

MONITOR

Progressive news, views and ideas



Recharging
North America

The Trade
Issue



CCPA
CANADIAN CENTRE
for POLICY ALTERNATIVES
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de POLITIQUES ALTERNATIVES

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The Trade Issue

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MONITOR

Founded in 1980, the Canadian Centre for Policy Alternatives (CCPA) is a registered charitable research institute and Canada's leading source of progressive policy ideas, with offices in Ottawa, Vancouver, Regina, Winnipeg, Toronto and Halifax. The CCPA founded the *Monitor* magazine in 1994 to share and promote its progressive research and ideas, as well as those of like-minded Canadian and international voices. The *Monitor* is published six times a year by the Canadian Centre for Policy Alternatives and is mailed to all supporters who give more than \$35 a year to the Centre. Write us at monitor@policyalternatives.ca with feedback or if you would like to receive the *Monitor*.

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Cover image: Based in Matane, Quebec, Sébastien Thibault creates illustrations that provide ironic or surrealist visions of political subjects or current news. He uses graphic shapes, simplified forms, and intense color to create symbolic images for publications like *The New York Times*, *The Guardian*, and *The Economist*.

STUART TREW

De-neoliberalizing North America

SINCE MARCH 2020, COVID-19 related supply chain disruptions, intensifying geopolitical rivalries, a generational jump in inflation and debt in much of the world, the likelihood of a severe global recession, and the increased frequency of climate change-related disasters make our situation truly bleak. The standard arsenal of policy responses is simply not up to this existential moment.

When Trish Hennessy asked me to help put together a trade-themed issue of the Monitor, I struggled with where to start—or perhaps where to stop—given how intertwined trade and trade policy are with all these challenges. For two main reasons I thought we could usefully anchor our trade issue in North America.

First, Canada's trade and trade policy are overdetermined by proximity to, and historical alliances with, the United States. The 1988 Canada-U.S. Free Trade Agreement heralded the dawn of a new legal and normative order tailored for the global investor rather than what we might call the public good. Canada and the U.S. have been walking in lockstep on economic diplomacy since then.

For example, the 1992 United Nations Rio Declaration required states to co-operatively “conserve, protect and restore the health and integrity of the Earth's ecosystem” while global wealth inequalities were corrected. Two years later, NAFTA and WTO rules backed by the U.S. and Canada encouraged policy-makers to take the “least trade-restrictive” or “least burdensome” (to business) environmental or social policy options, or risk ending up before an international dispute panel.

Today, we can see the results of an investor-first vision of globalization in the flooded villages and farms of

Pakistan and B.C., record levels of deforestation and species loss, and the persistence of extreme levels of poverty and inequality. The second reason to focus our trade issue on North America is because it's where the neoliberal consensus on the essential soundness of this vision is weakening.

The Biden administration, for example, has eschewed traditional free trade deals for a Green New Deal-type industrial strategy that both draws from and diverges from supply-side playbooks. It's not as transformative a vision as what Bernie Sanders and progressive Democrats had hoped for. But as Scott Sinclair and I write in our cover story (page 10), the worker-focused decarbonization plan outshines anything we've seen from our federal and provincial governments.

The U.S. was also behind innovative new labour provisions in the updated Canada-U.S.-Mexico Agreement (CUSMA) that are scoring wins for Mexican workers. Combined with recent Mexican labour reforms, “decades-old patterns of abuse and exploitation are finally being seriously challenged,” write Laura Macdonald and Angelo DiCaro (page 14). Could CUSMA be a model for protecting workers in other parts of the world? The U.S. appears to think so, while Canada remains lukewarm.

If CUSMA's labour reforms inspire, the agreement's continued protection of mining should bring us literally back to the earth, warns María Teresa Gutiérrez Haces (page 19). The U.S. will need both Mexico's highly skilled but low-paid workforce and its mineral wealth to power its renewable power revolution. Official disputes and corporate lawsuits against Mexican resource policy raise questions about how far the Biden administration's

tolerance of industrial strategy extends to friends and neighbours.

Some progress is being made in Canada on trade reform. For example, Meg Gingrich describes how the United Steelworkers fought for and won a more prominent place for workers in Canadian trade remedies cases (page 18). While the reforms are important, she writes, “they must accompany broader efforts to develop worker-centered trade policy.” In trade negotiations with India and Indonesia, Canada appears willing to kick that can down the road for a fast, traditional free trade deal.

Finally, while the U.S. has stopped negotiating extreme investor rights treaties, Canada is hocking them hard in the Indo-Pacific region. Kyla Tienhaara and Rachel Thrasher explain why this will be categorically bad for the climate, due to power these treaties give fossil fuel companies to stall or stop decarbonization efforts (page 24). Our trade section concludes with calls for a more progressive and sustainable type of globalization from Joseph Gubbels (page 25) and Sabaa Khan (page 29).

At the end of the Second World War, Karl Polanyi wrote, “The alternative to the reactionary Utopia of Wall Street is the deliberate development of the new instruments and organs of foreign trading, lending and paying, which constitute the essence of regional planning.”

Though it is not without glaring risks—President Biden claims, more imperially than co-operatively, that he wants America to “own the 21st century”—there is promise, too, in a North American regionalism premised on solidarity, sustainability and human rights. **M**

Stuart Trew is director of the CCPA's Trade and Investment Research Project (TIRP) and a former editor of the Monitor.

ERIKA SHAKER

Together, we're fighting for a better future

ALTHOUGH I'M the newest National Office director at the Canadian Centre for Policy Alternatives (CCPA), those of you who read the last issue of the *Monitor* also know that I'm one of the longest serving staff (25 years!).

It's a dual role that's given me a unique perspective on an organization that I care very deeply about. I've watched our staff complement grow, watched new offices open, and watched our influence on the policy landscape become more evident.

And with each passing year, as my kids mature, and as my partner and I get older, my belief in the value of this work intensifies—along with my profound sense of gratitude for the donors who continue to invest in the CCPA so that we can keep making a positive difference...now, and in the future.

Over the years, I've had the privilege of speaking with many of you to thank you for your ongoing support and to learn about what the work of the CCPA means to you. I've also

had the pleasure of welcoming new donors who have chosen to invest in our work because they recognize the significance of the moment and the need for solutions to the pressing challenges that we face.

This past year, I've become more actively involved in thanking a growing number of you who have reached out to tell us that your belief in our work is so strong that you have chosen to set aside a final transformative gift—a legacy gift.

I'm truly humbled by the number of you who have included the CCPA in your will to help the CCPA continue to push for policies that help ensure a better world for future generations.

It's no exaggeration to say that without our supporters and your investment in the CCPA, we could not experience our current level of public recognition, or see the impact of our policy solutions every day. That so many of you—this year, and in previous years—have taken the significant step of arranging a legacy gift underscores your confidence

in our work today and our shared understanding that a more just, equitable and sustainable world is truly possible. You can count on us at the CCPA to continue to press for those policies into the future. We don't give up easily.

