

4 Globalization and Australian Institutions

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Parables of a Clever and Stupid Country

Australian culture today is significantly shaped by US television and by the marketing of late modern identities by US corporations. Indeed, even Prime Minister John Howard's foreign policy – his indiscreetly articulated dream that we might be Uncle Sam's regional deputy sheriff during the Timor crisis – seems to have a touch of Hollywood.

At the same time, it is true that in global politics Australia boxes out of its weight division. In United Nations institutions, the Organization for Economic Co-operation and Development, indeed in most intergovernmental organizations Australia has been more influential and respected than our political and economic significance would suggest. This is not true of international business organizations. In Geneva, New York or Paris intergovernmental agencies are riddled with Australians in influential positions. But down the road from the OECD at the International Chamber of Commerce, Australian business organizations are not important contributors to the debates that matter.¹ Similarly, in the lobbies of Geneva and New York, it is not the Australian business leaders who are shaping agendas among the business movers and shakers.

A revealing case study of Australia's global significance or insignificance is the creative and masterful leadership of Australian bureaucrats in establishing the Cairns Group during the Uruguay round of the GATT (Capling, 2001). The creation of this group did change the game. In previous GATT rounds the only real players had been the United States, Europe and Japan. Once the Cairns Group declared 'no agriculture, no round', they forced the United States to take them seriously. The United States said back to them: 'no intellectual property, no round'. The upshot seemed win-win, a triumph of Australian bureaucratic entrepreneurship within global institutions: agriculture and intellectual property both became big new disciplines of the World Trade Organization. Unfortunately, however, while Australia complied assiduously with its new intellectual property obligations, the United States chose not to comply with the new agricultural disciplines. The cost of this dual loss to the

Australian economy was enormous, given that Australia is a significant net exporter of agricultural products and a significant net importer of intellectual property rights: rural Australia was thrown into steeper decline, the health system was further crippled by being forced to pay years of extra monopoly profits to Northern pharmaceutical patent holders. Worse, through its seemingly clever support of TRIPs (the Trade Related Intellectual Property agreement of the Uruguay round) as an influential member of the Friends of Intellectual Property Group in Geneva, Australia played its part in making AIDS drugs unaffordable for developing nations, with catastrophic consequences across the globe and especially in Africa.

The Cairns Group fiasco is a parable of Australia's strengths and tragic weaknesses within global institutions. Australian trade bureaucrats were able to see the wood for the trees, making themselves a real force through the vehicle of the Cairns Group. But at the end of the day, Australia's interests were not served because the decisive end-run lobbying was done by US business groups. In the intellectual property field they actually managed to persuade Australia to exceed its TRIPs obligations, for example extending pharmaceutical patents beyond the twenty years mandated by TRIPs, and in the case of agriculture they persuaded Washington to increase agricultural subsidies instead of reducing them. It is a parable of comparative Australian governmental ingenuity, but of ultimate submission to the greater comparative strength of business interests in Northern nations.

Telecommunications is another such contemporary parable. The PMG/Telecom ran one of the most efficient public telecommunications systems in the world, in the face of comparatively difficult logistic challenges – a huge continent thinly populated with telephone subscribers. Part of this success was the Australian governmental innovation of the statutory authority to run a business enterprise relatively independent of political interference. One might have thought that, once privatized, Telstra would be well placed to become a formidable global player. Instead, the private sector management of Telstra has been abysmal; a publicly generated comparative advantage has been squandered when it became a private opportunity. I am not suggesting that the privatization was a mistake, simply that our public telecommunications operated at above the international average of public provision, but that as a private provider it has performed comparatively poorly. Indeed in the telecommunications market generally, Australia is no Finland. No Nokia knocks.

Among developed nations, Italy, a source of many of our immigrants, is our mirror image. Italy with its incompetent, unstable, corrupt public administration has creative private entrepreneurship that has given us many familiar brand names, from typewriters to fashion. Australia, with

its innovative public sector management and stodgy business management, registers its greatest claim for international notoriety in the field of corporate crime. So my third parable is the life of Alan Bond, beloved winner of the America's Cup. Bond was an English immigrant convict of sorts, convicted as a young Perth signwriter for a professional burglary business he was running on the side (Barry, 1990). He secured controlling interests in businesses that matter in Australia – beer and television – and thereby became a confidant of premiers and prime ministers. The scale of the losses his shareholders and creditors suffered, a ten-figure sum, may not have been exceeded by any corporate criminal in the history of the world so far.

There was genuine competence and flair in Bond's criminality and in his sporting accomplishments. Like Christopher Skase he was a master of laundering funds around the world financial system. But no-one would allege that he improved the quality of our beer or television.

Australia is a nation whose accomplishments in good government, in sport, in the arts and in intellectual endeavour have far exceeded our accomplishments in business management, as the Karpin Report (Industry Task Force on Leadership, 1995) somewhat timidly documented. Why are we as wealthy as we are, then, it might be asked? The things we are good at do add greatly to our wealth. Australian filmmakers compete with Hollywood successfully, our novelists compete for Booker prizes. Our biomedical scientists produce incredible breakthroughs which, while they are mainly exploited by Northern corporations, occasionally create wealth through Australian companies creating Australian jobs. We even have generated some wealth by putting on Olympic Games and Grand Slam tennis tournaments. Australian workers are not only competent at sport; they are literate, and wise, and are avid readers of newspapers compared to people of other lands. This helps make up for the economic deficit of the poor ways their talents are managed. It makes us an attractive regional office location for well-managed multinationals from the North. In fields where workers are fairly autonomous from managers, notably agriculture and winemaking, Australian efficiency has been extraordinary throughout our history. Mining is another area of high productivity where workers are relatively scattered into autonomous work groups beyond the gaze of management control. And of course Australia has natural comparative advantages in agriculture and minerals extraction. So in spite of Australian business incompetence we are not poor, though we are getting comparatively poorer as the prices decline for our agricultural and mining outputs.

Comparatively good government is also an economic plus for Australia. One of the positives for business investment in Australia is that in general you do not need to bribe a government official to get things done.

Australian business regulation has its flaws, but by and large it is recognized in my field as among the most sophisticated in the world, mostly managing to avoid the excesses of adversarial legalism we see in the United States and the extremes of business capture and corruption that characterize most states. The institutions of micro-economic reform discussed in the previous chapter have been internationally influential. Not only have they been modelled in significant ways by other states, but the Industries Assistance Commission model – robust expert economic diagnosis of the effects of industry protection, tabled as a draft report and subject to deliberative critique and revision through open public hearings – has been copied by the Trade Policy Review Process at the World Trade Organization (Braithwaite and Drahos, 2000: Chapter 10).

