
Wheelwright Lecture 2013

THE RISE OF ILLEGITIMATE AUTHORITY AND THE THREAT TO DEMOCRACY

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Let me first present my warm thanks to the University of Sydney, the Political Economy Department and especially to Frank Stilwell for inviting me to present this year's Ted Wheelwright Memorial Lecture. It's a great honour for me to speak in homage to such a great scholar and professor. Ted Wheelwright specialised in the study of Transnational Corporations, particularly the impact on Australia of TNCs as I'll call them from now on. During his career in this University I am sorry to say that he was passed over six times for promotion. Yet he never compromised nor ceased to tell the truth as he saw it and as his research showed it to be. I knew Ted a little; we met many years ago when I was working on agribusiness and this evening I shall try to follow his example and tell the truth as I see it, as best I can and according to the facts.

I'd like to divide my talk into three parts:

First, since the title is 'The Rise of Illegitimate Authority', it seems useful to make some distinctions concerning what is legitimate and democratic on the one hand and, on the other, illegitimate and undemocratic in government, now often called 'governance'.

Second, I'll state my hypothesis: I believe the evidence shows that illegitimate authority is on the rise and that democracy is in serious danger of succumbing to the disease of neoliberal ideology. We can identify the forces that are imposing this ideology throughout the world and demonstrate that more and functions of legitimate government are being assumed by illegitimate, unelected, opaque agents and organisations.

In the third part, I want to supply elements of proof and provide several examples that support my argument. The list of examples is ever-growing and could be longer than mine here but I hope to show nonetheless that illegitimate, corporate rule now occupies greater and greater space at every level of government including the international sphere, that it is gravely damaging democracy and that it has an impact on all our countries and all our lives.

But first a caveat: I can't give you the full picture for Australia as Ted would have done. Most of my examples will necessarily come from the places where the neoliberal disease has progressed furthest and fastest, which also happen to be the parts of the world I know best: the United States where I was born and raised and the European Union where I've lived for half a century and become a French citizen. Some examples will also come from the international sphere.

But I know there are many excellent professors, students and researchers here who are well able to fill in the gaps concerning your country and, on that encouraging note, let's get to the heart of the matter.

What is Required for Authority to be Legitimate?

This may sound like the introduction to a course called Political Science 101 but we need to agree on definitions. Europeans, Americans and Australians would all, I believe, say that the hallmarks of legitimate authority are free and fair elections, constitutional government, the rule of law and equality before the law; separation of executive, legislative and judicial powers and checks and balances to prevent any one part of government from becoming too powerful. Separation of church and state is an important component coupled with individual freedom of religion. Then we have the never-completed, always expanding list of individual and collective rights and freedoms as first set out in the French *Declaration of the Rights of Man and the Citizen* of 1789 and the *Bill of Rights* of 1791 made up of the first ten Amendments to the Constitution of the United States of America.

Freedom of opinion, speech, worship, the press and so on...all these ideas were once considered revolutionary, as indeed they were. Yet they were far from complete: slavery still existed, women and minorities could not vote or exercise many rights and so on. But the notions of individual rights and governments that guarantee them are part of the

movement of the *Enlightenment*. One usually dates the first stirrings of this movement from the late 17th century but the invention of the printing press in 1440, the rediscovery of the classics in the Renaissance and the Protestant reformation were certainly vital precursors.

In the 18th century, the ideas and the defenders of the Enlightenment brought with them not just the notion of rights and greater freedoms but also of duties for individual citizens. They defended rational and scientific thought against dogma and superstition. They further brought totally new notions of collective progress and individual *happiness*. What a bizarre idea! Thomas Jefferson, who wrote most of the *Declaration of Independence*, included the phrase ‘life, liberty and the pursuit of happiness’. He also wrote that it was to “preserve such values that men instituted government”. The French revolutionary figure Saint-Just is well known for saying ‘*Le bonheur est une idée neuve en Europe*’ – ‘Happiness is a new idea in Europe’. This strange and original idea was at the core of the struggle for collective as well as individual rights and emancipation.

