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The sum of all our fears: transnational corporations and the crisis of convergence in Australia

Caroline Colton

University of Wollongong, ckc760@uowmail.edu.au

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Abstract
The article discusses the desire of the businesses to improve infrastructure construction by increase their infrastructure investment in superannuation funds and in the government of Australia. It highlights the privatisation of public assets and reduction of services for corporate profit optimisation in the government. It examines the impact of environmental law to the development of infrastructure such as power plants for economic development.

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The Sum of All Our Fears: transnational corporations and the crisis of convergence in Australia

Many Australians were bemused to hear in the media recently that the government wanted to use post office counters to administer Australia’s social services safety net. Losing Centrelink, along with all its specialised social service workers, would have struck many people as a foolish, if not impossible, idea. What is not presented by the media is the sheer scale of the stupidity implicit in the radical neoliberal agenda that is exemplified by this proposal.

It was a big October for the government with Hockey also announcing the National Commission of Audit, tasked with finding ways to remove service provision from the Commonwealth. To quote from the terms of reference, the newly minted Commission will examine ways of “consolidating government support functions into a single agency; and privatisation of Commonwealth assets.”¹ Service provision changes, as flagged by the Australia Post idea, reflects the principle that “Government should do for people what they cannot do, or cannot do efficiently, for themselves, but no more”.²

Leading this most radical shift in government since Federation will be the President of the Business Council of Australia (BCA) Tony Shepherd, who has been promoting privatisation along with deregulation through the “When business works Australia works” campaign. In this campaign the BCA fundamentally encourages Australians to consider business as the leading agent for prosperity whilst government is portrayed as inefficient and reckless, best downsized to protect the public’s purse.

At the same time as mass privatisation of public assets and reduction of services is contemplated, we are seeing the acceleration of deregulation right across all levels of government. Privatisation and deregulation have been on parallel trajectories since the turn of the century, but it is now clear that they are converging as a necessary condition for corporate profit optimisation. The BCA states by way of example that:

“The traditionally restrictive regulatory approach in high-demand markets like health and ageing are simply not sustainable if we are to provide the right services at the right time, right price and in the right quantity.”³

The previous Liberal National Party government got the ball rolling on deregulation by setting up the Taskforce on Reducing Regulatory Burdens on Business. This Taskforce began from the supposition that business was over-regulated, compliance costs were too high, innovation was being discouraged and Australia’s global competitiveness was being impaired.⁴ Once published in 2006, the report of Taskforce Rethinking Regulation became the blueprint for change irrespective of who was in government.

A major signifier was Howard’s renaming of the Department of Finance and Administration to the “Department of Finance and Deregulation” in 2007, a name Labor retained throughout its
tenancy in Canberra. During that time the Department set up a whole new regulatory approvals system managed by an internal ‘independent’ office called the Office of Best Practice Regulation (OBPR) which in turn was set up by a consultant from the BCA. Today, any government department or agency that proposes a new regulation, or amendment to an old one, must have that regulation assessed by the OBPR for a Regulatory Impact Statement (RIS). These statements are expressly designed to minimise costs and other burdens on business. Within this system only an impact on business triggers preparation of an RIS. Social and environmental impacts do not. This new regulatory procedural system underscores the power of the corporate lobby to get inside the machinery of government and make it over for its own economic purposes, successfully casting aside all other interests and the imperative for environmental protection and social responsibility and cohesion.

Privatisation has been the running mate of deregulation for at least the past decade. Like deregulation, it shifted gear under Howard. In 2006 his government announced the National Public Private Partnerships (PPP) Policy Framework and Guidelines. What had begun in the early 1980s with the divestment of selected public assets now morphed into a privatisation model that was to be embedded across the entire spectrum of infrastructure development, from power plants to hospitals.

Hockey’s Commission of Audit, designed to put the corporate broom through Commonwealth assets, and his announcement on the same day that the Commonwealth’s debt ceiling will be raised to accommodate increased expenditure on PPP infrastructure projects reflects the scope and maturity of the privatisation model. It also underlines the complete lack of separation that now exists between government and the corporate sector. This is of course a very dangerous position for our ‘democracy’ to be in as it has notionally depended on the concept of ‘separation of powers’ to enforce checks and balances between competing interests. This has in fact never applied to corporations and is therefore not included in the Constitution.

But the stakes go even higher than a domestic ‘blue’ between government, citizens and corporate capital; for corporate capital is indeed transnational, so the convergence of powers that is taking place is by its very nature transnational.

Within the next few months, the Trans Pacific Partnership (TPP) agreement, being negotiated between Australia and 11 other Pacific nations including the US, is likely to be signed. The TPP has a notorious clause called the Investor State Dispute Settlement (ISDS) clause which gives foreign investors the right to set aside policy/laws/regulations hindering their operations in Australia or to demand compensation from governments for the cost of compliance, including the loss of ‘future’ profits. A similar clause in the Hong Kong–Australia FTA is currently being used by tobacco giant Philip Morris to sue the Federal Government over its plain cigarette packaging laws in an international investment arbitration tribunal. This case is being brought after the corporation’s claim was rejected by the High Court of Australia. Previous Australian governments have rejected the inclusion of the ISDS clause in the TPP, however, the Abbott government may not be so circumspect.

International investment and trade agreements like the TPP add to the payload of corporate dominance of our governance system. What little is known of the agreement indicates that it will be a neat fit within Australia because of the work done by the executive arm of
government and the corporate sector to smooth the path of foreign investment. Howard’s Taskforce was mindful of this need:

“The relentless forces of globalisation mean that Australia needs to continue to drive reforms aimed at removing any impediments to efficiency and innovation. Underpinning a country’s competitive success internationally is the effectiveness of its domestic regulatory structures.”