Thank you to our new and current legacy donors for your continued confidence in our work now, and in the years to come. Our future will be the next generation's present and, thanks to you, we can help ensure it's a gift that we can all be proud to share.

I'd like to be clear that my gratitude also goes out to those of you who have arranged a legacy gift to support the CCPA of the future, but have chosen to keep this decision to yourselves—we know you're out there and we appreciate you!

If you have made the decision to leave us a legacy gift in your will, please do think about letting us know by reaching out to my colleague Katie Loftus at katie@policyalternatives.ca or 613-563-1341 ext 318—we really would love to thank you! **M**



Leave a legacy that reflects your lifelong convictions.

Include the CCPA in your will and help bring to life the kind of world you'd like to see for future generations.

By contributing to the future financial stability of the CCPA you will enable us to continue to champion the values and issues that you care so deeply about.

If you'd like to learn more about including the CCPA in your will, call Katie Loftus at 1-844-563-1341 or 613-563-1341 extension 318, or send an email to katie@policyalternatives.ca.



New from the CCPA

CCPA B.C.

CCPA-B.C. latest research shines a light on public funding to private schools

Private schools will collect nearly half a billion dollars in public funding from the provincial government during this school year in British Columbia. This is in addition to further public subsidies to private schools—including elite prep schools—in the form of various tax exemptions and credits.

That's more than double what private schools received in 2000-01 in inflation-adjusted terms. This far outstrips the rate of growth in funding to public K-12 education over the same period of time. In contrast, half of the provinces in Canada, sensibly enough, don't provide this type of public funding to private schools at all.

The good news is B.C. has every ability to close the funding gap and reinvest in public education. Rather than continuing to massively subsidize private schools, these resources should be redirected to building stronger public schools for all.

Find out more at <https://www.policynote.ca/bc-private-schools>

CCPA Manitoba

Living wage update

The 2022 Manitoba living wage update comes alongside the fastest increases to the cost of living seen since the early 1980s. These increases are placing financial pressure on low-wage workers, amplifying calls for the adoption of a living wage in Manitoba.

Using local cost-of-living data for three Manitoba cities, including rental, transportation, and food costs, we calculate the wage required for working families to achieve a decent standard of living. A family of four, with two working parents, must earn \$18.34 per hour in Winnipeg, \$16.25 per hour in Thompson, and \$15.66 per hour in Brandon to cover all basic household expenditures.

In a new report "Falling Behind: Service and wage decline at the City of Winnipeg" Senior Researcher and Errol Black Chair in Labour Issues Niall Harney and summer student Jack MacAulay document the 20-year trend of community service worker wage decline in the City of Winnipeg. Wages are so low that the city failed to attract workers to keep swimming pools open in the heat of summer. The union representing these workers, CUPE Local 500, is poised to strike over wages.

Thanks to our partnership with the Manitoba Research Alliance

and funding from SSHRC, we continue to publish community-based research that supports decolonization, most recently in a report on a program within Ndiawe, a youth-serving organization that trains and employs Indigenous community members.

CCPA Nova Scotia

The minimum wage is far too low

In October, the Nova Scotia minimum wage increased by 25 cents, from \$13.35 to \$13.60. In a blog post about this paltry increase, CCPA-NS Director Christine Saulnier detailed why the plan to get to \$15 by April 2024 is much too slow.

The need for a substantive rise is made clear by the living wage rates released in September, with the lowest wage being \$20 for Cape Breton and the highest being \$23.50 for Halifax.

On the International Day for the Elimination of Poverty (October 17th), we joined with several community partners to launch a campaign called Poverty is a Political Choice, aimed at holding the Nova Scotia government to account for its refusal to fix social programs.

We also published a blog on how governments can address the needs of rural, low-income single mothers by our research associate, Laura Fisher.

The Nova Scotia office will host our annual Gala Fundraiser event Friday, November 25th; even if you are not in Nova Scotia, you can buy a virtual ticket. Don't miss it!

CCPA National Office

Workers are hitting the exit door

The Grey Tsunami: Canada's great retirement wave, by Senior Economist David Macdonald, reveals 73,000 more people than usual retired from their job by August 2022 compared to the previous August. Two-thirds of those retirements were concentrated in four (of 21) industries: health care, construction, retail trade, and education/social assistance.

Retirements in teaching drove the trend in August, with 21,000 of the 73,000 additional retirements concentrated in the education services industry. In the spring, it was health care workers who drove higher retirements, making up 19,000 of the 74,000 excess retirements in April 2022.

In his July analysis, *Show Me The Money*, Macdonald showed that Canada's "worker shortage" claims hide the real truth: it's not a worker shortage, it's a wage shortage. Two-thirds of job postings are offering wages that are too low to entice applicants. Employers are going to have to be more competitive to fill those jobs.

CCPA Ontario

Can the wheels fall off a province?

There's a sound cars make, a loud knocking sound, just before their wheels fall off. If Ontario were a car, we'd all be hearing it right now.

The re-elected Conservative government has vowed to send more surgeries and diagnostic procedures to private clinics. It has changed the rules to convert more federal child care dollars into profits for private providers. It refuses to say how many children its latest autism plan is helping. And housing costs remain absurdly high.

Despite a surprise budget surplus last year, Ontario still has the lowest health care spending per capita in Canada. Provincial funding for universities is so low that all other provinces are above average.

It's no wonder Ontarians are leaving in record numbers.

Grappling with this made-in-Ontario crisis is job one for CCPA Ontario. In the months ahead, watch for more research and policy work from us on public finance, poverty, workers' wages, health and education, and more. The struggle continues.

CCPA Saskatchewan

A made-in-Regina climate action plan

CCPA Saskatchewan will be releasing *Implementing Equity: A Renewable Regina that Works for Everyone* in November. The report identifies what policies the City of Regina

can put in place to ensure equity in its pursuit to become a fully renewable city by 2050.

As cities around the world lead on climate action, recognition is growing that success often hinges on whether policies designed to address climate change also promote equity. Climate change affects some people and communities more than others.

Low-income populations, Indigenous Peoples and racialized people are more likely to live in areas with less green space and fewer public transportation options, and farther from essential goods and services. These communities are more vulnerable to heat-related and respiratory illnesses, while living in inefficient housing and often closer to environmental hazards.

If municipal climate policies are not designed to address these equity concerns, they can end up exacerbating existing inequities as well as inviting public backlash if they are perceived as unjust or unfair. *Implementing Equity* showcases the climate equity policies required to ensure a made-in-Regina climate action plan that leaves no one behind. **M**

Upfront

Erika Shaker / National Office

Putting an end to the student debt sentence

U.S. PRESIDENT JOE BIDEN'S administration recently announced a long-awaited student loan forgiveness plan, reigniting the debate in Canada about how, and how much, we should invest in post-secondary education.

