Submission to the Canadian Democracy and Corporate Accountability Commission

By Seth Klein
May 2001

Good morning, and thank you for this chance to appear before your commission. My name is Seth Klein. I am the Director of the BC Office of the Canadian Centre for Policy Alternatives.

I've been struggling with what I can contribute to your deliberations that is original. Your discussion paper is excellent —— a comprehensive inventory of policy ideas, all of which I am happy to endorse. I'm also aware that you have already heard from Democracy Watch and the Corporate Responsibility Coalition, you have reviewed the benchmark work of the Taskforce on the Churches and Corporate Responsibility, and you will be hearing from SHARE and AURORA later today. These groups have all studied the details of shareholder activism and the Canada Business Corporations Act (CBCA) to a much greater extent than has our Centre. As a clearing-house for progressive research and policy alternatives, we've been happy to promote the work of Democracy Watch and the Corporate Responsibility Coalition, and I would strongly endorse their proposals for reform of both the CBCA and the Elections Act.

The perspective I would like to add to the mix concerns: 1) the increasing power and influence of corporations over the public policy-making process, and the need for regulations to curtail this influence; 2) on a related point, the contradictions that exist between corporate social responsibility at the micro level, and public policy recklessness at the macro level; and 3) I'd like to offer some BC examples for your consideration.

First, with respect to the rising influence of corporations:

I like the name of your commission, as it recognizes that the object here is to enhance democracy. Increased corporate accountability (including regulating the influence of corporations) is necessary to fully realize the ideal of democracy. I recognize that corporations have an important role to play in our society, and even that they are entitled to participate in public policy debates. But the corporate sector currently has undue influence in these debates, and if meaningful democracy is to be both protected and enhanced, we need clear "rules of engagement" (if you will) that provide for a fair and reasonable playing field.

Corporations have increasing influence in our society, not only over issues such as investment and employment, but also with respect to electoral outcomes, cultural tastes, public opinion, and public policy outcomes—— again, not merely economic policies, but also social policies. Business groups have successfully advocated for smaller government, lower taxes, welfare and UI cuts, and deregulation and privatization. Most importantly, they have pushed for trade liberalization agreements that lock these trends into place and create a "conditioning framework" under which all other corporate policy preferences appear, if not desirable, then inescapable. These agreements are making the goal of accountability harder to realize. They serve precisely as an escape from democratic accountability, and seek to enshrine the right of corporations to act free of restrictions. These agreements epitomize "power without responsibility."

So, what should the rules of engagement be? What kind of legislative reforms would curtail the excessive influence of corporations over pubic policy-making?

Corporations should not be allowed to donate to political parties, elections or leadership campaigns. We are about to have an election in BC. Corporations have contributed $12.5 million to the provincial Liberals over the past five years, and many surely expect something in return.

At the very least, corporations should be required to disclose their donations to public policy institutes like the Fraser and C. D. Howe.

We desperately need a more balanced debate in the mainstream media (more so in this province that almost any other). That means strong competition regulations to limit media ownership concentration (CanWest Global now owns both major BC dailies, and the TV station with by far and away the largest market share, not to mention scores of smaller outlets —— and that's not healthy). It means more support for the CBC and for alternative media. It means tax inducements for new local players and interest-free loans for employee buy-outs. And it means a meaningful public complaints process and "right-of-reply" rules. (If you want more ideas on this, I would direct you to the Campaign for Press and Broadcast Freedom, the work of SFU's Robert Hackett and Donald Gutstein, and the work of Herschel Hardin.)

We need to change course with respect to trade agreements (a point to which I will return later).

Second, I'd like to elaborate on what I meant by the contradictions between micro social responsibility and macro policy recklessness. This is, I believe, an important issue for your consideration, because I think it underlies much of the public's cynicism about the concept of corporate social responsibility.

There are some good corporations out there, making important strides with respect to corporate social responsibility. At the micro level, they are wrestling hard with issues of good labour-management practices, decent pay and benefits, responsible environmental practices, ethical buying, progressive human resources policies, etc. The difficulty I have with many of these corporations is when, at the same time, either directly or through their memberships with the Fraser Institute or the Business Council on National Issues, they advocate for public policies that move us collectively in the opposite direction —— policies that undermine social and economic security, cut social programs, privatize services, cut taxes and thus diminish our ability to better care for one another, and trade policies that hamper our ability to do precisely the kinds of things this commission is considering.

I believe we desperately need a progressive business association that would serve as a public policy counter-weight to the BCNI. Existing groups such as Canadian Business for Social Responsibility have been reticent to speak out on public policy issues. Linda [Crompton; CEO of Citizen's Bank and CDCA commissioner], if I may put you on the spot for a moment; a few years ago, you gave a wonderful speech on corporate social responsibility here in Vancouver. At the time, the debate over the MAI was raging, and a couple of the questioners asked for your views on it. You declined comment, as Citizen's Bank had not developed a position on the MAI, which was fair enough —— after all you had only just launched a new national bank. But I strongly doubt other bank CEOs would be similarly reticent. In short, we need the progressive businesses we look to, not only to advocate for progressive corporate policies, but also for progressive public policies. I think that would go a long way toward giving the public renewed faith in the concept of corporate social responsibility (and God knows we could use the company).