The lead country and largest economy negotiating the TPP is the United States. Their Trade Representative defines trade barriers as including government laws and regulations. Since the chief aim of the TPP is to remove barriers to investment and trade, the co-joining of internal and external deregulation forces is set to undermine and overwhelm both our current regulatory system and our sovereign rights.

One of the key effects of removing barriers to investment will be the free flow of capital between signatory countries. As governments lose their powers through divestment of their assets as has already happened with the sale of the Commonwealth Bank, transnational corporations will increasingly fill the vacuum by controlling capital flow in the economy. This has already been flagged by the BCA’s Tony Shepherd who recently called for the Foreign Investment Review Board to increase their foreign investment screening threshold to $1.1 billion for any country who wishes to invest. This threshold denotes the dollar value of purchases of land and companies over which approval has to be sought from the Board. Currently, due to legislation and clauses in trade agreements, only companies based in the US and New Zealand can invest up to $1.1 billion without scrutiny.

It is believed that this investment screening threshold is up for negotiation under the TPP because it could constitute a ‘barrier’ and the TPP negotiators and BCA want all barriers to investment removed.

What is of particular concern is how capital flows moving in and out of the country will impact the economy and the government’s ability to manage it. Again Shepherd seeks to frame policy by stating that, “We need a more nuanced approach to investment from state-owned enterprises and sovereign wealth funds, recognising they will be a big source of investment.”

The potential risk is that the pools of ill-gotten subprime profits sloshing around the globe looking for somewhere to invest, combined with wealth generated from within the country sitting in managed superannuation funds, will cause a tsunami of money to crash through our economy. This is not unexpected as Australia has had mandated superannuation since 1992. Over the past ten years foreign investment banks like Goldman Sachs and asset management corporations like Boston based State Street have set up operations in Australia to access our superannuation funds which they see as a honey-pot.

“The fourth largest pool of assets in the world, which is completely disproportionate to the size of the Australian population ... The big opportunity and the strategic imperative for the organisation is really servicing that superannuation sector which is growing at 12 per cent per annum, so it is absolutely essential that we are here.”

State Street Global Markets
This potentially titanic volume of capital will need to find capacity in the Australian market but in a nation of 23 million people such a market can only be created by equally titanic shifts in governance and economic and social policy to accommodate it.

So here is the rub, the point, at which Rubik’s cube is finally twisted into neat conformity. The two key areas for expansion of investment capacity are unfettered exploitation of Australia’s oil, gas, coal and mineral reserves and the creation of new industries and markets through the privatisation of the public sector.

As was foreseen by the Howard Government, regulation would get in the way of this expansion, particularly environmental regulation. It is not by coincidence that environmental regulation is now, undergoing a major overhaul in NSW.

The process of expanding the resources sector is fairly advanced and clear, what is less clear is the creation of new industries through the dual process of privatising existing government assets and instigating a taxpayer / superannuants financed infrastructure boom which results in private equity taking ownership of newly built assets such as railways, toll roads, hospitals, bridges and schools.

The BCA sees the divestment of public assets operating in tandem with new infrastructure projects that revert to private ownership on completion and have called on governments, “to sell infrastructure they don’t need to own, and use the funds to partner with the private sector to provide new infrastructure”. This statement reflects the desire of big business to ramp up infrastructure construction by encouraging governments and superannuation funds to increase their levels of infrastructure investment. AustralianSuper, the fund for Commonwealth employees, already includes a 15% infrastructure component in its default ‘Balanced’ option.

At the same time, decision-making on government policy is being deliberately privatised. New regulatory bodies have been established whose primary function is to spend government money and form government policy.

In the health sector, for example, there were four regulatory agencies established by the Labor government between 2011 and 2012, these being the Independent Hospital Pricing Authority, the National Health Funding Body, National Health Performance Authority and the Australian Commission on Safety and Quality in Health Care.

These agencies and many like them across other sectors are pseudo private entities. They have been established by legislation as agencies ‘independent’ of government. By some twisted rationale, this ‘independence’ is seen as a positive - government is not to oversee agencies that are overseeing government expenditure. This is to be done by the corporate sector, for these agencies have founding chairs hailing from investment banks, transnational consultancies and corporate law firms. The new boards and agencies are imprinted with corporate cultures by dominate men and the occasional woman with distinctly corporate pedigrees.

Paradoxically, while this unfolds, regulatory agencies like the Independent Pricing Regulatory Tribunal NSW, continue to promote deregulation through ongoing reviews of regulatory burden, the most recent of which is the Red Tape Review of Local Government.
It is now clear that a crisis of convergence is forming with the combined process of extreme deregulation and privatisation creating new businesses and markets that have ready access to investment funds. These funds will pool together from foreign capital inflows, public asset sales, government borrowings against the increased debt ceiling, and the allocation of super funds to infrastructure investment. To complete the financialisation process the debt equity from government and the collateral from assets in private hands will be gambled on the bond and derivatives markets.

The rest will be history repeating itself.

The failure of the Labor Party, the Liberal National Party, the public service, judiciary, the academy, trade unions and the electorate to protect our democracy, our land, our water, the very essence of our nature from the scorched earth mindset of the monied will see our beloved ‘lucky country’ finally combust into an economic and social conflagration that no individual will be able to stop.

It’s time to join together into one front to fight this.

Shepherd’s Commission of Audit will be working over the summer to deliver its recommendations to the government by March.

You are invited to respond by email your interest in attending a special summit in Canberra in December to discuss how Australia should respond to this threat.

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Caroline Colton
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