up against "Dillon's Rule," a court concocted prohibition against local lawmaking that interferes with for-profit activities like mining, clear-cutting, mountaintop removal, fracking, siting of pipelines, toxic landfills and industrialized agriculture. Virginia had turned "Dillon's Rule" into a taboo against local self-government without prior state approval.

While community rights organizing gained steam across the country, there was a lull in Virginia organizing after the efforts by hundreds of people in Campbell County and Pittsylvania County was met with open hostility by County Supervisors loyal to Dillon's Rule.

Then in 2017, a group of independent thinking women in Buckingham County formed Buckingham: We the People. They decided to challenge the Atlantic Coast Pipeline (ACP) and plans to site a compressor station in the county that would push fracked gas through a pipeline from the Marcellus Shale region, across state lines, under the James River, and on to the coast for profitable export. With CELDF assistance they drafted the James River Natural Community Bill of Rights. Like the Halifax law, it recognized the right of local self-government, as well as the rights of nature to exist and flourish, free from human interference. And it subordinated the court-bestowed privileges of corporate property to the governance of the people.

Mindy Zlotnick, Heidi Dhivya Berthoud, and Kenda Hanuman hosted Democracy Schools, Rights of Nature workshops and offered presentations and educational opportunities. In the Spring of 2020, they were invited by the National Community Rights Network (NCRN) to form and institute the Virginia Community Rights Network (VACRN). In July, their application was approved, and Virginia joined New Hampshire, Pennsylvania, Ohio, Colorado, and Oregon as the latest addition to the growing National Community Rights Network.



CONCLUSION

The significance of efforts like those in Toledo, Lincoln County, Grant Township and Nottingham may go unnoticed, or misunderstood by the dominant culture. They are not silver bullets. But change to the root structures that prop up the status quo does not take place overnight. It doesn't happen predictably, and it sure as hell won't happen without a fight. These laws and the response they provoke, not only inspire other communities, they also expose more people to how our legal and governing systems function and whom they serve.

The people of these communities have released helicopter seeds. Some are still floating in the air. Others have taken root. New trees are growing.

In March 2020, an industry publication celebrated a federal judge's decision to overturn the Lake Erie Bill of Rights. The Rights of Nature movement, it wrote, is "not a joke," warning that it has a "zeal to continue this fight."

This is a theory of change that is nonlinear. Now, as Covid-19 takes control, and demands for systemic racial justice gain power, new voids are being created. A new phase of the movement is unfolding, posing new questions, opportunities, and struggles.

Join us.

SEND US YOUR IDEAS

As awareness of Rights of Nature, the influence of corporate power, and the repression of local activism gains increased mainstream attention, the need to organize intensifies. CELDF is working to help build a movement for community governance and the Rights of Nature to advance democratic, social, and environmental rights - building upward from the grassroots to the state, federal, and international levels. Working with communities on local law-making, we understand that to expand the movement as a whole, we need to center the leadership most affected by the problems we're trying to solve. A racist, colonial, capitalist government harms us all, but it oppresses Black, indigenous, immigrant, and other people of color, poor people, women, trans, nonbinary, and gender non-conforming people, disabled people, and combinations of these identities with particular intensity and violence. We want to share your perspectives.

The challenges we face demand solidarity, creativity, deep knowledge sharing, synthetic thinking, historical understanding, and a fusion of expertise and perspective. We welcome your grassroots organizing perspective, academic scholarship, essays, guest blog contributions, and other collaborations to add to this collective endeavor.

For more information contact simon@celdf.org.

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CELDF MINI VIDEO SERIES

Curious how to communicate complex topics like the Rights of Nature, Corporate Constitutional Rights, the Regulatory Fallacy, Dillon's Rule, and the Box of Allowable Activism? Look no further than CELDF's new "Fast Fact Friday" mini video series. Check them out on CELDF.org and our YouTube channel!

ONLINE DEMOCRACY SCHOOL

CELDF now offers a virtual version of its Democracy School. The four modules educate the public about rights-based organizing, inform participants about how the system under which we currently live undermines traditional activism, and introduce strategies for how empowering local decision-making can create the communities we envision.

For more information contact info@celdf.org

WORLD PREMIER OF 'INVISIBLE HAND'

Critics call the new documentary INVISIBLE HAND a "paradigm shifting" story. A Public Herald Studios production, it is narrated and executive produced by actor and advocate Mark Ruffalo. The film explores the global Rights of Nature and community rights movements, including CELDF's story and work in Grant Township, Indiana County, Pennsylvania and Toledo, Ohio.

CELDF's Markie Miller, Tish O'Dell, Chad Nicholson and Ben Price are featured.

"People are adapting to these perils in daring and creative ways—and winning," Ruffalo added. "INVISIBLE HAND shows how to fight the forces that put profit above all else while addressing the root cause of our flawed system."

The world premiere, held virtually on September 4th, 2020, was followed by a panel discussion. Visit www.invisiblehandfilm.com for screening and other information.



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