But there is a dark side as well. I hope that everyone will understand that when speaking about the Enlightenment, I’m talking about an ideal type. The same Western world, made up of Europe and the United States, during the period of its first flowering and afterwards also committed unspeakable horrors. We did not perhaps invent slavery and genocide but we still pursued them actively. We harboured fascist governments and carried out the two bloodiest wars in human history. We colonised most of the known world and cared little for the poor and excluded who had only their labour power to sell in a brutal new industrial economy. Our misconceived remedies for social problems included the deportation of petty criminals and debtors to Australia which turned out to be a good idea - at least for the settlers - but only in the much longer term. With the possible exception of legal slavery, all these evils still threaten us today.

Democracy always has been and always will be a work in progress. Truly equal rights are not yet wholly achieved for women, for migrants, or sexual and racial minorities but, despite all the horrors, the setbacks and the imperfections, democracy and Enlightenment values still seem to me and to millions of others the best and most admirable form of government ever attempted. One proof of this is that other, not necessarily Western, people want the same sort of government for themselves and are willing to fight and die to achieve it. The overthrow

of many US-supported dictators in Latin America demonstrated this point in the 1970s and 1980s and the Arab spring is a more recent example which also proves, alas, that overthrowing dictators is not enough. But the lesson is that human emancipation is an on-going story and that this model is worth preserving and improving everywhere, including the places where it began.

Why Defend this Model?

I believe we must preserve and improve the democratic, Enlightenment model and I'll now try to explain why I believe it is in grave danger. Over the past three or four decades a new set of values has gradually taken front and centre stage, along with a great many changes for the worse in government. Now standing against the Enlightenment model is a new ideology I'll call the neoliberal model. It has been steadily gaining ground despite overwhelming proof that it is harmful to nearly everyone, except for the extremely wealthy and for the top people in the corporate sector. Let me freely admit that I did not believe it could emerge even stronger after the financial earthquake which struck in 2007-2008 and with whose aftermaths we are still living. But this is what has happened.

It doesn't seem to matter that this model has been thoroughly discredited – intellectually, practically and morally. Neoliberalism has still triumphed and is continuing to cause huge shifts of power in favour of the richest and most powerful classes and corporations. These trends show no sign of abating and, as I said, place democracy in grave danger.

Inequalities have markedly increased. In Europe, the shares of economic value going to capital and labour have shifted drastically. In the late 1970s, the share of value going to labour in the form of wages and salaries was in Europe about 70 per cent of GDP. The remaining thirty per cent went to capital in dividends, rents and profits. Now capital receives at least 40 per cent of GDP, in some countries more, and labour gets only 60 per cent. Shareholders used to be content with dividends representing a return of 3 per cent a year; now they demand 12 per cent and more. The former goal of building a strong, healthy and lasting business enterprise has been replaced by the single imperative of 'shareholder value' and most business decisions are directed to that end. This encourages short-termism, asset stripping, mass layoffs and many other negative phenomena.

If salaried people have lost ten points of GDP, this is not small change! The GDP of Europe is about \$13 trillion per annum, so labour is now missing out on some \$1,300 billion (\$1.3 trillion) a year compared to the 1970s. When working people are paid, their incomes go overwhelmingly into the purchase of goods and services because they spend nearly all their earnings. Now wages are stagnant and sometimes falling, as is the case for a large part of Southern Europe and even for a good part of the German working class. Capital on the other hand is reinvested. Wealthy people already have most of the goods they need and put their money into the purchase of financial products which create no social value, have little or nothing to do with the real economy and can, as we have all too recently seen, bring that real economy to its knees.

How did the Neoliberals Achieve their Takeover?

From the 1950s onward, the neoliberals undertook a long term, concerted effort to change the dominant paradigm, first in the United States and Great Britain; later in the rest of the world. They were given lavish funds by rightist family foundations and used the money to change the most basic concepts of politics, including the notions of ‘freedom’ and ‘democracy’. They invested heavily in think-tanks, scholars and communicators who shared their views and from about 1980 came to dominate the media, certain departments such as Economics in major universities and even the judiciary through such bodies as the Federalist Society in the United States. They have never ceased investing in the development and communication of their doctrine and have become expert in ‘issue-framing’.