The argument of this chapter is that we can enrich our understanding of this contrast between Australian governmental innovation and business sluggishness by putting Australia in global perspective. Globalization, conceived here simply as the 'intensification of economic, political, social and cultural relations across borders' (Holm and Sorensen, 1995: 1), is not something new. While there clearly are some arenas, like entertainment and brand names, in which the effects of globalization have accelerated since World War II, I am not interested in tired debates about the relative importance of the global and the national across time. What I will discuss is how the distinctive nature of Australia requires us to include a consideration of global factors from 1788. These include: global movements of labour to sites of labour shortage like Australia; and the ways in which global movements of capital were shaped by a triple investment in corporate scale, scope and management that Australia failed to make because of protectionism, early failures of competition policy and because for a long time we did well by investing in extractive industries that did not require the triple investment. Australia's problem, I will argue, became corporate dependency on state hand-outs, as reflected in an unwillingness of Australian capitalists to take private responsibility for research and development or for human capital formation. Welfare dependency of the poor in an Australian welfare state that became modest by international standards was not a deadweight on Australian competitiveness. The sorry effect of the corporate finger pointing at coddling of the poor, instead of corporate coddling as the root of our problems, left Australia both a more unequal and a less entrepreneurial society.

A Government Colony in a World of Corporate Colonies

Three of the four largest nations in the world today – Indonesia, the United States and India – were ruled by private corporations in the seventeenth and eighteenth centuries. The British East India Company

wanted to form the government of the fourth, China, in the way it governed the Indian sub-continent, but the Chinese Mandarins combined with the competing claims of other Western powers to form an opposition too formidable. The Dutch East India Company formed the government of what we today call Indonesia. Most of the important early North American colonies were governed by companies like the Virginia Company, the Massachusetts Bay Company, the Dutch West Indies Company and later the Royal African Company (with New York), and the Hudson's Bay Company. Others, like Pennsylvania, were formed by individual businessmen leading a religious minority group. The Virginia Company was quite insignificant and short-lived commercially, but it did settle the first English colony in America, and wrote a constitution for Virginia that provided for the first representative legislature in America (Davis, 1961: 168). Thus, it was private corporate governance that first tilled the soil of democracy in Virginia, which in turn later grew a Jefferson and a Madison.

Similarly, the Massachusetts Bay Company developed a democratic constitution of Massachusetts with checks and balances and a separation of legislative and judicial powers. This constitution, along with that of Virginia, became a model for other colonies aspiring to governance by elected representatives constrained by a rule of law. 'The constitution of the colonial trading company was therefore perpetuated to a large extent in the State and Federal constitutions of the United States' (Davis, 1961: 201). In America, governmental institutions 'largely derived from corporations' (Ibid: 205) had a democratic vitality that was lacking elsewhere because they took root in American soil clear of feudal institutions. In the 1980s a new wave of colonization of the state by the corporation commenced: corporatization within government. The monolithic state bureaucracies were divided into separately managed corporatized operating units (Hood et al., 1999: Chapter 9). While Australia experienced this latter colonization of the state by the corporation, there were no important corporate players in its early history. It is this as much as the fact that Australia was a convict colony that made Australia distinctive. For example, Australia developed a large public sector that for most of its history compensated for the low private investment in human capital formation and research and development (R&D) with comparatively strong public investment. Since Keith Hancock's (1930) *Australia*, a theme in Australian historiography has been that this is a society that looks to and values things being done well by governmental institutions.

My hypothesis is that to understand the institutional trajectory of former colonies it is important to understand how their institutional foundations were laid. Was the colony built on pre-existing feudal foundations that would hold back democratic experiments? Was the initial

constitution that of a business corporation? Was it formed as a white settler colony (like Canada, the United States, Australia, New Zealand) or as a colony with a population mainly consisting of indigenous inhabitants with transient white colonial masters returning to the metropole after a period managing the colonial business? Or was it a hybrid like South Africa, characterized by competition between two large white settler communities (the British South Africa Company and the Dutch East India Company) both smaller in number than indigenous populations? To understand why an institutional framework like Apartheid arose in South Africa, but not in Australia, we might need to understand these hybrid South African institutional foundations. To understand why economic growth in Australia is driven by governmental investment in R&D, not private investment, we might need to understand the profound governmentalism of our own history. In the next section, I seek to develop an insight into Australian institutions by focusing on the global currents swirling at the nation's foundations. Then I move on to argue that in the twentieth century, it was global movements of capital that supplanted global movements of people as the greatest force reshaping Australian institutions.

Global Population Movements and the Global Penal Debate

England in the late eighteenth and early nineteenth centuries was suffering a crime wave (Braithwaite, 1989: 111–13). The growth of professionalized police services from Peel's innovation in 1829 was a later institutional response to this crisis, as were the Sunday School and a variety of other measures in civil society. But the initial response was a contest waged between two competing policy ideas – transportation and the penitentiary. Jeremy Bentham (1802) was the most prominent critic of transportation and advocate of the penitentiary. Indeed, Bentham put more effort into this debate than any other with which he engaged. At first, transportation was in the ascendancy. It was seen as a way of purifying England by casting out its dangerous classes. And in one fell swoop, the dregs of the army could also be exiled, sent to the other side of the world to guard the convicts. So when the revolution ended transportation to America, England embarked upon a much more ambitious program of transportation in order to conquer the continent of Australia for the empire. Investors were not interested at first in the transportation of convicts, so this would have to be a government colony rather than a private corporate colony, though later Wakefield's South Australian and New Zealand companies would be responsible for the colonization of those places, with many of the immigrants coming from elsewhere in Australia.

Transportation was part of a larger picture of global movements of colonial labour power, other pieces of which were the slave trade and indentured labour. I seek to show here that Australia became a governmental colony because of a particular kind of labour surplus England wished to exclude. Because of its labour shortage, Australia became an innovator in institutions that would include them. After 1820 two and a quarter million convicts were transported to destinations that included Australia, Siberia, Singapore, New Caledonia, French Guiana, Gibraltar, the Nicobar Islands, Brazil, Sumatra, the Andaman Islands, Bermuda, Penang, Malacca and Mauritius (Nicholas and Shergold, 1988). There would have been more had Britain not thrown its weight around to prevent other states following the path to colonial development that Britain itself had pursued. For example, it resisted attempts by Austria, Italy and Germany to establish penal colonies in the Pacific. France was too powerful for Britain to resist, though Britain did manage to persuade it that a French penal colony in Western Australia would be ill-advised. The state of Hamburg actually signed a contract to ship convicts to the Australian Agricultural Company, but the British Secretary of State, Lord Glenelg, put a stop to it with the convicts waiting on the ship.

