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Research that matters.

TITLE: Richard Denniss: Trade agreement could prevent the next SA government introducing laws citizens want

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Would you support a trade agreement that prevented the Australian Government from requiring genetically modified foods to be clearly labelled? According to a recent survey by The Australia Institute, 73 per cent of South Australians would not.

How about a trade agreement that allowed Australian television stations to show fewer Australian-made TV programs? According to the same survey, 61 per cent of South Australians would not.

Despite such strong community sentiment, the Federal Trade Minister Andrew Robb is currently negotiating a deal that could make both scenarios possible. But it gets worse.

The Trans-Pacific Partnership (TPP to its friends) between Australia, the US, Japan and nine other countries around the Pacific, has significant implications not just for food labelling and local content, but also for the cost of medicines and our ability to regulate coal seam gas.

While the negotiations are taking place in secret, leaked drafts of the deal confirm that the US and other countries are pushing for changes which will give international corporations more power than democratically-elected governments.

The TPP's so-called "Investor-State Dispute Settlement" (ISDS) system would allow foreign companies to sue Australian governments which change laws in ways that reduce the profits of those companies. This system would be both additional to, and sit above, the Australian court system.

Put simply, if the Australian Parliament passed a new law, and the High Court confirmed that such a law was constitutional, a foreign tribunal may decide otherwise and impose sanctions on the Australian government.

And unlike the hypotheticals posed above, ISDS clauses already exist and are being used by big corporations. For example, after the tobacco industry lost its fight against Australia's plain packaging laws in our courts, they commenced proceedings on the basis of an ISDS clause that was buried in an obscure trade agreement we signed with Korea years ago.

Similarly, a US mining company is currently suing the Canadian Government for the damages it believes it has suffered as the result of the Canadians wanting to collect more scientific evidence before agreeing to fracking under a major waterway.

As South Australian farmers, indigenous groups and environmentalists know, the process of fracking is increasingly contentious and an area of public policy where the interests of mining companies don't necessarily align with the interests of ordinary citizens.

In the lead-up to the South Australian State Election you would expect political parties to talk to their communities, consult with experts and present policy options to the citizens of South Australia that they believe will deliver the best outcomes for the people they aspire to represent. But what if an ISDS clause prevented the next South Australian government, or the one after that, from introducing the laws its citizens want?

State elections understandably focus heavily on issues like education, health and transport. Issues like fracking and ISDS clauses in global trade agreements don't usually make the headlines. But whether they attract attention or not, decisions being made behind closed doors have the capacity to permanently reshape not just South Australia's landscape, but its capacity to make its own laws.

Unfortunately in our modern democracy, sometimes the most important decisions attract the least attention. And, unfortunately in our modern democracy, sometimes our politicians like it that way.

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