I call them the ‘right wing Gramscians’ because they understand perfectly the concept of ‘cultural hegemony’ as developed by the Italian Marxist scholar (and martyr) Antonio Gramsci. Through persistence, repetition and hard cash, they have followed the Gramscian program of making ‘the long march through the institutions’ to promote a new ‘conventional wisdom’, taking over the institutions where ideas are debated and disseminated.

In the two decades between 1982 and 2002 they spent around a billion dollars in the United States alone, and from their point of view and that of their right-wing supporters from the largest corporations and foundations, it was money well spent. Many individual billionaires (the

Koch brothers are perhaps the most famous) are the paymasters for movements such as the Tea Party which translate neoliberal ideas into legislation. Millions of American get their so-called ‘news’ exclusively from neoliberal media for whom ideology is a way of life and survey after survey confirms that they are ignorant even of the provisions of laws designed to help them. People without health insurance and serious health issues see no contradiction in joining the Tea Party which is bent on destroying the Obama Affordable Health Care law.

The Doctrine

Let me quickly list the main characteristics of neoliberal ideology, as opposed to the ideas of the Enlightenment and of the defenders of democracy:

Markets are wise and efficient; they tell citizens, businesses and governments what the public wants and needs; they should be allowed to function independently and kept as free as possible (ideally entirely free) of government regulations and interventions. Markets are by definition ‘self-regulating’ and, in the neoliberal vocabulary, *regulations* are ‘job killers’, *trade unionists* are ‘thugs’ who want to prevent newcomers and of course foreigners from finding work. *Privatisation* of public services is desirable because private enterprise always out-performs public services on criteria of efficiency, quality, availability and price. *Free trade* may have temporary drawbacks for some but will ultimately serve the entire population well with more and better jobs and greater wealth. Both tariff and non-tariff barriers to trade and to foreign direct investment should be removed. *Government spending* is intrinsically bad (except for certain budgets such as defence and national security) and should be confined to a minimum. Government debt and government budget deficits must be got rid of as soon as possible, if necessary by imposing austerity measures on the population.

As for *values*, the individual dominates and there is no such thing as the *common good* based on the supposedly best outcomes for national communities. The sum of individual choices will reveal in the aggregate what is ‘good’. Although patriotism is encouraged, national communities are also made up of individuals and families. As Margaret Thatcher so bluntly and memorably said, ‘There is no such thing as society’.

If people are poor it is generally because they lack discipline. People must be left free to make their own choices. Hard work and perseverance will always be rewarded; if people prefer to be lazy, remain uneducated and shirk responsibility, they must take the consequences. This freedom means that they should expect neither charity, government hand-outs or welfare benefits. Responsibility is personal, not social or collective. Wealthy individuals have earned their money [except in rare cases of large inheritance]; they should be allowed to keep most of their earnings and encouraged to invest since they are the true creators of wealth. Tax cuts for the rich are therefore fully justified. The large and successful corporation rather than government should be the model for decision-making because it is efficient, it provides what the public wants at the best price and it has triumphed over the competition. In the neoliberal view, corporations deserve our respect because competition is a fact of life and should be welcomed. To become more competitive, companies are justified in demanding reduced labour costs and taxes.

Please don't mistake me: I'm not claiming that public services never need reform and improvement or that taking personal responsibility is unnecessary. A vigorous private sector is important, especially when based mostly on small and medium enterprise that supplies well over 80 per cent of the jobs, at least in Europe. I reject, however, the idea that public goods such as education and health care should be mostly profit-making activities, using the pretext that they offer families more 'choice'. Public goods can and should be both public and centres of excellence. I further reject the idea that we have no responsibility for each other: social cohesion is one of the conditions of well-being and, yes, happiness.