While this transportation after 1820 accounts for the highest volumes, there was also considerable English transportation of convicts to North America in both the seventeenth and eighteenth centuries and some to Africa (Shaw, 1966: 32–4). There was also some Swedish transportation to New Sweden (Delaware) during the seventeenth century and a momentary Dutch flirtation with transportation to Surinam (Spiereburg, 1995: 68). During these centuries and throughout the sixteenth and some of the fifteenth century as well, Spain, France, Austria, most Italian states and other Mediterranean principalities banished prisoners to galley slavery, but again in numbers that were modest compared to nineteenth-century transportation.

Transcontinental shifts of convict labour, especially by Britain and Russia, were of a piece with millions of indentured Melanesians, Chinese and Indians and millions of African slaves moved to spaces where labour was scarce as part of empire-building strategies. As penalty became an instrument of imperial expansion, it was transformed in paradoxical ways. It showed us how well restorative justice might work with slum dwellers from the largest metropole. Macquarie's Sydney reinvented what we now describe as restorative justice and Macquarie even used the language of restoration (Braithwaite, 2001). The colony invented the ticket-of-leave, which was modelled in England and became parole (Finnane, 1997: 162). The administration also established an institution for juvenile offenders and stopped executions in public for the same reasons that these things occurred in England decades later.² In its

English-driven reaction against the restorative justice of the ticket-of-leave, the Australian convict administration produced Edmund Du Cane (1885), who became the driving administrative force and theoretician of the severe centralized Benthamite state penitentiaries in Britain. Du Cane was both the author and pre-eminent implementer of the principle of lesser eligibility. At the Norfolk Island penal settlement, Alexander Maconochie was given the opportunity to implement his new synthesis of progressive movement from confinement to reintegration into the community. This approach was the dominant influence on the US reforms in the aftermath of the 1870 National Congress of Penitentiary and Reformatory Discipline³ and the Irish system of Sir Walter Crofton (Rotman, 1995: 173), and it was central to understanding how Keynesian welfare state probation-prison-parole institutions evolved everywhere (Barry, 1958).

Agriculture soon came to flourish after the Australian penal colony was established. As a result there was a shortage of labour to develop the land. The colony needed more and more convicts. Landholders wanted convicts once they arrived to be released to them on assignment almost immediately. They also wanted to keep the convicts once allocated and to have them work hard. Landholders therefore had an incentive to treat their workers well and to offer side-payments for special effort. As a result, convicts enjoyed a standard of living comparable to that which free workers might expect in that era. Once convicts had the skills to work properties, governors wanted to give them land to open up new frontiers. While recalcitrant convicts would often end up on a noose or flogged to death, convicts willing to work were given opportunities to be integrated into respectable society and to achieve economic success that they never would have been afforded in England. From the First Fleet, Governor Phillip accorded convicts the protections of a rule of law never before afforded to English criminals. Australian convicts had a right to hold property and could sue to protect that right; they could sell part of their labour; they were given status to appear as witnesses in court cases; and they were entitled to write petitions to a Governor who mostly took them seriously. English prisoners did not enjoy these rights. Convicts could and did press charges against their masters for ill-treatment in ways that are impossible in contemporary Australian prisons (Hirst, 1983: 109–11). Perhaps most remarkably, convicts assigned to work for landowners could obtain a writ of *habeas corpus* to protect them from being locked up without trial. Without a court order a convict could not even be put in irons for any reason other than prevention of escape. In a famous case in 1827 Justice Stephen upheld a writ of *habeas corpus* from some convicts who had been locked up for five or six weeks for stealing cattle without being sent to court. The judge ordered the prisoners to be released,

finding that 'the rights of prisoners were as sacred in the eye of the law as those of free men' (Ibid: 118). A courageous judgement; yet Chief Justice Forbes backed Justice Stephen when Stephen was subjected to some political pressure over it. It was not an isolated instance. A year after the English courts ruled that questions about previous offences could not be asked during criminal trials, Judge Willis refused to allow the NSW Attorney-General to ask a witness 'what were you sent out for?' (Ibid: 119). Neal (1991: 25) concludes that the courts acted as a *de facto* parliament:

The American and French revolutions gave political actors in New South Wales recent models for political change. Neither the ideology of universal rights nor the strategy of armed revolution was adopted in New South Wales. The presence of Jacobins, Irish rebels and political leaders who were well versed in those ideas and strategies meant that the strategies actually adopted were not adopted in ignorance of other possibilities. (Instead) protagonists relied on their British birthrights and deployed the language of the rule of law to secure them and to forge new social and political order out of the penal colony at Botany Bay.

In Chapter 8 Martin Krygier examines this theme of Australia's early development as a society where the rule of law counted for something. After the abortive Irish Rebellion of 1804, there was no convict uprising. A single settler employing a number (sometimes dozens) of convicts hundreds of miles from the reach of state authority would seem to have reason to fear such uprising. Yet the Australian bourgeoisie lived less in fear of a rebellion of their dangerous classes than the European bourgeoisie did or American plantation owners in relation to possible slave uprisings. Such confidence was possible, I will argue, because the convicts had hope, a stake in the future,⁴ and some prospect of fair procedure to deal with the injustices of the present. And landholders knew that convicts had that hope, that stake, that prospect of legal redress. The literature of the social psychology of procedural justice shows that even in the context of a harsh criminal justice system, adverse outcomes combined with a perception of fairness of procedures can deliver high compliance with the law (Lynd and Tyler, 1988; Tyler, 1990). One reason for this is that when one shares an identity as a citizen of a just legal order, there is a willingness to comply with that order (Tyler and Dawes, 1993). To realign the identities of convicts to those of law-abiding citizens, convicts need to be persuaded that they are now in reach of a society where the rule of law is something that offers them practical protection and is therefore worthy of being honoured. Brutality is more bearable when its end can be imagined and seen and when its excesses can be challenged by fair procedure. Neither Australian Aborigines nor American slaves could imagine its end in the same way the white

Australian convicts could. Defiance of a legal order springs more from the combination of adversity with perceived injustice (Sherman, 1993).

The convicts worked shorter hours, were better housed, better clothed, and had better access to medical care (Nicholas, 1988: 187-94) than free English workers (but see the questioning of this conclusion for Moreton Bay by Evans and Thorpe, 1992). Because Victorian morality regarded convicts as less deserving of such things than free workers, some backlash was perhaps inevitable. It came at the hands of Edmund Du Cane in the form of the principle of 'lesser eligibility': penitentiaries sufficiently tough that convicts got nothing that law-abiding poor were denied. By the late nineteenth century the victory of the penitentiary as an institution over transportation was almost total, though French transportation continued until 1938. The early-nineteenth-century writings of Bentham in England and de Tocqueville in France in defence of the penitentiary, particularly of its American variants, were seen as vindicated.