Significantly, while the initial response in the U.S. focused on who would benefit from loan forgiveness, the discussion has broadened to include what's driving debt—the high cost of tuition. And it makes sense. If we're going to address where we're at, we need to understand how we got here.

In the mid-1990s, Canada's federal transfer mechanism for funding higher education changed, but it also meant less money going towards universities and colleges from the federal government.

As a result, we began to see variations between the level of financial support on the part of provincial and federal governments and the degree to which costs were downloaded onto students and their families as part of a user-fee model.

This meant students in some provinces paid significantly less than those in others. As the user-fee system became more entrenched, even more tiers of payment were introduced: deregulation for international students and for some programs, higher fees for out-of-province students, additional, and largely unregulated, compulsory fees above and beyond tuition fees.

And while there are some notable—though temporary—exceptions, on the whole, fees have continued to rise across the board.

At the other end, students who cannot pay the entirety of the cost of their education up front graduate with significant debt as fees generally continue to rise throughout the duration of their program.

While provinces and the federal government have a range of student assistance programs, they are largely after the fact, complex, and hard to navigate.

What are the effects of debt?

There are immediate impacts: debt means less disposable income, which directly affects local economies. It impacts whether or when you can make major life decisions, including buying a home or a vehicle, or starting a family.

It also means that in order to begin making repayments, new graduates may find themselves taking whatever job they can find, or multiple jobs, which speaks to the cycle of precarity that so many people find themselves trapped in. And this can have implications for wage scarring, the health and well-being of workers, and broader community cohesiveness.

Student debt can also mean declaring bankruptcy. In 2018, more than one out of six Ontarians who declared insolvency indicated student loans played a part (this translates to 22,000 former students declaring bankruptcy across Canada in 2018 alone).

What would reducing or eliminating student debt solve?

Student debt is the result of a user pay model that has shifted the responsibility of paying for the next generation's education from the public to students and their families—a model that disproportionately disadvantages students from historically marginalized communities.

Since governments used to invest far more public dollars into post-secondary education, previous generations of graduates benefited from our tax contributions alleviating the crushing cost of getting a degree. Now we've downloaded more of that responsibility onto this generation of students. There's a better way.

Forgiving debt would be the first step in acknowledging the abject failure of a payment model that has at least half of students worried that they will not be able to afford next year's tuition. The source of the problem must also be addressed: almost without exception, tuition fees and other user fees continue to increase.

But given the broader context of inequality, a program that forgives only a portion of the debt won't eliminate the burden. It will for those who have less debt, but it will only reduce it for those students who already have less financial security.

Any relief programs have to keep this context in mind.

Debt forgiveness, done correctly, is a big step towards making higher education more accessible. But it's the first step. The question can't be "what's the least we must do?"—it's "what's the best we can do?"

But is this practical?

Federal investment in programs, like the Canadian Emergency Relief Benefit (CERB), provided a timely reminder of what governments are capable of, and what quick action can do to transform and even save peoples' lives.

We're talking about transferring debt from students and their families to the federal government, which is in a much better position to deal with because it has more levers at its disposal to raise sufficient revenue to do this in a progressive manner while helping to address the issue of affordability.

Is the government in a position to address debt forgiveness? The Parliamentary Budget Officer (PBO) determined in one analysis that to forgive debt for a sizable number of students and eliminate tuition fees would cost \$16 billion in the first year, and about \$10 billion in subsequent years. That's not insignificant. But you know what? A modest wealth tax of 1–3% on the very richest Canadians could net \$28 billion in year one and \$363 billion over a decade.

Isn't debt forgiveness unfair to those who already paid off their loans?

That really is the perfect argument against progress. Social programs were created *because* people wanted something better for their children and grandchildren than they themselves had. Would we make the same argument about public health care, for example, or pensions, or other life-changing policies or discoveries?

We've normalized the idea that we collectively, through our governments, can only err on the side of doing less for each other. But as Bruce Cockburn reminded us, the

Till debt do us part

→ **Half** of all students graduate with student debt

→ **A third** of all graduates have at least \$30,000 in debt

→ **Women** on average are more likely to have over \$30,000 in student debt

→ Students from **lower- and middle-income** families have more debt

→ **25%** of all federal student loans are in some form of difficulty (in default, delinquent, or require some federal assistance)

→ Current threshold for debt repayment: **\$25,000**

→ Current total accumulated student debt, federal only: **\$22.3 billion** (2020)

→ Total amount of debt written off by the federal government in 2018: **\$200 million**; in 2019: **\$179.1 million**; in 2020: **\$185.5 million**

trouble with normal is it always gets worse.

When we're talking about loan forgiveness, we're not talking about "not paying." We're talking about changing the repayment method and plan. Graduates already pay back the cost of their education over the course of their careers in enhanced salaries and higher taxes, not to mention other contributions they make to society as a result of the education they've acquired.

A comprehensive solution

Debt forgiveness, done correctly, is a big step towards making higher education more accessible for everyone. But it's the first step. Addressing accumulated student debt is a key aspect of eliminating the economic and social drag that saddles students and communities. But the second step is to move away from the existing user-fee model in a comprehensive manner—not the piecemeal approach we're currently following.

Societal improvements are about choices—deciding what we want to prioritize, and then deciding the fairest, most equitable, effective and efficient way to make it happen. It's high time we recognized the need to increase our investment in post-secondary education—the people who provide it, the institutions that facilitate it, and the future generations who put it to good use—ours and theirs.

When it comes to the health and wellbeing of current and future generations, the question can't be "what's the least we must do?" It's "what's the best we can do?" **M**

Andrew Longhurst / B.C. Office

The concerning rise of corporate medicine

Public contracts with private clinics top \$393 million

PPRIVATE SURGERIES and medical imaging are big business in B.C. Over the last two decades, this for-profit sector has benefited from increased outsourcing of publicly funded procedures and unlawful patient extra-billing.

These private businesses are flourishing, in part because the B.C. government has been awarding them millions of dollars in contracts to provide services while not holding them legally accountable for unlawful billing practices that are prohibited under the *Canada Health Act* and the *B.C. Medicare Protection Act*.

Outsourcing refers to when governments contract with private, for-profit companies to deliver publicly funded services. *Unlawful extra-billing* occurs when clinics charge people privately for health care services already provided in the public system, allowing wealthier patients to jump the queue.