Neoliberalism on the other hand is guaranteed to engender greater social inequality, as we can note in any number of countries and as many studies have shown. Since this is not our central topic here, let me simply list some of the phenomena regularly observed as inequality takes hold along with neoliberal doctrine: more mental and physical stress and illness, lower life expectancy, fewer live births per thousand, more crime, more violence, often against women; increased addictions of all kinds, suicides, greater numbers of prisoners per 100,000 population, obesity, school dropouts, teenage and unwanted pregnancies and juvenile delinquency.

All these phenomena are extremely costly to society but they are the result of the doctrine one can hear expressed in a dozen different ways every day, in their crudest form in the United States but now gathering steam in Europe as well. In the US, a member of Congress proposed a bill to eliminate food-stamps with the words, ‘Those who refuse to work shall not eat’. In the EU, a fully developed offensive against the welfare state is underway with the goal of clawing back all the gains of working people over the past six or seven decades. For neoliberals, every aspect of the welfare State is abhorrent because it consists in taking resources from the rich - those who supposedly created the wealth - and giving that wealth to those who do not deserve it. The rich owe nothing to the poor.

Marxists will have already noted that, in the neoliberal canon, labour is seen to create no value at all. Ecologists will see that nature – which Marx on many occasions placed even ahead of labour for wealth-creation – is taken for granted and is there to be exploited to the maximum by corporate entities.

A Quick Overview of the Lobbying Industry

Let’s look now at how the neoliberal onslaught translates into illegitimate authority and has allowed it to grow and flourish. We’ll begin with the very first rung on the ladder of corporate interference in government, the most ancient of all. This is common or garden lobbying which is said to take its name from the lobby of the House of Commons where men with special interests, and often stuffed envelopes, would wait to waylay and buttonhole the arriving or departing MPs.

After a couple of centuries of practice, these non-elected people have become familiar, far more sophisticated and quasi-legitimate actors on the fringes of government. Their offices occupy whole neighbourhoods in Washington (K Street) or Brussels (the EU Quarter). Often they have arrived via the ‘revolving door’ and after a career in politics know better than anyone who to approach and how to change the minds of Commissioners or legislators.

They’ve improved their techniques, are paid more than ever and they get results. Lobbying pays off. A survey by the Sunlight Foundation in the US showed that American corporations that had invested in lobbying paid proportionally less in taxes than those that had not. In the US, they must at least declare themselves in a Congressional register, report how

much they're paid and by whom. In Brussels, however, there's only a 'voluntary' register, which is a joke considering that ten to fifteen thousand lobbyists are talking non-stop every day to the EU Commission and Euro-parliamentarians. A few have registered but, even among them, some have been shown to understate their actual activities by a factor of ten.

The lobbying or 'public relations' industry grew exponentially after World War II and now has experts in defending the interests of all industrial sectors, including junk food, genetically manipulated crops, harmful products like tobacco, dangerous chemicals and dicey pharmaceuticals, the biggest greenhouse gas emitters and the financial industry. Their mission is clear: write new legislation or hold up any legislation that might be counter to those interests. Delay is often the best tactic and the status quo generally suits their clients. In the United States, if you can delay a bill long enough, the process will have to be started all over again at a later session of Congress. Much legislation dies from simple inertia.

Less known perhaps than the lobbies for individual TNCs are the proliferating industry-wide 'institutes', 'foundations', 'centres' or 'councils', for various classes of products, often based in Washington D.C. but sometimes operating world-wide. They too defend alcohol, tobacco, junk food, chemicals, pharmaceuticals, greenhouse gas emitters and so on, but go about it differently, often using ideological weapons. They employ tame scientists, who never declare any conflict of interest, to write 'studies' or popular articles aimed at creating doubt in the public's mind about even the best established scientific facts. They claim that there is 'debate' around certain scientific issues when in fact there is none - or only that created out of thin air by the lobbyists themselves.

They set up fake 'grass-roots' or 'citizens' groups to defend their products or ideas and pretend that the consumer's 'freedom to choose' is being infringed by the 'nanny State' that wants to make people's decisions for them. They have launched petitions and collected signatures to defend or reject a policy; on closer examination, the signatures turn out to be those of corporate employees whose jobs depend on agreeing. They use scare-mongering techniques such as 'this legislation will increase costs for business and lead to higher prices and/or unemployment'. They are also expert in framing the issues so that they can be passed off as legitimate 'news' when in fact they are

propaganda operations. One must take care to find out who funds a seemingly benign and legitimate institution before believing anything it says and this is not a simple task for the ordinary citizen.