I have argued in more detail elsewhere that labour shortages were the fundamental reason why convicts were extended a level of procedural justice and reintegration into legitimate society not seen in institutions of criminal law that preceded or superseded it (Braithwaite, 2001). French fact-finding missions from the earliest days were amazed by the results. Péron reported for the members of one 1802 mission:

Never perhaps has a more worthy object of study been presented to a statesman or philosopher ... There, brought together, are those terrible ruffians who were for so long the terror of the government of their country: thrust from the bosom of European society ... The majority, having atoned for their crimes by a hard bondage, have rejoined the ranks of the citizens. Obligated to concern themselves with the maintenance of law and order to safeguard the property they have acquired, having become nearly at the same time husbands and fathers, they are bound to their present state by the most powerful and beloved ties. The same revolution, brought about by the same means, has taken place in the women; and miserable prostitutes, gradually restored to more proper principles of conduct, are today bright and hard-working mothers of families (quoted in Forster, 1996: 11).

Interest in transportation as an institution globalized. In the long run, however, that interest could not be historically sustained: colonial powers simply ran out of suitable '*terra nullius*' to occupy.

The next big compositional fact of the Australian population after the convicts, however, was equally driven by the global dynamic of shifting people from regions of labour surplus to regions of labour shortage, and it was even more important in its impact on the nature of contemporary Australia. Before we move on to consider Australian and global institutions of transnational free migration, we will consider Australia's role as

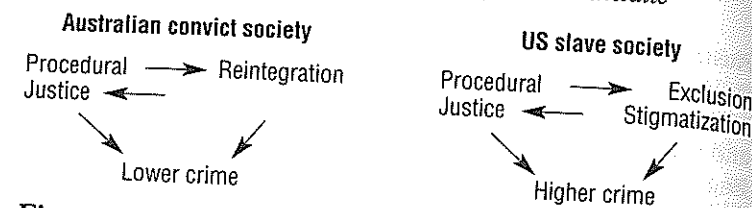


Figure 4.1 Differences between Australian convict society and US slave society

a colonist of its Aboriginal people and of people of the Pacific. And before we leave the institutions of the convict colonies, we must not miss pointing out that transportation seems to have been remarkably effective in moving England and Ireland's dangerous classes and their children away from lives of crime. This seems particularly so of the destination of most of the most serious offenders, Tasmania. Keith Hancock (1930: 40–1), Manning Clark (1968: 10) and Henry Reynolds (1969) have all commented on how law-abiding Tasmanians became, even though in the late nineteenth century it was still the case that most of the population was descended from convicts. In 1875 Tasmania still had an imprisonment rate higher than anywhere in the world today: by the beginning of the twentieth century it had an imprisonment rate lower than any nation in the world today (Braithwaite, 2001). In the thirty-two years to 1916 only one Tasmanian was convicted of homicide, and there were also hardly any convictions during those years for other serious offences such as robbery and rape (Mukherjee et al., 1989: 440–5). This experience is of enduring relevance to a reconsideration of the failure of institutions of criminal justice and of regulation more broadly during the twentieth century and is being drawn upon in the new debates around abandoning punitive justice in favour of reintegrative or restorative justice. Braithwaite (2001) has summarized the relevant differences between Australian convict society and American slave society as in Figure 4.1.

Aboriginal Exclusion

Tasmania, the site of the greatest triumphs of the reintegrative institutions of convict society, was also the site of a dispossession and murder of Aboriginal people that was so total as to justify describing it as genocide. No full-blood Aboriginal Tasmanians survived the century. Given the labour shortages, why was Aboriginal labour not called upon to assist? Why were black African slaves and Melanesian indentured labourers valued on the world labour market, but not Aboriginal Australians? Partly it was because, like North American First Nations, Aboriginal Australians were a domestic enemy to be expunged from the land as opposed to a

pacified people to be imported to work. Also it probably was partly because they were seen as a Stone Age people, not more hated than the Chinese, but seen as incapable of fitting into a complex division of labour in the same way the Chinese could. English capital exporters understood investing in British workers across the globe, but might have balked at funding investments based on the uncertain ingredient of harnessing Aboriginal human capital (see generally Denoon, 1983).

While we cannot be confident about the reasons, we can be certain that in the century when convicts were being reintegrated, Aborigines were being exterminated and almost totally excluded from labour market opportunities in the dominant society. It was only in the remote northern and western extremities of the continent that Aborigines ever secured large numbers of jobs in the pastoral industry. The cultural estrangement from the European labour market was so total, except in those pockets, that one wonders why people are so puzzled when Aboriginal people today find it difficult to seize the still limited opportunities for jobs open to them.

The enduring accomplishment of the institutions of convict society is that they equipped the unemployable dregs of British society as one of the best workforces in the world, arguably the best rural workforce. That literate rural working class met at places like the tree of knowledge in Barcaldine to form the Australian Labor Party, and trade unions successfully lobbied for the institutions of the wage-earners' welfare state (Castles, 1985; 1994) – a welfare state that gave Australia its distinctive institutional shape for most of the second century after the arrival of the First Fleet. For all its male egalitarian progressiveness, however, its philosophy of the employability of all white males was never extended to Aboriginal males. The notion of a fair go for people whom respectable society would regard as dangerous and unfit for free labour, epitomized in the legend of Ned Kelly, would become a resource for much later egalitarian movements for Aborigines and women, but at the height of its power the inclusionary community of the fair go excluded as many as it included. None more so than Aboriginal Australians. The gifts of land that made emancipists respectable were thefts of land that destroyed Aboriginal cultures, depriving Aboriginal people of the font of their self-respect. The very distinctive property institutions that included the one group excluded the other. The Australian story is a story of the dignity of the land as the crucial resource in human capital formation (Fitzpatrick, 1941). Peter Read (1997; 2000) is on to something important in his discussion of the distinctive affinities of European as well as Aboriginal Australians with the land, just as Read was also on to something in seeing the compounding of the loss of dignity from loss of country with the indignity of loss of children, the stolen generations.

So the history of Australia is a history of a unique kind of rule of law – a procedural law and property law (the post-feudal innovation of the Torrens system), that created extreme forms of inclusion and exclusion.

Colonial Australia

It is worth more than a footnote in the pursuit of the Australian identity to understand Australia as a colonist in the Pacific. We have already observed that Australia's own institutional experience as a colony was not of governance by a colonial trading company. Nevertheless, there was more of an element of that in Australia's experience as a colonizer. Companies like Burns Philp (Buckley and Klugman, 1983) and the Colonial Sugar Refining Company (Lowndes, 1956) were among Australia's few early successful corporations. It was CSR which sought Indian indentured labourers for Fiji to work its sugar plantations, sowing also the seeds of twentieth-century racial coups in that country. Burns Philp was one kind of *raison d'être* of Papua New Guinea as a colony. A plantation and trading company economy was the rationale for German New Guinea that Australia inherited after World War I. It was an economically flawed rationale. Germany was plucking too little too late from the presumed fruits of imperialism's tree. Australia coming in after them to pick up the pieces made no economic sense.

