

## Rule of Law Under Attack

by Ralph Nader  
CommonDreams.org  
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Presidential power has accumulated over the years to levels that would have alarmed the founding fathers whose constitutional framework never envisioned such raw unilateral power at the top of the Executive branch. Accordingly, they only provided for the impeachment sanction. They neither gave citizens legal standing to go to court and hold the Presidency accountable, or to prevent the two other branches from surrendering their explicit constitutional authority—such as the war-making power—to the Executive branch. The federal courts over time have refused to adjudicate cases they deem “political conflicts” between the Legislative and Executive branches or, in general, most foreign policy questions...

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On October 25th, Secretary Condoleeza Rice officially recognized before a House Oversight Committee that, remarkably, there was no law covering the misbehavior of Blackwater Corporation and their private police in Iraq.

Any crimes of violence committed by Blackwater and other armed contractors commissioned by the Defense and State Departments to perform guard duty and other tasks, fell into a gap between Iraqi law, from which they have been exempted by the U.S. military occupation and the laws of the United States.

Since the United States government is ruled by lawless men in the White House who have violated countless laws and treaties, Bush and Cheney clearly had no interest in placing giant corporate contractors operating inside Iraqi jurisdiction under either the military justice system or the criminal laws of the United States.

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Being above the law’s reach, Bush and Cheney can and do use the law in ways that inflict injustice on innocent people. Politicizing the offices of the U.S. Attorneys by the Justice Department, demonstrated by Congressional hearings, is one consequence of such Presidential license. Political law enforcement, using laws such as the so-called PATRIOT Act, is another widespread pattern that has drag netted thousands of innocent people into arrests and imprisonment without charges or adequate legal representation. Or the Bush regime’s use of coercive plea bargains against defendants who can’t afford leading, skilled attorneys.

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Corporations and their large corporate law firms have many ways to avoid the laws. First, they make sure that when Congress writes legislation, the bills advance corporate interests. For example, numerous consumer safety laws have no criminal penalties for the violations, or only the most nominal fines. The regulatory agencies often have very weak subpoena powers or authority to set urgent and mandatory safety standards without suffering years or even decades of corporate-induced delays.

If the laws prove troublesome, the corporations make sure that enforcement budgets are ridiculously tiny, with only a few federal cops on the beat. The total number of Justice Department attorneys prosecuting the corporate crime wave of the past decade, running investors, pensioners and workers into trillions of dollars of losses and damaging the health and safety of many patients and other consumers, is smaller than just one of the top five largest corporate law firms.

Out in the marketplace, environment and the workplace, the corporations have many tools forged out of their unbridled power to block aggrieved people from having their day in court or getting agencies or legislatures to stand up for the common folk.

Companies can wear down or deter plaintiffs from obtaining justice by costly motions and other delaying tactics. When people get into court and obtain some justice, the companies move toward the legislature to restrict access to the courts. This is grotesquely called "tort reform"—which takes away the rights of harmed individuals but not the corporations' rights to have their day in court.

Lush amounts of campaign dollars grease the way for corporations in the legislatures in the fifty states and on Capitol Hill.

As if that power to pass their own laws is not enough, large corporations become their own private legislatures. You've been confronted with those fine-print standard form agreements asking you to sign on the dotted line if you wish to secure insurance, tenancy, credit, bank services, hospital treatment, or just a job.

Those pages of fine print are corporations regulating you! You can't cross any of them out.

You can't go across the street to a competitor—say from Geico to State Farm, or from Citibank to the Bank of America, because there is no competition over these fine-print contracts, with their dotted signature lines. Unless, that is, they compete over how fast they require you to give up your rights to go to court or to object to their unilaterally changing the terms of the agreement, such as in changing the terms of your frequent flier agreement on already accumulated miles

Oh, for the law schools that provide courses on the rule of men over the rule of law.

Oh, for the time when there will be many public interest law firms working just on these portentous dominations of concentrated power to deny open and impartial uses of the laws to achieve justice and accountability.

Ralph Nader is a consumer advocate, lawyer, and author. His most recent book is *The Seventeen Traditions*.