In a research report published by the Canadian Centre for Policy Alternatives' BC Office and the B.C. Health Coalition, I analyzed public financial documents and materials obtained through Freedom of Information requests in order to take a close look at recent trends. These materials revealed:

- More than \$393 million in public funds were paid to private surgical and medical imaging clinics over the six-year period, from 2015 to 2020, for contracted procedures;
- Annual payments rose from \$47.9 million in 2015 to \$75.4 million in 2020—an increase of 57 per cent;
- In the most recent years available (2019 and 2020), payments to

private imaging clinics declined as the provincial government increased public sector capacity—a very positive shift—but payments to private surgical clinics continued to increase;

- Over the six-year period, the largest annual increase (21 per cent) in outsourcing occurred in 2017, the year following the previous B.C. Liberal government's plan to increase surgical privatization;

- False Creek Healthcare Centre, acquired by a Toronto private investment firm in 2019, received \$12.2 million in health authority contracts between 2015 and 2020 despite having been audited by the B.C. government and found to have engaged in unlawful extra-billing;

- Kamloops Surgical Centre received \$15.4 million in health authority payments between 2015 and 2020, also despite having been audited and found to have engaged in unlawful extra-billing. Interior Health continued to contract with the clinic during and after the period of unlawful extra-billing.

Importantly, the B.C. government has made positive recent moves to enhance access to MRIs and reduce surgical waitlists in public hospitals. But the numbers show a troubling continued reliance on outsourcing to for-profit clinics, especially for surgical procedures.

It is particularly disturbing to see substantial health authority payments going to private clinics known to have engaged in extra-billing. Instead of tackling unlawful extra-billing head on, the province's strategy has been to increase outsourcing to private

surgical clinics but make those contracts subject to compliance with provincial and federal law.

In other words, B.C. is using one form of privatization—outsourcing, or contracting out—as a ‘carrot’ to curb another—two-tier health care, where those who can afford it pay privately.

That strategy is reflected in correspondence between the owners of False Creek Healthcare Centre and the deputy minister of health, which I obtained through a Freedom of Information request. In an email exchange following two meetings, the corporate representative expresses his appreciation that the provincial government will provide “long-term, volume guaranteed contracts which will enable us to make an informed decision on the long term sustainability of this business model.”

False Creek Healthcare Centre is one of the largest private clinics in B.C. and has continued to receive public funding despite a recent B.C. government audit finding the clinic engaged in unlawful extra-billing. And it is also troubling that Interior Health continued to flow public dollars to Kamloops Surgical Centre *during and after* the period when government auditors uncovered unlawful extra-billing.

The pandemic has put extraordinary pressure on public health care across the country, as surgeries were cancelled, en masse, to free up hospital capacity to deal with patients suffering from severe cases of COVID-19. One of the ways in which B.C. tackled the resulting backlog in surgeries was to increase surgical outsourcing to private clinics.

While this strategy was successful in reducing wait lists in the short term, funneling public dollars to for-profit corporations contributes to workforce shortages in our public hospitals and also comes at a steeper price—a profit margin, capital costs (private sector capital assets that the public pays for but will never own), and often higher labour costs (to attract staff from the public sector) are always built into the per-unit cost charged to governments by private clinics.

Instead, B.C. can address wait times more efficiently within the public health care system by further increasing public surgical and diagnostic capacity (the recent acquisition of several private MRI and surgical clinics by the government are positive steps in this direction), scaling up successful strategies like centralized waiting lists and pre-screening by teams of health care professionals, and reducing the need for hospital care with more emphasis on primary and community-based care (especially for seniors).

The provincial government has made some important progress in these areas, but it needs to put a stop to unlawful extra-billing and ramp down its reliance on for-profit clinics over the coming years. **M**

Andrew Longhurst is a research associate with the CCPA-BC Office and the author of the report, *The Concerning Rise of Corporate Medicine*. A full version of this article, including a postscript, is available at www.policynote.ca/corporate-medicine/.



In memory of CCPA volunteer Frank Bayerl

WE ARE SADDENED to hear of the sudden passing of Frank Bayerl earlier this fall. The National Office staff knew Frank as a friend and a dedicated volunteer for the CCPA for well over a decade.

Frank was a familiar face at the CCPA for one day each week, and was often present at public events and holiday CCPA gatherings.

Readers may recognize Frank’s name from his regular, insightful, and impeccably crafted book reviews for the *CCPA Monitor*.

On several occasions Frank applied his skills as a (retired) professional translator to French articles selected for inclusion in the *Monitor* and helped proofread CCPA reports translated into French.

This was on top of the much appreciated assistance he gave the fundraising team at the National Office.

He was a soft-spoken man with whom everyone always enjoyed interacting. Inevitably, conversation would turn to many of Frank’s interests: travelling, photography, gardening, stargazing, his feline companion, and to his partner, John, and family.

His absence will be keenly felt throughout the National Office.

Frank’s impact and work at the CCPA cannot be overstated, and nor can our appreciation of what his presence and support meant to our office, our staff, and to the organization. Our thoughts are with his family and friends, and John, his partner of 45 years.

Rising to the challenge

An agenda for public leadership

IT'S BEEN TWO-AND-A-HALF years since COVID-19 first rocked our world. While public health restrictions are being lifted, the pandemic is far from over. We may face a future where the waning of each new variant wave is met with the next rising wave. We are in uncharted territory.

And the pandemic isn't the only source of worry.

There's soaring inflation driven by war and unstable supply chains, chased by the Bank of Canada's efforts to tackle inflation with rapidly rising interest rates—risking a bank-induced recession.

Working peoples' paycheques aren't rising to match inflation, leading to real wage losses at a time when many are still recovering from pandemic-induced economic shutdowns.

There are employers in Canada who can't find the workers they need at the wages they are offering, many of which represent the frontlines of our care economy—in health care, long-term care, child care.

Hospital and emergency rooms, nurses and doctors have been pushed to their limit while people in urgent need of critical care wait in crowded ERs.

There are the long-COVID sufferers, who are living with debilitating symptoms—and whose numbers are on the rise.

Russia's war on Ukraine and the January 6 Commission hearings in the U.S. are stark reminders of the rise

of authoritarianism—and the fragility of democracies that aren't vigorously defended.

There is growing intolerance and racism—fuelled by misinformation and fanned by the flames of opportunistic politicians—impacting Black and racialized people, Indigenous Peoples, immigrants, migrant workers, women and gender-diverse people, people with disabilities, 2SLGBTQ+ and other marginalized people.

There's understandable impatience, anger, and frustration over the slow pace of Canada's commitment to truth and reconciliation with Indigenous Peoples, on whose land we all live.

And the land itself is in jeopardy as the climate crisis rages on with government action that is too little and frighteningly too late.

The CCPA's Alternative Federal Budget (AFB) can't right the wrongs of past government mistakes and negligence. But it can hold out hope that a better way is possible.

Taken as a whole, the AFB is a comprehensive well-being budget for Canada. And it puts the onus squarely on the shoulders of governments to boldly lead with public solutions that ensure justice, equity, sustainability, inclusion, and collective action.