Creating doubt in the public mind is usually sufficient to reach their ends. The Tobacco Institute, under the direction of the accomplished PR guru Richard Berman, was able to put off binding legislation for years. Berman has also defended the alcoholic beverage and junk food industries as well as preparing anti-union campaigns for large corporations. The climate-change denialists use the same tactics. One of their organisations funded by the petroleum and motor industries even announced on their website after the failure of the UN Copenhagen climate conference in 2009 that they were disbanding, considering that they had accomplished their purpose.

The Triumph of Banks and Financial Services

From the mid-1990s, the largest American banking, securities, insurance and accounting TNCs joined forces and, employing 3000 people, spent \$5 billion to get rid of all the New Deal laws passed under the Roosevelt administration in the 1930s – the very laws that had protected the American economy for over sixty years. Through this collective lobbying push, they won total freedom to remove any money-losing assets from their balance-sheets and move them into ‘shadow’ banks that appeared nowhere on their balance sheets. They became free to create and trade hundreds of billions worth of toxic derivative products, such as bundles of sub-prime mortgages, with no regulation whatever.

The consequences, as everyone knows, have been devastating. But democracy has been absent and supplied no solutions. For example, since 2007, about thirty million people have had their homes repossessed in the United States. They know well enough that the bank or the mortgage company took their house and put them out on the street – but most have no idea how the crisis actually came about – or why Congress did nothing to prevent it. Congressmen and women did prepare several bills to help people pay rent at the going rate to the Banks and stay in their homes, but none of these proposals became law. Nor, it must be said, was there any collective organisation for the defence of the newly homeless that could have forced action.

Or take the case of CalPERS – the California public employees’ pension fund which lost more than a billion dollars of working peoples’ contributions because it invested in toxic securities sold on the market by the major banks. Was this a case of poor investment decisions on the part of the Fund managers? Not at all: by statute they could only invest in securities with AAA ratings, supposed to be the safest of the safe. Private ratings agencies are paid by the issuers of the securities to supply ratings and the CalPERS lawsuit is against Standard and Poor’s, one of the big three – the other two being Moody’s and Fitch. Together, these agencies stamped hundreds of many toxic and eventually worthless securities with AAAs and were paid to do so.

This pension fund (later joined by the Attorney General of the State of California) blames S&P for ‘fraudulent ratings’ but up to now, the lower (district) US courts have ruled that the ratings agencies were merely ‘expressing an opinion’ on the value of these securities and ‘freedom of opinion’ is protected by the First Amendment to the US Constitution, part of the Bill of Rights, 1791. In other words, corporations have acquired the rights of persons – this predates the ratings agencies lawsuit. Aside from the banks contributing nothing to the costs of their own bailouts, the ratings agencies, themselves profit-making transnational corporations, have paid no compensation to their victims.

Little or nothing has been done since the fall of Lehman Brothers to regulate finance and, meanwhile, derivatives trading has reached \$2,300,000,000,000 *per day*, a third more than six years ago. Foreign exchange hyper-fast ‘flash trading’, entirely driven by computers and algorithms, is up by 50 per cent over the level prior to the crisis. The laissez-faire attitude to the finance industry is stoking the fires for the next crisis and we can accurately predict that it will be worse than the last.

We have, in fact, mathematical proof that the worst is yet to come. Three mathematicians¹ specialising in complexity theory at the Zurich Polytechnic Institute have published a remarkable study called ‘*The Network of Global Corporate Control*’ which maps thousands of TNCs according to their connections to other TNCs. Beginning with a data

1 Vitali S., Glattfelder J.B., Battiston S. (2011), ‘The Network of Global Corporate Control’, *PLoS ONE*, 6 (10).

base of 43,000 corporations, they progressively refine the ownership connections, upstream and downstream, to highlight the most interconnected companies, arriving at a ‘core’ of 147 companies that control 40 per cent of the economic value of the entire sample. Their map looks like an astronomical night-sky map with dim galaxies and bright stars but some supernovae with connecting lines to dozens or hundreds of other stars on the map—to be in ‘the core’, a company must have at least twenty connections.