Third, let me offer a British Columbia perspective, along with some of our Centre's ideas for enhancing corporate social responsibility here in beautiful BC. When talking about corporate social responsibility and accountability in BC, we are, I believe, first and foremost, talking about the resource sectors and resource corporations. That is because it is in the resource sectors that lack of accountability to workers, local communities, and for the environment is most stark, even though, ironically, these industries exist almost entirely on the basis of access to a public/crown resource. Notwithstanding the very public nature of these resources, it is here that we see workers most dramatically cast off, communities turned into ghost towns, and people's security tied so precariously to the vagaries of global commodity price swings. Just like many Third World countries dependent on the export of basic commodities, many resource-based BC communities live and die by the whims of these markets. They remain terribly dependent on the investment decisions of transnational resource corporations, many of which have proven to be irrational.

To offer one example: Gold River. A couple years ago, a company called Bowater decided to close its Gold River pulp mill, the single large employer, which devastated the community. We learned that a few years earlier, the mill possessed a modern paper machine, but when pulp prices were up, the company decided to sell the paper machine and, like many others, concentrated on basic pulp. What may have seemed rational at the time was, collectively, irrational, since too many others did the same —— the supply of pulp grew, the price for pulp plummeted, the company moved on, and the people of Gold River were left to pay the price.

This is a story line that has been repeated too many times. Yet surely we can do better. Surely we can be smarter.

How? Well, the CCPA's BC Office now has a designated resource policy analyst named Dale Marshall who has been developing creative policy alternatives to address just this question. Let me share some of our ideas:

With respect to the Gold River scenario, we have suggested that perhaps we need a marketing board or some other form of supply management for commodities like pulp, just as we have for various agricultural products. Why, when prices go down, should one or two towns be sacrificed on the alter of the free market? Why not try to stabilize the price, or when prices do decline, share the pain.

With respect to mining, we have proposed community transition bonds. If there is one thing we know about a mine, it is not whether it will close, but when. For this reason, we have developed an important system of environmental reclamation bonds (thereby making concrete a fundamental principle of corporate accountability, namely that corporations should cover in full the true costs of their operations). But by the same token, why not establish a system of community transition bonds, capitalized by the mining companies and resource rents, so that when a mine closes there are resources in place for economic diversification, community economic development, and worker transition training?

We need to strike a better bargain in exchange for access to public resources. Appurtenance clauses tied to timber licenses, for example, need to be more demanding and better enforced. We are right to have high expectations for jobs and investment when we allow a corporation access to our resources, and if those expectations are not met, access should be denied.

We need investment in higher value-added manufacturing and in new environmental technologies (such as those that would allow for totally chlorine-free and closed-loop pulp production). Such investment would make resource communities and workers less vulnerable to commodity price swings. We could be using public policy to encourage this in a couple ways. A) As a condition of access to public resources (meaning as part of appurtenance clauses), we should not be satisfied with a promise to invest up the value chain. Rather, we should demand that some or all of the necessary capital be placed in a trust fund. If the investment is not forthcoming by a specified period, the money in trust would be forfeited, and others could be invited to step up to the plate. B) We need a resource investment bank, capitalized by resource rents and/or taxes (or export duties), which would make favourable financing available to those (be they corporations or communities or non-profits or First Nations) who are committed to value-added and environmental investment.

Accountability to workers must include meaningful training opportunities, and corporate Canada's record on this has been less than stellar. It is time to force the issue with a serious discussion of a system of training taxes and tax credits, to reward those who do training, and to extract more from those who refuse to do so; and

One of the greatest dilemmas we face in the resource sector involves the shift in ownership over the past couple decades. Gone are the days when a forestry company was locally owned by people committed to the forestry industry, who understood commodity cycles and that not every year (or month) would be stellar. Now we have institutional shareholders who shift their holdings by the hour and day, and who expect consistent rates of return that are not realistic or realizable for the resource sector (or most others). They apply a constant pressure for these companies to be cash-rich, creating a built-in disincentive for long-term value-added investment. So what to do? This is one of the hardest ones to answer. Part of the answer lies on building-up social pools of capital and local and community businesses that will be committed for the long haul, and that can serve as an investment alternative to these transnational corporate players. Another policy alternative would be to develop a dual system of capital gains taxes. Meaning, charge a higher capital gains tax when shares are held for under one year, for example; and a lower capital gains tax when shares are held for a longer period — the goal is to create an incentive for investors to make long term commitments to industries and communities.

A few final observations related to some of your discussion questions:

You raise the question of whether it is rightly the role of corporations to be socially responsible?