When someone loses a job, the AFB proposes new and improved Employment Insurance (EI) coverage.

When someone doesn't have food security, the AFB promotes a plan to put nutritious food on the table.

When someone can't afford housing, the AFB takes the wind out of housing investors' sails and proposes new affordable rental, community, social, and co-op housing while eliminating homelessness within 10 years.

When someone requires long-term care, the AFB learns the lessons from COVID-19—which saw the system fail to protect vulnerable seniors—by proposing tighter regulations and by taking the profit motive out of seniors' care.

When someone is in search of affordable child care, the AFB advances a plan to build new child care spaces and train people necessary to staff them.

When someone is struggling with poverty, the AFB shows how Canada could cut poverty in half by 2026, lifting 862,000 people out of poverty. No country as rich as Canada should tolerate the levels of poverty that we do today.

The AFB promotes the creation of a new Canada Livable Income benefit, providing up to \$5,000 for unattached individuals or \$7,000 for couples with a net income of \$19,000 or less (\$21,000 for couples).

The AFB also proposes a Canada Disability Benefit, providing \$11,040 a year until recipients make up to \$15,000 a year in earnings.

This AFB also re-imagines what cities and public infrastructure could look like, so that communities aren't just about cars and roads. It embraces an inclusive economic framework—one that makes our communities more accessible and inviting to everyone

Every budget is a reflection of a government's priorities. The AFB's budget prioritizes people and the planet before profit and wealth accumulation.

while ensuring communities benefit from public investments by improving access to good local jobs and training opportunities.

Our vision for Canada is one where every community has access to safe drinking water, affordable public transportation, and connectivity to the Internet. We also address inequities in the non-profit arts and culture sector. These are all things that determine and improve our health and well-being.

Our well-being budget invites Canadians to rethink how we view health care in Canada, because we've built a system that's focused on treating symptoms without investing in the things that determine whether someone is in poor health or good health.

Education is a determinant of health. Countries with more highly educated populations tend to have better health outcomes, longer life expectancies, and higher rates of self-reported happiness. The AFB proposes a comprehensive framework for a more equitable, high-quality, and publicly funded post-secondary education system in Canada.

Acknowledging pandemic pressures on Canada's health care system, the AFB proposes a boost in health care funding arrangements so that federal transfers will cover 35% of total provincial and territorial health care costs. But those transfers should come with strings attached—they can't be turned into provincial tax cuts or slush funds.

We also propose moving forward with a vision for national dental care, pharmacare, and mental health care. And to address the opioid crisis.

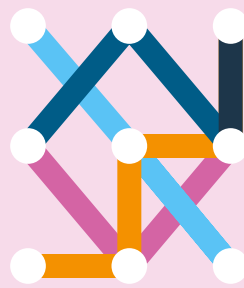
The AFB also takes bold measures to end racism, address the impacts of colonialism, and make Canada a more welcoming and sustainable place to live for those who choose to make this country their home. These initiatives are woven throughout the AFB.

And because we only live on one planet, the AFB treats climate change as the global emergency that it is. It advances an urgent and ambitious plan for action that would truly make Canada a global climate leader. The AFB plan for climate action commits to engage all levels of government in a process of ending fossil fuel production by 2040, decarbonizing key sectors of the Canadian economy, ensuring a just transition for impacted workers and communities, facilitating a green renewal of municipal infrastructure, and promoting the recovery of biodiversity and ecosystems with Indigenous-led and nature-based climate solutions.

Every budget is a reflection of a government's priorities. The AFB's budget prioritizes people and the planet before profit and wealth accumulation.

The AFB is an agenda for public leadership. It's an agenda that acknowledges the weightiness of our times. You can read the full AFB at <https://policyalternatives.ca/publications/reports/alternative-federal-budget-2023>. **M**

Trish Hennessy is a senior strategist, senior editor, and director of the Think Upstream project at the CCPA's National Office.



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10 years

That's how quickly the Alternative Federal Budget (AFB) estimates Canada could end homelessness from coast to coast, with political conviction.

2026

That's the AFB's target to cut Canada's poverty rate in half—four years faster than the current federal government's plan.

\$11,040

The annual amount of the AFB's proposed Canada Disability Benefit for people living with disabilities between the age of 18 and 64, until recipients make up to \$15,000 a year. Then it would phase out by 50 cents per dollar in earned income.

Two thirds

The AFB's recommended Employment Insurance benefit rate, replacing 66% of an unemployed claimant's normal earnings—rather than the current 55% rate.

\$22 million

The amount the AFB would commit to ensure an independent commission leads a national public inquiry into COVID-19.

0.7% of gross national income

That's how much the AFB would invest to increase Canada's overseas development assistance allocation within a decade. Canada currently only invests 0.3% of gross national income.

2023

That's the year the AFB says Canada should eliminate all federal subsidies and financial support to the fossil fuel industry, moving to phase out the use of fossil fuels by 2040 in order to address the climate emergency.

\$4.4 billion

That's the additional investment the AFB would make to ensure that all First Nations have reliable access to safe, clean water within five years' time.

\$10.2 billion

That's how much the AFB would commit to implement national pharmacare.

\$26 billion

That's how much Canada could generate each year if it implemented a 1% wealth tax for people making over \$10 million, a 2% wealth tax for people making over \$100 million, and a 3% wealth tax for people making over \$1 billion.

\$11 billion

That's how much Canada could generate each year if it boosted Canada's general corporate tax rate to 20%.

\$9.5 billion

That's how much Canada could generate if it capped the tax deductibility of executive pay by raising the capital gains inclusion rate to 75%.

SOURCE: RISING TO THE CHALLENGE: AN AGENDA FOR PUBLIC LEADERSHIP, THE CCPA'S ALTERNATIVE FEDERAL BUDGET FOR 2023.



The Biden administration wants to continentalize America's green industrial renewal.

There are risks and potential rewards for Canada.

↳ STUART TREW AND SCOTT SINCLAIR

ELECTRIFYING NORTH AMERICAN TRADE

MANY CANADIANS celebrated the election of Joe Biden as U.S. President and the Democrats taking control of Congress and the Senate, albeit with narrow majorities, in January 2020. At a superficial level, Biden's win was believed to symbolize a return to some kind of normalcy after Trump's four-year aberration.

It was a comforting but mistaken thought. With political polarization accelerating inside and outside the United States, incidences of drought, fires and floods rising globally, and a global pandemic gaining strength across the Pacific, yearnings for stability were misplaced then as they are now. Drastic measures are needed to meet today's interrelated political and economic challenges, with global warming at the top of the list.

And so, Canadians should probably have celebrated for real when the new administration began to lay out the climate-friendly and worker-focused industrial strategy that Joe Biden and running mate Kamala Harris had promised in their presidential bid. Finally, it seemed, the world's largest economy and highest-total emitter of greenhouse gases was getting serious about climate change.