While expatriate racism in New Guinea was rife, the bigger story of Australian colonialism in New Guinea was of trying to protect the cultures of the other big southern island from destruction by European invasion. The high point of this aspiration was Gough Whitlam's grant of independence in 1975 and the subsequent Australian underwriting of half the Papua New Guinea budget for decades through foreign aid. As Dryzek argues in Chapter 5, democratization is a work-in-progress; in the twentieth century Australia became a missionary in the region for a more inclusionary vision of democracy than it had grasped during its own development. Australia as colonist wanted to do better than Australia as colony in institutionalizing the autonomy and integrity of indigenous peoples. For New Guinea, there was never the dream of a white settler society, no conception of *terra nullius*, and there was always the aspiration that the labour power fuelling a future Melanesian nation-state would be Melanesian. Throughout its region, Australia has been an advocate of democracy and autonomy based on economic development. When the inevitable tensions have arisen between national unity and local autonomy, it has mostly (though not consistently, as Timor illustrates) been a constructive broker of peace, from Bougainville to Fiji and the Solomons. Part of the story here is that its colonial companies, Burns Philp and CSR, were never great forces in the land. They were not brilliantly

managed and slowly declined. The extractive corporates who were active in Melanesia – CRA and BHP among them – were much more formidable. But they were also causes of political and environmental disasters in Bougainville and Ok Tedi. So Australian support for indigenous autonomy mostly trumped support for corporate colonialism. The Pacific as a result has been persistently one of the most democratic zones of the post-colonial world.

State Experiments in Australia

William Pember Reeves' two-volume work, *State Experiments in Australia and New Zealand*, published in 1902, documents the extraordinary innovation that occurred in the Antipodes in the late nineteenth and early twentieth centuries. This was an era of exceptionally high immigration between Australia and New Zealand, facilitating the trans-Tasman movement of institutional ideas. Often Australia was the second nation in the world to launch a democratic innovation, as with compulsory voting (after Belgium) and votes for women (after New Zealand), and often New Zealand was the state that was first (see Sawyer, 2001). But Australia developed the most important forms of preferential voting; it was first with the secret (or 'Australian') ballot, and saw the first Labor government in Queensland in 1899. Democratic socialist experimentation perhaps attained its zenith under T. J. Ryan's Queensland government. Ryan died in 1921 at forty-five years of age before he attained his destiny of being a great experimenting Labor prime minister. Ryan was a frustrated advocate of effective antitrust laws, though he did break the sugar monopoly of CSR. He successfully introduced compulsory workers compensation insurance, a progressive tax on the unimproved value of land, and withholding taxes on dividends, among other reforms (Murphy, 1975). Some of the experiments were genuine disasters, like state-owned cattle properties and butcher shops to guarantee cheap meat for workers' families. But in fairness such failures were typically abandoned when they became inefficient vehicles for jobs for the local party faithful.

Without any doubt, the most consequential experimental reshaping of Australian institutions was state and federal conciliation and arbitration of labour relations. Its principal architect, Justice Henry Higgins, was a disciple of experimentation: 'the greatest gains that humanity has made for itself have been the result of bold experimentation, with correction of mistakes' (Higgins, 1922: 167). Higgins' vision of industrial relations was of relational justice, restoration of harmony and basic social justice in a way that resonates with Governor Macquarie's project of restoring emancipated convicts to a co-operative place alongside exclusivists, and

with contemporary New Zealand and Australian experiments in restorative or relational justice (Burnside and Baker, 1994). For Higgins (1922: 60-1), 'The arbitration system is devised to provide a substitute for strikes and stoppages, to secure the reign of justice against violence, of right against might – to subdue Prussianism in industrial matters.' Co-operative conciliation rather than mandated arbitration was designed to be the main game. It may be that procedural and relational aspects of the model continue to be relevant to the contemporary realities of global markets even if the substantive inflexibility of a rule-bound regime was not. Perhaps the real problem with the regime was that it failed to make the transition from command and control to responsive regulation that other regulatory regimes did make (Ayres and Braithwaite, 1992).

Experimentalism oriented to social justice is the more general point about the formative period of Australian history at the time of Federation. There was the refinement of older experiments like the Torrens land system, old-age pensions, workers compensation, professional electoral office administration of continuously maintained electoral rolls, and many more. It is telling, though, that Reeves' last case study (1902: II, 325) is 'The Exclusion of Aliens and Undesirables': 'Alone among the chief divisions of the Empire the Commonwealth and New Zealand are not split up by any race-fissures. None of their cities are babels of tongues – none of their streets are filled with dark faces.' For Reeves, the important experiments in government that had delivered this were the exclusion laws of the nineteenth century, particularly directed against the Chinese, but also the return of Kanaka indentured labourers to Melanesia. His vision still weighs on Australian political institutions, as John Howard's remarkable 'turn-away-the-ships-and-bomb-the-Afghans' election victory of 2001 showed. For Reeves, 'At first sight the case for a kindly practice of laissez-faire seems very strong' because 'it is an unwelcome task to interfere with the transit of civilised human beings from one friendly land to another' (Reeves, 1902: 358-9). But Reeves saw the great future project of Australian social justice as the elimination of unemployment, that is, state involvement in fostering demand for work and substituting labour market opportunities where demand would not arise in the market. He did not think this project could be realized if immigration could not be regulated according to the capacities of such programs. Exclusionary institutions of immigration therefore had an inclusionary side. We need to see the dialectic of inclusion and exclusion as central to the greatest injustices of the wage-earners' welfare state, but we need to see it with some nuance (see generally Holton, 1998).

From Global Labour Dynamics to Global Capital Dynamics

My argument has been that transnational movements of labour to locales of shortage explain the distinctive fair-go institutions of convict society. This foundation combined with the continuation of labour shortages explains the wage-earners' welfare state described by Castles in Chapter 2. This meant well-organized labour enjoying a strong bargaining position because chronic labour shortage made returns to investment in labour very high, extracting attractive conditions to draw new workers to the continent. As Castles' chapter demonstrates, distinctive welfare institutions, most notably conciliation and arbitration courts, ossified egalitarianism for workers. Later, after the 1972 equal pay decision, it institutionalised a high degree of structural equality for women. Sawyer in Chapter 6 conceives of Australia becoming socially liberal, committed to themes of equal opportunity and the ethical state that ultimately redounded to the advancement of women. Ultimately, from Whitlam to Keating, it also came to endorse the very multiculturalism that was feared in the heyday of the wage-earners' welfare state.