The shocking conclusion of these mathematicians is to be found in the Annex to their paper which lists the 50 most interconnected companies that embody what they call the ‘knife-edge property’. Close interconnectedness means, in fact, ‘prone to systemic risk’ and this in turn means that ‘While in good times, the network is seemingly robust, in bad times, firms go into distress simultaneously’. Of the 50 most interconnected and therefore most risk-prone companies on their list, 48 are banks, hedge funds or other financial services corporations.

The European Corporate Mafia

Back in Brussels, dozens of ‘expert committees’ made up of top TNC personnel, with virtually no consumer, environmental or watch-dog organisations’ participation, are meeting daily with Commission officials. They are tasked with drawing up detailed legislation in every conceivable policy area. In the crucial area of trade, the Corporate Europe Observatory has shown that the preparation of the US-Europe ‘Transatlantic Trade and Investment Partnership’ involved at least 119 behind-closed-door meetings between large corporations and their lobby groups, while including only a handful with trade unions and consumer groups. Moreover, despite negotiations being announced in February 2013, no meetings with public interest groups have yet taken place, compared to dozens with business lobbyists.²

Such news, as revealed in internal documents obtained through recourse to the EU’s complicated access-to-information rules is in stark contrast to what the Commission claims in its public ‘fact sheets’. A sample: ‘The

² <http://corporateeurope.org/trade/2013/09/busting-myths-transparency-around-eu-us-trade-deal>.

views of civil society play a crucial role' in EU trade negotiations. That is true only if 'civil society' is considered to be almost exclusively limited to business interests.

Above the status of the myriad 'expert groups', although similar, is the *International Accounting Standards Board* (IASB), surely unknown to 99 per cent of the European population and that of its other member countries. When the EU was first confronted with enlargement and the nightmare of 27 different stock-exchanges and a wide variety of regulatory and accounting rules, it called on an *ad hoc* group of advisors from the big four transnational accounting firms for help.

Over the following years, this group quietly morphed into an official agency, the IASB, still made up of talent from the big four but now making the rules for 66 member countries, including the whole of Europe as well as Australia. The IASB became official through the efforts of one unelected EU Commissioner, Charlie MacCreevy, a neoliberal Irishman, himself a chartered accountant. It involved no parliamentary review. If anybody thought to ask, they were told that the agency was 'purely technical'. And indeed, what could be more boring and technical than accounting rules and practices? Why should we care?

We should care because unless and until we can oblige the transnational corporations to adopt 'country-by country' reporting, they will continue to pay—usually quite legally—minimal taxes in most of the countries where they have branches. They can place their profits in low or no-tax jurisdictions and their losses in high-tax ones. At present, if they so choose, they can report simply on the home country where they have their headquarters and then 'rest of world'. To tax effectively, fiscal authorities need to know the sales, number of employees, profits and taxes in each jurisdiction. Today, they cannot do so because the rules are tailor-made for avoiding disclosure. Small, national businesses and families with a fixed national address will continue to bear most of the tax burden or simply do without the state services that fair taxation of TNCs could have provided. Virtually everywhere, these companies are free riders—the police and the fire department protect their property, the local schools and hospitals educated and care for their personnel who can come to the factory or office via public roads—none of which the company contributes to, or far less than its fair share.

I contacted the IASB to ask if country-by-country reporting was anywhere on their agenda and received a polite reply that it was not. No

wonder. The big four firms whose friends and colleagues make the rules would lose millions in revenue if they could no longer advise their clients on how best to avoid taxation. Ordinary citizens will continue to bear the tax burden and tax havens will continue to flourish. According to reliable estimates, some \$32 trillion is stashed in these secrecy jurisdictions by wealthy individuals and corporations.