As a bonus, or perhaps as a bare minimum requirement for any just transition off of fossil fuels, the Biden-Harris plan included commitments to redress racial and income inequalities and reverse the hollowing out of domestic supply chains for energy, transportation and information technologies. It wasn't as transformative as the vision laid out by Bernie Sanders and progressive Democrats, but it wasn't bad either.

Instead, Canadian government officials and corporate lobbyists could see only undertones—and sometimes overtones—of Trump's "Make America Great Again" politics in what's now dubbed Bidenomics. While a rejuvenation and "greening" of America's industrial base would naturally benefit the Canadian economy in the short- and long-term, there were legitimate reasons to wonder if Canadian jobs may be at risk.

Private sector unions worried another round of "Buy American" conditions on U.S. manufacturing subsidies and major infrastructure spending would drain investment from Canada. Some Canadian solar energy firms had left Canada for the U.S. when Trump imposed tariffs on U.S. imports of Canadian solar panels and modules, for example. Now, Canadian electric bus manufacturers have shifted some production to U.S. plants to make sure their products aren't disqualified from government procurement contracts as "foreign-made."

Probably the biggest shock to Canada came when President Biden announced he would be changing the federal tax incentives scheme for electric vehicles so that, after 2026, only U.S.-made vehicles would qualify. Why would anyone build new electric cars and trucks in Canada if it meant those vehicles would be up to

US\$12,500 more expensive than American-made cars sold on the U.S. market?

Months of Democratic Party infighting eventually nixed the "Buy American" condition on qualifying electric vehicles, which must now be assembled in North America, ideally with substantial North American content. And while some of the financial heft was cut away from the 2021 *Bipartisan Infrastructure Law*, the *CHIPS and Science Act* and the *Inflation Reduction Act* of 2022, together they still represent the largest public investment in U.S. infrastructure and manufacturing renewal since the New Deal.

As a result, Canada is faced with a new challenge to North American economic relations—a new era, perhaps, that the government must carefully navigate. Notably, with their frequent nods to a stronger role for government in driving economic transformation, Biden's COVID-19 reconstruction bills have massively upstaged Canada's minimally interventionist—we might say conservative—efforts to contain the damage from pandemic shutdowns and supply chain disruptions.

"After the pandemic of 2020 and the supply chain crisis of 2021, the energy crisis of 2022 is further breaking old constraints on what the state can do to capital," wrote Nicholas Mulder in a recent essay in *Noëma*, on the new era of big, active government. "The ability to engage in democratically directed capital leadership—and if necessary, capital coercion—will be a key dimension of state capacity in the implementation of future climate policy."

The U.S. administration has opened the door to Canadian and Mexican cooperation on this front through the "friendshoring" amendment to its contested electric vehicle tax credits. Could a "Buy North American" mindset be developing in Washington? What are the risks and rewards of closer economic cooperation with the U.S. on the "green" transition?

Finally, is Ottawa even capable of the outside-the-neoliberal-box thinking that is needed to ensure such cooperation is sustainable and with real benefits for workers here too?

Jolting a North American EV market

The *Inflation Reduction Act* pumps billions of dollars into renewable energy and "clean" technology and manufacturing to help the U.S. catch up with global competition in these sectors while also lowering overall carbon emissions. Through tax incentives for consumers, industrial subsidies (e.g., to battery manufacturers) and use of the *Defence Procurement Act* to guarantee a market for U.S.-made products like heat pumps, the Biden administration is signalling to domestic and foreign investors that their stake in U.S. decarbonization is secure.

Brian Deese, Biden's director of the National Economic Council, refers to these measures as being part

of a new industrial *strategy* rather than the “industrial policy” his allies, like the Roosevelt Institute, are calling it. Still, Deese, who coordinated the administration’s hugely impressive supply chain vulnerability reviews across the departments of defence, health, commerce, energy, agriculture and transportation, readily admits the strategy is inspired by state-led development policies in China, Europe and elsewhere.

In one important and high-profile area—electric vehicle manufacturing—Biden’s new law could have significant spinoff benefits for Canada and Mexico. But those benefits will not materialize on their own nor as a result of maintaining good relations with the Biden administration. Enticing investment into Canadian production of decarbonization technologies like battery plants is important but insufficient for making sure Canadian communities benefit from the transition.

The North American auto sector is years behind China, Korea and Europe in electrifying consumer vehicles. According to the International Energy Agency, in 2021, 16% of all new vehicles sold in China and 26% of those sold in Germany were electric, compared to 5% in the U.S. and 7% in Canada. There are just over 100,000 public EV charging stations in the United States; China adds nearly that many to its transportation grid each month.

The *Inflation Reduction Act* of 2022 hopes to incentivize billions in new investment in North American battery manufacturing and auto assembly. The bill includes a US\$35/kilowatt-hour subsidy to battery cell makers, which would be worth about US\$1.5 billion a year up to the year 2032 for a 40-gigawatt factory, according to a recent *Financial Times* column. While European and Korean officials are complaining the subsidy violates WTO trade rules, it will clearly benefit Hyundai, Honda and Volkswagen, which already have significant U.S. manufacturing footprints.

Clean Energy Canada released a cautionary report in September warning that if Canada merely rests on its laurels now, having attracted two major battery plants to Ontario and Quebec, we risk missing the chance to create 200,000 additional jobs across the full lifecycle of an EV. That includes mining, refining, battery and other component manufacturing, final assembly and recycling.

Unifor, the union that represents Canada’s autoworkers, was more to the point in an important auto policy report this year. After the demise of the Auto Pact (a production-sharing agreement between Canada and the U.S.), the absence of a government-led industrial development strategy “left Canada in the lurch,” it reads. The report offers 36 recommendations for not repeating the same mistake with EVs. These include launching an auto parts supplier transition support program, building Canada’s critical minerals processing sector, and requiring fair share agreements between mining firms and Indigenous and Northern communities “to localize the economic benefits of mining projects.”

Neither
Ottawa nor
the provinces
have outlined
any remotely
comparable
industrial policy
responses,
despite facing
equally daunting
challenges.

One simple way Canada could create an additional boost to the North American content quotas in the new U.S. EV tax credits is by copying them here, as Prime Minister Trudeau said we might last November. “There are a number of solutions we’ve put forward,” said Justin Trudeau. “One of them would be to align our incentives in Canada and in the United States, to make sure that there is no slippage or no unfair advantages on one side or the other. We are happy to do that.”

Currently, federal credits of up to \$5,000 are available to consumers purchasing a long list of qualifying EVs. These are topped up in several provinces by additional credits of \$1,000 to \$5,000. The goal of these credits, which can be claimed to purchase popular European, Korean and Japanese EVs, is simply to speed up the adoption of electric cars and trucks to help lower carbon emissions.