The same conditions of labour shortage explained high levels of immigration subsidized by the Australian state. Workers' organizations were wary of the immigrants, however. Would they undermine the solidarity of the wage-earners' welfare state, refuse to join unions, break strikes, undercut wages? Working-class Australia translated this wariness into a continuum of prejudice; Asians were most likely to threaten cheap labour, followed by Continental European immigrants, with Anglo-Irish immigrants seen as least likely to do so. So we can conceive the White Australia policy as an institution of population born of the insecurities of a 'workers' paradise' planted on a globe with many different supply options from labour-surplus states. Just as with the inclusion of convicts and the exclusion of Aborigines, race was the fundamental marker of inclusion. From Henry Lawson to Pauline Hanson, racism remains the greatest taint on Australian solidarity and egalitarianism.

At some point during the twentieth century that is hard to specify, capital shortage became the more critical problem for Australia than labour shortage. When the once limitless supply of English capital dried up, we became keen to acquire Asian business migrants with money to invest. In these new conditions, the wage-earners' welfare state came to be seen as a liability for attracting global capital. Once the White Australia policy was dismantled, attracting workers was less of a problem than limiting their flow. Boat people and human traffickers today are seen as a threat to rationing population growth to capital- and skill-rich immigrants. The detention centre is the institution of their exclusion, just as

the gallows and Norfolk Island were for the convicts, and reserves for Aborigines. Hulks rotting in the water are perhaps the coffins in common for excluding convicts and boat people through death. The phases of Australian history, more than that of other lands, are marked by their peculiar institutions of exclusion, juxtaposed throughout with the warm inclusiveness of mateship. Centripetal forces of transnational migration out of surplus states sucked in to the centrifugal inclusiveness of an Australian solidarity with definite boundaries policed by men with chains and dogs.

As Castles explains in Chapter 2, the wage-earners' welfare state collapses in conditions of capital rather than labour shortage.⁵ Labour markets are deregulated, particularly in the 1990s. Workers compete for capital instead of capital competing for workers. Protectionism is unsustainable, as Pincus and Brennan explain in Chapter 3. The institutions of competition policy acquire the centrality once enjoyed by the institutions of labour market regulation. Allan Fels, the Chairman of the Australian Competition and Consumer Commission, is now regularly described in the financial press as the most powerful bureaucrat in the nation, usurping the institutional significance once enjoyed by the successors of Justice Higgins as president of the Arbitration Commission and those who presided over the Tariff Board. Continuous reinvention of micro-economic reform is needed to compete for global capital.

The Demise of Egalitarian Australia

The work of Deborah Mitchell (1995) among others has suggested that labour market deregulation over the past decade has probably undermined the structural gender equality that had been delivered by centralized wage-fixing constrained by equal pay decisions. The inclusion-exclusion parameters of the male mateship that had its origins in convictism, on the frontier, and among the rural working class were culturally sexist but the institutions it spawned ultimately became structurally egalitarian with respect to gender. The neo-liberalism of the new century is more culturally but less structurally egalitarian with respect to sex. This is particularly so for Asian women, increasing numbers of whom are ensnared in networks of sex slavery managed by people traffickers into the Australian sex market. Often this is based on debt bondage – teenage girls are sold into sex work to pay off family debts. For Australian-born women, it is drug bondage rather than debt bondage which is the primary factor that provides the grip on sex workers. The heroin markets that have delivered this problem are global.

Globalization has also had a profound impact on the distributive effects of the institutions of taxation in Australia. In the first half of the

twentieth century only the wealthy paid income tax. It was beyond the regulatory capability of governments to chase shearers around the country and get them to pay income tax. So governments did not try. Today it is beyond the regulatory capability of governments to chase the assets of wealthy people around the world, so they are more interested in the appearance of trying to do so than in succeeding. In the course of the twentieth century income tax has seen a complete reversal of its distributive effects – from being an instrument of redistribution from rich to poor to being a tool of redistribution from the poor to the rich. This is one of the most fundamental reasons why Australia has ceased being an economically egalitarian society.

The story of how this happened is a global one. An important stage was the phenomenon of the early 1970s where nations that clung to a radically redistributive income tax system like Sweden were ridiculed by media barons when super-rich citizens like Bjorn Borg and the members of Abba threatened to leave for tax reasons. The realization that the wealthy were both more geographically mobile than in the past and more able to shift their assets around the world generated constant downwards pressure on top marginal tax rates everywhere in the world for the next three decades. The egalitarian Australia of Menzies when a top marginal income tax rate of 85 per cent prevailed would never return. The same thing happened with corporate tax rates and even more so with corporate tax expenditures that replaced the Keynesian welfare state with a corporate welfare state. Increasingly, economic elites would say to each other and to prime ministers privately, but never publicly, that allowing wealthy corporations to get away with not even meeting these declining obligations was in the national interest. If we got tough on corporate tax non-compliance, investment and employment would flee to other shores. So we reached a situation in the late 1990s where a majority of the corporations which were the responsibility of the Large Business and International Business Line of the Australian Taxation Office were paying no company tax. This exaggerates how bad things are, because many large corporates will control some entities that pay no tax and others that pay some. But there are significant numbers of multinational corporations that pay no company tax across all their entities for highly profitable Australian operations. Equally, there are hundreds of extremely wealthy individual Australians with tens of millions of dollars in assets who pay no tax. OECD leadership in attacking the tax havens that are an important part of this global problem collapsed with the election of George W. Bush, though concern about the financing of terrorism is causing some rethinking. Tax havens are just one of a number of 'fiscal termites' (Tanzi, 2000) that global forces are causing to eat away at the integrity of the Australian taxation system.

Of course as the revenue side of the budget comes under increasing pressure from competition for capital and other global threats like e-commerce, redistributive capabilities on the expenditure side of the budget are also threatened. Corporate welfare is handed out not only by the Commonwealth but also by state governments competing for capital through tax breaks, grants, cheap electricity and the like; the result is that the poor cross-subsidize the rich through their electricity bills, their land taxes, and so on. Traditional Keynesian welfare for the poor is not only driven out by the budgetary demands of corporate welfare; the poor actually make direct contributions to corporate welfare. The rural poor, who previously enjoyed cross-subsidies on expenditures like their telephone bills, now contribute to cheap telephone rates for large corporate subscribers. A major reason for Hansonism and the curious anti-globalization alliance of the rural and regional right with the urban left is to be found in the emerging realities of the corporate welfare state.