Law Beyond Borders

Much law is now made beyond national borders and, in the international sphere, much of this law concerns ways to allow corporations greater scope and freedom. A large number of new trade treaties are allowing TNCs to infiltrate executive, legislative and even judicial State functions. Even the United Nations is now a TNC target – and welcomes their presence.

Treaties are an important source of law and always outrank national law, including national Constitutions. Europe invents and ratifies treaties with dizzying speed, leaving no time or place for citizens to debate, much less vote on them by referendum. In July of this year, negotiations began on the Transatlantic Trade and Investment Partnership, or TTIP. This agreement will make most of the rules governing nearly half the world's GDP – the US plus Europe – and has been in preparation since 1995 when the largest TNCs from both sides of the ocean joined in the Trans-Atlantic Business Dialogue (TABD) to hammer out all the practical regulatory issues, sector by sector.

Other important contributors to the TTIP are the Chambers of Commerce and, in Europe, the European Roundtable of Industrialists (ERT) which includes about 50 corporate leaders, all at the CEO level. As Peter Sutherland, a former EU Commissioner, former World Trade Organisation Director and ex-director of British Petroleum and Goldman Sachs, has said, the ERT is 'more than a lobby group. Each member of ERT has access at the highest levels of government'. At the request of European governments, the ERT contributes heavily to their agendas. Negotiators are now working from the corporate blueprint the TABD, the ERT and their American counterparts have drawn up.

Transatlantic trade is worth about \$1.5 trillion a year but, with the exceptions of the agricultural and automotive industries, there is little to negotiate where tariffs are concerned – these average a mere three

percent. The goal is instead to privatise as many public services as possible and to eliminate non-tariff barriers, that is, regulations which the TNCs refer to as ‘trade irritants’.

The Trans-Atlantic Business Dialogue that prepared the treaty text (which has been kept secret) has recently changed its name to the Transatlantic Economic Council and describes its job as ‘reducing regulations to empower the private sector’. This is indeed what the TTIP is all about: it aims to reduce and place ceilings on government regulation in all areas, it insists on airtight investor protection and will encourage privatisation of public services. It calls itself a ‘political body’ and its director proudly declares that this is the first time ‘the private sector [has] held an official role in determining EU/US public policy’.

This Treaty, if it is approved by 2015 according to the TNC plan, will include changes to regulations covering safety of food, pharmaceuticals, chemicals and so on. It will have the final say on financial stability proposals and give freedom to investors to remove their capital without notice. It can block proposals for new taxes, such as the financial transaction tax, and reduce government capacity to deal with climate security, for example, by imposing higher standards on polluting industries. Governments will be forbidden to give preference to national over foreign companies for procurement contracts (a significant portion of any modern economy). The entire negotiating process will take place behind closed doors, with no input from citizens.

Central to all trade and investment treaties today is the clause which allows corporations to sue sovereign governments if the company chooses to claim that a government measure will harm its present, or even its ‘expected’ profits.

The number of ‘Investor to State’ disputes arising from the TTIP, if it passes, of course remains to be seen. However, under the terms of the hundreds of bilateral investment treaties already ratified, more than 500 cases have already been brought by corporations against governments, at least a third demanding \$100 million or more in compensation. There is no reciprocity, that is, governments cannot sue corporations if they cause damage or harm to the public or to public property. These cases are not judged in national courts but by special arbitration tribunals with lawyers and judges recruited from top private law firms, mostly British and American. Lawyers charge on average \$1000 an hour and arbitrators \$3000 a day.

The United Nations

The UN now has a special section for corporations called the ‘Global Compact’ founded about fifteen years ago by Kofi Annan and the President of Nestle. To become a member, a company need only sign on for fifteen principles in the areas of human or labour rights and the environment. Although they are supposed to supply progress reports, the UN never monitors them. It does ensure, however, that a high-level representative of each of the major UN agencies, such as FAO, WHO, UNESCO and so on, is assigned to coordinate and facilitate interaction with the companies.