A “Buy North American” condition on enhanced Canadian EV credits, which could be phased in as Canadian and North American capacity increases, would reinforce the U.S. incentive for firms to invest in domestic technology, manufacturing and jobs. The emissions reduction benefits would be the same, but the benefits to workers would be much greater. This should increase public support for decarbonization.

De-carbonization or re-imperialization?

In his *Noëma* essay on the state-directed green energy transition, Mulder warns of narratives that pit countries against each other. “The discourse of energy security and ‘geo-economics’ stimulates a competitive and zero-sum mentality about global politics. Once in place, such paradigms become self-fulfilling. This dynamic poses a real danger to international peace and global governance.”

We must be extremely wary, in other words, of Sinophobic or just plain paranoid rationalizations for doing otherwise good things like

electrifying our transportation networks and power systems, or onshoring good manufacturing jobs.

U.S. consternation with rising Chinese competitiveness in areas of historical U.S. dominance, notably high-value and resource-intensive information and military technology, has reached a fever pitch, with significant risks to geopolitical security. How often do we hear that America's reliance on China for 80% of processed rare earth minerals used in high technology products is a huge strategic blunder?

In 2017, the Trump administration declared the "critical materials" deficit a major supply chain weakness for the U.S. A list of critical minerals was drawn up with the intention of devising a plan to identify new sources, increase their exploitation, alloying, recycling and reprocessing in the United States, and seeking "options for accessing and developing critical minerals through investment and trade with our allies and partners."

As geography would have it, Canada is an important supplier of 13 of 35 of the minerals on the list. In June 2019, Canada and the U.S. announced they would develop a joint action plan to "improve mineral security and ensure future competitiveness of their minerals industries." The third meeting of the Canada-U.S. Critical Minerals Working Group took place in July 2021.

Canada's specific objectives in this effort, other than improved Canada-U.S. relations, are hard to gauge from the public record. Natural Resources Canada speaks of "positioning Canada as a global supplier of choice" in critical minerals, but also promises to identify ways to "unlock innovation," whatever that means.

Since then, Canada has been courted, in highly publicized state visits, by the German chancellor and European officials seeking "secure" access to Canadian nickel, lithium, graphite and cobalt. Canada signed MOUs (not yet public) with Volkswagen Group and Mercedes, "supporting the development of a sustainable critical mineral supply chain in Canada." In September, South Korean President Yoon Suk-yeol visited Canada looking for the same for his country's formidable EV manufacturers.

As the Unifor and Clean Energy Canada reports point out, there would be more jobs in a value-added strategy aimed at upgrading raw materials into usable clean technology in Canada. A secure Canadian supply of batteries, not simply their component minerals, would arguably improve the competitiveness of North American electric vehicles in line with Biden's vision for domestic manufacturing renewal.

For this to happen, Canada needs to be helping set the terms of a sustainable sourcing policy. This is something the federal government has been wary of and may, in some cases, be restricted from doing by *laissez-faire* investment provisions in CUSMA and the Canada-EU Comprehensive Economic and Trade Agreement. Can

the government shift gear at this point? It must try—or risk watching from the sidelines as investment and jobs flow south.

Buy North America: Are we there yet?

International labour unions and civil society organizations have been warning for years that the permanent austerity locked in by the global trade treaty regime is grossly imbalanced and socially unsustainable. They were also the first and loudest to call for an active role for the state in the just transition from a fossil fuel economy to a clean, high-wage economy.

Canadian federal governments, of all political stripes, have generally recoiled from these now mainstream critiques of globalization, insisting that the solution to the crisis of hyperglobalization is more hyperglobalization. The audience for that defeatist message continues to shrink while public anger at government inaction in the face of climate change grows.

Despite steep political obstacles, the U.S. administration is taking efforts to shed certain neoliberal precepts in ways that will have profound impacts beyond its borders. Canada will need to swiftly come to terms with its largest trading partner and ally's new stress on worker-centered policies, military preparedness and decarbonization. Yet, so far, Canada has only tepidly responded to the new U.S. industrial strategy initiatives.

In contrast to the rapid mobilization of diplomatic, business and even civil society assets in response to the Trump challenge to "Make America Great Again" and the renegotiation of NAFTA, the Canadian government seems to be at a loss on what to do next. Neither Ottawa nor the provinces have outlined any remotely comparable industrial policy responses, despite facing equally daunting challenges. Not least of these are Canada's overreliance on fossil fuel exports (coal, natural gas and crude oil) and the transformational demands put on Canada's auto sector by electrification.

Though the geopolitical risks are real, Canada should make every effort to encourage the more benign form of American recovery expressed in Biden's green industrial strategy and to be a constructive partner in decarbonization. This will involve wrenching, but unavoidable, changes for the Canadian economy and a serious commitment to ending our current lopsided dependence on fossil fuels.

It will also mean embracing policies equal to the huge task of halving global emissions within a decade, protecting vulnerable workers and communities through a just transition, and reversing the trend to concentrated economic wealth and political power. **M**

Stuart Trew is the director of the CCPA's Trade and Investment Research Project (TIRP) and Scott Sinclair is retired as the founding director of TIRP. / This article draws from the authors' chapter in the anthology, *Canada and Great Power Competition: Canada Among Nations 2021*, which was just published by Palgrave Macmillan.

CUSMA is defending labour rights, but can it bring lasting change for Mexican workers?

THIS July marked the second anniversary of the new Canada-United States-Mexico Agreement (CUSMA), the renegotiated North American Free Trade Agreement (NAFTA).

Over the agreement's brief lifespan, Mexican workers, supported by international allies, have used CUSMA's new labour protections to rack up some impressive public victories. Combined with recent Mexican labour reforms, decades-old patterns of abuse and exploitation are finally being seriously challenged.

CUSMA contains groundbreaking provisions to support labour rights in the region, especially in Mexico. The provisions build on and were developed to reinforce a 2019 Mexican labour reform aimed at addressing historic patterns of corruption and abuses within the Mexican labour movement and political system. These abuses drove down wages across North America and meant that Mexicans failed to benefit from increased regional trade in the decades following NAFTA.

Old-style corrupt unions were controlled by the *Confederación de Trabajo Mexicano* (CTM), an organization with close ties to the state and elite interests. Mexico's labour reforms offer workers a real chance to vote for democratic unions instead—a right that CUSMA attempts to lock in and enforce, as we'll discuss below. The presence of a new, left-leaning government in Mexico, led by President Andrés Manuel López Obrador's Morena

party, has helped ensure the government lives up to these commitments rather than dragging its feet.