Globalization and the New Regulatory State

Not only is the Keynesian welfare state largely a phenomenon of the past, so is the nightwatchman state of classical liberal theory (Nozick, 1974). We live today in what scholars in my field increasingly refer to as a new regulatory state (Majone, 1994; Loughlin and Scott, 1997; Parker, 1999; Braithwaite, 2000). This means a state where most police are private police, where many prisons are private prisons, regulated by the state. Not privatization and deregulation – the Hayekian policy package – but privatization and regulatory growth. When we privatize telecommunications, we create Austel, a new regulatory authority. Privatization moved to the heartland of the Keynesian state with the privatization of the Commonwealth Employment Service. The Keating government could not implement that privatization without creating the Employment Services Regulatory Authority; when the Howard government pushed on without the regulatory agency, considerable chaos and fraud ensued, as it did when the British government privatized rail without credible investment in regulatory co-ordination. For Sawyer (Chapter 6) Australian social liberalism from quite early on was characterized by commitments to state regulation. This regulation ultimately saw interventions such as affirmative action for women and anti-discrimination laws that secured rights for gay men and lesbian women as its social justice agenda extended its reach to the excluded (see Gatens and Mackinnon, 1998).

To use the metaphor of Osborne and Gaebler (1992), we live in a world where the state might be doing less rowing, but it is doing more steering. University teachers, slumped over their oars, know this from personal experience. The metaphor actually does not go far enough in

capturing the changes that have occurred in the nature of governance. Foucault's (1991) governmentality lectures get us closer to an understanding of the way government is no longer a unified set of state instrumentalities. The sovereign is not dead, the state is not powerless (Weiss, 1998), but the state is only one of many sources of power. Moreover, the state is an object as well as subject of regulation. It is regulated by the International Monetary Fund, Moody's, the Security Council, the International Organization for Standardization, the World Trade Organization, among other institutions. We live in a world where many centres of institutional power both steer and row. And each steers its own rowing while mindful of the steering and rowing undertaken by other private and public institutions.

Many of the standards of the new regulatory state are global. For years some of Australia's air safety standards have been written by the Boeing Corporation in Seattle, or if not by it, then by the US Federal Aviation Administration in Washington. Our ship safety laws have been written by the International Maritime Organization in London. Our motor vehicle safety standards come from Working Party 29 of the Economic Commission for Europe. Our food standards are established by the Codex Alimentarius Commission in Rome. Many of our pharmaceutical standards have been set by a joint collaboration of the Japanese, European and US industries and their regulators, called the International Conference on Harmonization. Our telecommunications standards have been substantially set in Geneva by the International Telecommunication Union. The chair (and often the vice-chair) of most of the expert committees that effectively set those standards in Geneva are Americans. The Motorola Corporation has been particularly effective in setting telecommunications standards through its chairmanship of those committees. As a consequence, Motorola patents have been written into many of the ITU standards that we all must follow.

The Late Arrival of Managerial Capitalism in Australia

Australia the colony was born as a government colony. Over time, it grew institutions designed to empower a regulatory state to ensure a fair go. In this polity that Sawyer describes as socially liberal, excellence in government was always more valued than excellence in business. Efficient primary production and extractive industries meant that the Australian economy did quite well without the benefit of the early development of indigenous multinational corporations. Australia had a radically different pattern of growth from the United States. There the effect of enforcement of the Sherman Act by American courts was not exactly as intended by the progressive era social movement against the railroad, oil, steel and

tobacco trusts. Alfred Chandler Jr noted that 'after 1899 lawyers were advising their corporate clients to abandon all agreements or alliances carried out through cartels or trade associations and to consolidate into single, legally defined enterprises' (Chandler, 1977: 333-4). US antitrust laws thus actually encouraged mergers instead of inhibiting them because they 'tolerated that path to monopoly power while they more effectively outlawed the alternative pathway via cartels and restrictive practices' (Hannah, 1991: 8). The Americans found that there were organizational efficiencies in managerially centralized, big corporations that made what Chandler called a 'three-pronged investment': first, 'an investment in production facilities large enough to exploit a technology's potential economies of scale or scope'; second, 'an investment in a national and international marketing and distribution network, so that the volume of sales might keep pace with the new volume of production'; and third, 'to benefit fully from these two kinds of investment the entrepreneurs also had to invest in management' (Chandler, 1990: 8). None of these elements of the three-pronged investment occurred in Australian corporate capitalism. The Australian investment until the 1960s and beyond, as Pincus and Brennan show in Chapter 3, was in lobbying for protection, and this was the investment that the state rewarded.

According to a revealing study in the Chandler tradition by Tony Freyer (1992), the turn-of-century merger wave fostered by the Sherman Act thrust US long-term organization for economic efficiency ahead of Britain's for the next half century, until Britain acquired its *Monopolies Act 1948* and *Restrictive Trade Practices Act 1956*. One might have applied the same analysis to the Australian comparison, if not more so. Until the 1960s the British economy continued to be dominated by family companies which did not fully mobilize Chandler's three-pronged investment. Non-existent antitrust enforcement in Britain for the first half of the twentieth century also left new small business entrepreneurs more at the mercy of the restrictive business practices of old money than in the United States. British commitment to freedom of contract was an inferior industrial policy to both the visible hand of American law-makers' rule of reason and the administrative guidance of the German Cartel Courts. For the era of managerial capitalism, liberal deregulation of state monopolies formerly granted to Indies companies, guilds and other corporations was not enough. A special kind of regulation for deregulation of restrictive business practices was needed which tolerated bigness.

Ultimately, this American model of competitive mega-corporate capitalism globalized under four influences:

- extension of the model throughout Europe after World War II under the leadership of the German anti-cartel authority, the Bundeskartellamt, a creation of the American occupation

- cycles of Mergers and Acquisition (M&A) mania, to which Australia was not immune, catalysed in part by M&A missionaries from American law firms
- extension of the model to the dynamic Asian economies in the 1980s and 90s, partly under pressure from bilateral trade negotiations with the United States and Europe (who demanded breaking the restrictive practices of Korean *chaebol*, for example)
- extension of the model to some developing countries with technical assistance from UNCTAD.

While Australia was among the latest developed economies to see mega-corporate capitalism, ultimately we came to live in a society where more of the significant things done in the world were done by corporations rather than individuals acting on their own behalf or by the state. Australian managerial reluctance to make Chandler's three-pronged investment meant that when Australian corporations did become larger they did so by controlling a monopoly, like BHP with steel, or an oligopoly, like the Murdochs, Packers and Fairfaxes with the media; or by demanding tariff protection like our largely failed industrial firms; or via tax expenditures such as the tax deductions for research and development demanded by our largely failing information technology industry and other post-industrial corporations. So our corporates were flaccid and they rarely established multinational brands of major significance. It was not so much the residue of the wage-earners' welfare state that shackled the Australian economy but the failure of coddled corporates to make Chandler's three-pronged investment a century ago and to invest in the R&D needed for success in the information economy of the past two decades. Rather, they sat back expecting the state to pay for national R&D. Instead of a three-pronged investment, the Australian corporate investment was one-pronged – in lobbying for the Australian state to solve their problems. Instead of funding institutions of national development like universities, Australian corporations expected universities to fund them, to divert resources from the pursuit of basic science to the serving of their applied needs. OECD statistics revealing Australia almost at the bottom of OECD rankings on private R&D investment actually understate how parlous the situation is. Much of the Australian corporate R&D that is in these numbers is phoney, representing aggressive tax planning schemes in R&D rather than the real thing.