Your earlier guest from the Fraser Institute, like his mentor Milton Friedman, insists that the sole function of corporations must be to increase profits. Perhaps, in the ideal world, he is right. But in this world, the argument seems riddled with contradictions. If, for example, the sole function of corporations is to maximize profits, then why do so many corporations choose to donate millions of dollars to the Fraser Institute? If this is merely an extension of profit-maximizing, then surely the tax-deductible charitable status charade should end, and these contributions should be declared as the business expenses they are.

More seriously though, the point is that corporations cannot have it both ways —— meaning, it they truly concerned themselves exclusively with profits, and did not expect benefits from society at large, then we could grant that social responsibility should not be their concern. But, of course, corporations are not nearly so passive or benign. They engage actively in public policy debates. They regularly demand tax and regulatory concessions from government. They externalize environmental costs onto society at large, and they lay claim to the benefits of public infrastructure and to our public education and health care systems. They have demanded rights as persons under law, including Charter rights, up to and including the right to finance political parties and elections. Social responsibility and accountability is the quid pro quo —— the Friedman/Fraser argument is indefensible for the simple reason that one cannot demand rights and then refuse the incumbent responsibilities.

Your discussion paper also raises the issue of corporate Codes of Conduct.

Encouraging voluntary codes of conduct, or even requiring codes of conduct, is not satisfactory. We have seen a proliferation of such codes in recent years. Generally speaking, however, these codes are not enforceable, they are driven by public relations imperatives, and they have become a dizzying patchwork. Not only do they differ among corporations, but sometimes even within corporations, which set different standards for different factories and countries. Few include core International

Labour Organization (ILO) labour rights. They are not the product of negotiations with local workers or local communities (indeed, often workers in overseas plants are unaware of their existence). Too often, this plethora of codes has served only to obfuscate, rather than as a tool for holding corporations accountable.

Codes of conduct, if they are to be meaningful, cannot be written by and enforced by corporations themselves. They must be the product of negotiations with all stakeholders. They must be consistent across whole sectors. They must be based on widely-accepted standards of certification. And they must be monitored by governments and NGOs and enforced with sanctions by governments. But, of course, if all this was done, they would not be codes of conduct at all —— they would be laws, and rightly so.

If I have one core recommendation, it is that corporate accountability measures never be viewed as an adequate substitute for either strong and effective regulations or organizing (be it labour, social justice, or environmental organizing). These are the collective measures communities and nations have traditionally taken to hold the power and influence of corporations in check, and to protect the public interest. And they remain the best option.

At a very pragmatic level, regulations help to create a level playing field, so that corporations that do wish to be socially responsible are not at a competitive disadvantage. Increasing minimum wages is a good example —— doing so ensures that those employers wishing to provide a wage equivalent to the poverty line are not placed at a competitive disadvantage against those firms unhampered by such concerns.

Finally, in Question #6, you ask whether these policy reforms are realizable at a national level, in a world increasingly characterized by trade liberalization and global competition. The answer is that it depends. Ultimately, solutions need to be advanced at the local, national, and international level.

At the local and national level, increasing corporate social responsibility and accountability could, in fact, be an advantage —— helping us to carve out a greater share of the growing international market for socially and environmentally responsible products. We've already seen a move in this direction with respect to forestry certification, in response to market pressure. And we will likely see more of this with respect to mineral and fisheries certification, as well as other retail and agricultural product labeling.

At the global level, we desperately need a new rules-based system that holds corporations accountable, and that empowers nations to defend and develop policies in the public interest. This has been central to much of the CCPA's work on international trade and investment. We are not, as is sometimes claimed in the media, opposed to a global rules-based trading system. The need for this is clear. Rather, we are opposed to agreements and institutions that further restrict the powers of national governments and further protect transnational corporations (TNCs) from any local restrictions on their activities. What we need are global agreements that set rules for the activities of TNCs, and that protect the rights of local and national governments to make and enforce good public policies that enhance employment, meet social and equity goals, and protect workers and the environment.

We need an international regime that gives the rules laid out in ILO, human rights and environmental covenants the same enforcement strength as World Trade Organization (WTO) rules. The challenge is to end the practice of WTO rules trumping those of other global treaties and protocols we have won. The recent decision of the Bush administration to walk away from its Kyoto commitments without any repercussions (in stark contrast to what happens when a country violates WTO rulings) is a perfect example of the current imbalance.

Finally, I would argue, any attempt to hold corporations more accountable, to regulate their activities, and to demand reasonable social returns (be they taxes, resource rents, decent wages, or whatever) —— in short, any attempt to restore democratic capacity —— requires the re-regulation of capital, particularly financial capital. I've already given one example of this earlier, talking about a dual structure for capital gains taxes. I would direct you to some of our Centre's published work on this: the AFB, Jim Stanford's Paper Boom, and John Dillon's book Turning the Tide: Confronting the Money Traders. We need capital controls to cool down hot money, a Tobin Tax, a financial transactions tax, an end to the foreign content allowance of the RRSP system, a National Investment Fund (capitalized by small but compulsory deposits from the charter banks), and a Community Reinvestment Act —— all of which would allow us to expect more from corporations, without being continually held hostage to the threat of capital flight and strike.

Thank You.