The corporations that belong to the Global Compact, plus the members of the World Business Council for Sustainable Development and various other business associations or Chambers of Commerce, were massively present at the UN’s jamboree environmental conference Rio+20 in the summer of 2012. According to some reports, they virtually took over the proceedings. Business formed the largest delegation and staged the largest event, known, appropriately enough, as ‘Business Day’. Here the Permanent Representative of the International Chamber of Commerce to the United Nations (yes, like a country’s permanent representative) declared to thunderous applause, ‘We are ... the largest business delegation ever to attend a UN Conference...Business needs to take the lead and we *are* taking the lead’. The TNCs are now demanding a formal role in UN Climate negotiations.

Who Governs Today?

Earlier on, I purposely left unmentioned one aspect of the Enlightenment model which is vital to a truly democratic system: that is *popular sovereignty*, otherwise known as *the consent of the governed*. The people are supposed to be the ultimate arbiters: they need not only elected representatives but must also possess the inalienable right to say ‘No’ as well as ‘Yes’ to government policies and must be able, in the words of the First Amendment to the US Constitution, to ‘petition the government for a redress of grievances’.

It is not exactly news that governments have always governed on behalf of certain class interests but this is different from allowing those interests to actually write the legislation and to make policy directly, including

budgetary, financial, labour, social and environmental policy in the place of elected legislators. It is also different from allowing such interests to replace the established judiciary with *ad hoc* courts in areas such as trade dispute arbitration, even in jurisdictions where the justice system is known to be fair and independent. And there seems no way under present law to prevent such executive bodies as the European Commission, impermeable to all democratic process, from making policy directly contrary to the wishes of the great majority of European citizens, at least according to what one can learn from opinion polls.

How are the people to remain, or become, sovereign if they are in no position even to *identify* who, or what, is making the decisions that affect their lives? Democracy has in no way kept up with the pace of globalisation; whether nationally or internationally, authority is exercised without the consent of the governed and ‘the governed’ must almost be specialists or PhDs in political science to understand who is actually running what. Corporations exercise power with no corresponding responsibility. Whereas voters can sanction governments and throw them out of office, corporations are not only beyond popular reach through votes but collect egregious privileges such as personhood in the USA or full status in the United Nations.

It’s not just their size, their enormous wealth and assets that make the TNCs dangerous to democracy. It is also their concentration, their capacity to influence, and often infiltrate, governments and their ability to act as a genuine international social class in order to defend their commercial interests against the common good. They share a common language, a common ideology and common ambitions that touch us all.

At whatever level they operate, the overall goals of those seeking to exercise illegitimate authority are not simply to earn higher profits, although the bottom line remains paramount. They are also seeking (1) paradoxically, to provide a new kind of legitimacy for the alternative system they are putting in place, run entirely by themselves; and (2) to demolish such notions as the public interest, public service, the welfare state and the common good in favour of higher corporate gains in terms of both money and power and rules tailor-made for corporate purposes. They may ultimately replace ‘of, by and for the people’ with ‘of, by and for the TNCs’. Citizens who value democracy ignore them at their peril.

Author note: Susan George is President of the Transnational Institute, based in Amsterdam and author of numerous publications analysing contemporary political economic issues. Her books range from How the Other Half Dies (1976) to Whose Crisis? Whose Future? (2011) and How to Win the Class War (2013). She came to Australia from her home in Paris especially to present the Wheelwright Lecture at the University of Sydney on 29 August, 2013.


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The Wheelwright lecture is a prestigious annual event that is held in memory of the pioneering Australian political economist Ted Wheelwright and to showcase the ideas of leading contributors to political economy.

Special Announcement

2014 Wheelwright Lecture



Following the outstanding success of Susan George's oration, we are pleased to announce that the 2014 E.L. 'Ted' Wheelwright Memorial Lecture will be delivered in late August by Leo Panitch.

Leo Panitch is Distinguished Research Professor at York University, Canada, and editor of the *Socialist Register*. He is also the author of myriad works on political economy, including his most recent book: *The Making of Global Capitalism: The Political Economy of American Empire* (with Sam Gindin).

Please check the *JAPE* site for updates on the details of Leo's lecture.

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