The very decades in which Australia was such a leader in governmental experimentation, the last decade of the nineteenth and the early decades of the twentieth century, were the decades when US experimentation in corporate organization started the process of corporate capitalism in which Australia is such a laggard. Paradoxically, in these new global conditions, being a laggard in corporate capitalism was part of the push that moved us from being a leader to a laggard with respect to the welfare state.

Whither the Fair Go?

As Dryzek shows in Chapter 5, over time Australian democracy has become more inclusionary of previously excluded groups – in turn, non-property men, women, Continental European immigrants, Asian immigrants, Aborigines, gay and lesbian people, the institutionalized aged, the disabled, and even children to some degree. An exception to this trajectory is convicts (and imprisoned asylum-seekers), who are subject to greater exclusion in greater numbers than in decades past and who are granted less procedural justice than our original convicts. Today our stories of the appropriate ways of dealing with crime are from Hollywood rather than being informed by the more instructive lessons of our own history.

The previously excluded groups are more politically included in a society that is less economically equal. When Australia and New Zealand were among the wealthiest few societies in the world a century ago, they were also among the most equal and the most innovative few. A century of protectionism, a continuing failure to invest in corporate management and in the scale and scope of its sway, left Australia comparatively poorer, less able to afford a decent welfare state. As our focus shifted from competing for labour to competing for capital, global competition drove high Australian wages back to the pack. Global competition also drove down taxes on corporations and the rich, further eroding our capability to replace the wage-earners' welfare state with a more conventional one.

While the demise of Australian egalitarianism is best understood in the context of global competition for capital, this does not mean it is inevitable that we must surrender our egalitarian aspirations. The traditional economic analysis is that generous welfare states lose investment and jobs because the strong welfare net pushes up taxes. Leibfried and Rieger (1995) reverse this argument. States with a weak safety net find it politically and industrially impossible to restructure and lay off workers in response to rapid economic and technological change. States where retrenched workers will be protected by adequate social security and labour market retraining programs can adapt to global pressures earlier and with fewer strikes; they can find the political will to eliminate protection of inefficient industries which are a drain on national wealth. Strong social welfare is a precondition for a political capacity to cut corporate welfare. In this analysis, a strong welfare state, understood as compliance with safety-net labour standards, is an advantage in global competition, not a liability. When strong welfare states pay for services like public health, this saves employers from footing the bill, actually making investment more attractive. There is now a considerable accumulation of research evidence showing that it is simply not true that foreign direct investment is shifting to the nations with the lowest labour

standards. Instead, direct investment is continuing to circulate among OECD states with comparatively high labour standards (Tripartite Working Party on Labour Standards, 1996: 41; United Nations Conference on Trade and Development, 1996).

There are some prospects that harmful tax competition between states can be limited by international agreement. Australia, as a nation that commands respect in intergovernmental forums, can show some leadership in this domain. Competitiveness in post-industrial economies will depend on diffusion of new ideas and know-how. Perhaps none of the nations in the Asia-Pacific region, probably not even Japan, are net exporters of intellectual property rights. If Australia saw its interests clearly it would not be a Deputy Sheriff to the United States on the information economy. We would seek to muster regional leadership so that international bodies such as the Council on TRIPs at the World Trade Organization were used to set a ceiling on the ratcheting up of intellectual property monopolies that redistribute wealth from poor to rich countries. We would show leadership in organizations like UNESCO to combat the digital divide globally. We would conclude that we had more to learn from diffusion-oriented Japanese models of patent office administration than from British and US models. In this kind of work, our natural regional partners would be the emerging powerbrokers of Asia, China and India. Like us, they have significant new economy exports while having little prospect of ever becoming net exporters. Our shared interest is in helping the region develop by quicker diffusion of new technologies through some partial deregulation of intellectual property rights.

Part of the astute Australian diagnosis in setting up the Cairns Group was that there are a set of rich countries like Australia, New Zealand and Canada that have more in common with poor countries, in terms of agricultural liberalization (just as in intellectual property deregulation), than they have in common with the United States and Europe. Australia has the international credibility to show more determined international leadership in Geneva and New York. Happily, leadership in world trade debates for a fair go for India and Africa will mostly help Australia. Australian non-government organizations have been major advocates of a more inclusive and egalitarian citizenship of world society at least since Jessie Street, founder of the United Associations of Women and convenor of the 1943 Women's Charter conference. In Dryzek's conception of democracy as a work-in-progress, the next challenge for Australian institutions is to reach for more inclusive international citizenship. That means no more decisions in Geneva to sentence millions of AIDS victims in Africa to death by expanding patent monopolies on pharmaceuticals without any Africans being in the room. Australia was in the room when

these key decisions were made. While we voted against the poor in that case, there is no structural imperative of globalization that we must abandon a fair go for the poor in future.

One way forward is for us all – intellectuals, political parties, trade unions, non-government organizations, the state – to seek to persuade Australian business to invest in a new kind of triple bottom line for itself and for the nation that involves a new sense of responsibility for the nation's future. This will require a new imagination for how to invest in its people and promote a social justice that can underwrite restructuring for competitiveness. The corporate sector might also begin to see an interest in desisting from conniving in the collapse of the Australian tax system so that the state might also resume its once internationally competitive role in funding human capital formation.

Notes

- 1 I have interviewed hundreds of leaders of these organizations. See Braithwaite and Drahos (2000).
- 2 Governor Bourke ordered that executions be carried out in private after a convict named Jenkins made a famous traditional speech from the drop:
Well, good bye my lads, I have not time to say much to you; I acknowledge I shot the Doctor, but it was not for gain, it was for the sake of my fellow prisoners because he was a tyrant, and I have one thing to recommend you as a friend, if any of you take to the bush, shoot every tyrant you come across, and there are several now in the yard who ought to be served so [Ward, 1966: 139].
- 3 Some of the Declaration of Principles of the American Prison Association was taken word for word from Maconochie's writing.
- 4 '[E]ach governor, at least until the end of Macquarie's term of office, was diligent in engendering belief in ... providing convicts and emancipists with "a something to lose"' (Nichol, 1986: 13).
- 5 More precisely, the early colonists confronted a high ratio of land to both capital and labour. But it was easier to import capital from England than labour.

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