These victories, after decades of stagnation of labour standards in the country, have led many to call the new CUSMA provisions a game changer, promising a new model for improving labour rights. But workers across the region also continue to face enormous challenges. Notably, the gap in wages and working conditions between lower-wage Mexico and higher-wage Canada and the United States has barely moved in key sectors, including in auto manufacturing.

CUSMA and the Mexican labour reform

CUSMA came into effect in July 2020. Unlike the old NAFTA, this new agreement includes a labour chapter designed to better enforce workers' rights and punish violations. In the old trade pact, labour rights were contained in a NAFTA side accord, which was effectively unenforceable because countries and firms could not be subjected to trade sanctions for failing to hold up labour standards.

CUSMA's upgraded labour chapter requires Canada, the United States and Mexico to uphold basic labour standards recognized by the International Labour Organization (ILO). It also includes new provisions that require all three countries to take measures to ban the import of goods produced by forced labour, address violence against workers exercising their labour rights, and ensure that migrant workers are protected under labour laws.

Despite these positive changes, most labour complaints under CUSMA will still be handled in formal state-to-state dispute settlements. In the past, these disputes have often taken years to resolve, required political will to move claims forward, and focused on the country in which the alleged violation occurred rather than directly targeting the companies engaging in the abuse.

However, thanks to Democrats in the U.S. Congress who refused to sign the first iteration of CUSMA negotiated by the Trump administration, the final agreement includes a creative new way to resolve disputes over labour violations. It's called the Facility-specific Rapid Response Labour Mechanism (RRLM).

The RRLM allows workers in trade-dependent sectors to lodge complaints related to a denial of their rights to free association and collective bargaining. The mechanism permits a rapid response to allegations of violations of workers' rights by an individual employer at a specific facility—an approach that breaks from pre-existing trade-related labour enforcement tools.

In its use so far, this rapid response tool is proving to be effective at holding employers and Mexico's corrupt protection unions to account, ushering in significant change to some of the country's largest and most significant workplaces.

Petitions submitted under the CUSMA Rapid Response Labour Mechanisms Auto sector, as of October 19, 2022

Petitioner	Target Employer	Facility Location	Alleged rights infringement	Request for review	Resolution
N/A (initiated directly by USA)	General Motors	Silao, Guanajuato	Voting irregularities during contract legitimization process, including by incumbent union.	Yes, filed by USA to MEX May 12, 2021	Remediation plan settled (July 8, 2021), including new legitimization vote.
AFL-CIO, SEIU, Public Citizen and SNITIS, filed on May 10, 2021	Tridonex	Matamoros, Tamaulipas	Workers' effort to form a new union interfered with, including through unlawful terminations.	Yes, filed by USA to MEX June 9, 2021	Action plan struck (August 10, 2021), including reparations for terminated workers.
SNITIS and Rethink Trade, filed April 18, 2022	Panasonic Automotive Systems	Reynosa, Tamaulipas	Failure to recognize worker-supported union, including through intimidation, coercion, and unlawful terminations.	Yes, filed by USA to MEX May 18, 2022	Company undertook to remedy situation (July 14, 2022); USTR terminated RRLM proceedings.
UAW, AFL-CIO and Los Mineros, filed May 5, 2022	Teksid Hierro (Stellantis)	Frontera, Coahuila	Employer refusal to recognize worker-supported union, including withholding of union dues and unlawful terminations.	Yes, filed by USA to MEX June 6, 2022	Remediation plan settled (August 2, 2022 and updated August 15, 2022)
La Liga Sindical Obrera Mexicana and Comité Fronterizo de Obreras, filed June 21, 2022	Manufacturas VU	Piedras Negras, Coahuila	Employer interference with workers' right to choose their own union.	Yes, filed by USA to MEX July 21, 2022	No formal settlement. Representation vote held August 31, won by independent union 'La Liga.'
SNITIS and Rethink Trade, filed August 2, 2022	BBB Industries	Reynosa, Tamaulipas	Voting irregularities during contract legitimization process, including intimidation.	No, petition rejected by USA	N/A
USW, AFL-CIO, Independent Union of Free and Democratic Workers of Saint-Gobain Mexico, filed September 27, 2022	Saint-Gobain Glass	Cuatla, Morelos	Alleged threats toward a leader of independent union, employer pressure on workers to support incumbent union.	N/A	Plant workers rejected incumbent union in a representation vote held Sept 28-29; elected independent union.

Outcomes of initial Rapid Response Labour Mechanism complaints

At the time of writing, the U.S. government has considered seven individual cases filed through the Rapid Response Labour Mechanism, resulting in five formal complaints targeting violations in Mexico.

So far, each of the complaints has also led to a formal resolution within a period of about two months, and without recourse to economic sanctions.

General Motors (Silao)

The first and most highly publicized RRLM case involved allegations of vote tampering and worker intimidation at the General Motors truck assembly complex in Silao in central Mexico. Many of the 6,500 workers scheduled to participate in a collective agreement legitimization vote faced harassment, threats and voter suppression efforts from the incumbent CTM-affiliated union.

A formal complaint filed by the U.S. through the RRLM on May 12, 2021 led to a negotiated remediation settlement with Mexico. That settlement included

commitments to a re-vote at the facility, along with greater public scrutiny and monitoring.

The second vote resulted in a resounding rejection of the CTM-backed protection contract (more than 90% of eligible workers cast a ballot). This defeat delegitimized the incumbent union, creating space for a grassroots workers' organizing effort, culminating in the election of a new, independent union, *Sindicato Independiente Nacional de Trabajadores y Trabajadoras de la Industria Automotriz* (SINTTIA), with a strong democratic mandate.

In the intervening months, SINTTIA successfully negotiated a new collective agreement with General Motors for workers at the Silao plant, delivering impressive wage gains, bonuses, work hours and scheduling improvements, and provisions to address harassment in the workplace.

Tridonex (Matamoros)

The second case to be resolved under the RRLM involved 4,000 auto parts workers employed by Tridonex in the northern Mexican border city of Matamoros.

Workers at the plant alleged that both the company and the incumbent CTM union denied their right to freedom of association and collective bargaining, among other violations. The company dismissed claims that the independent *Sindicato Nacional Independiente de Trabajadores de Industrias y de Servicios* (SNITIS) held bargaining rights for workers at the plant.

Within two months of the U.S. filing its rapid response complaint with Mexico, the company agreed to a remedial action plan to resolve the matter. Included in that plan was a commitment to acknowledge SNITIS's claim of representational rights, along with a commitment to allow for a free secret-ballot vote. The company also agreed to remain neutral and allow inspectors, including international observers, to monitor the vote at the facility, and offered compensation to the 154 workers who were terminated in the course of this labour dispute, with full severance and back pay.

Unsurprisingly, workers voted overwhelmingly (86%) in favour of SNITIS as their union of choice—a clear rejection of their incumbent CTM union. Union founder Susana Prieto said the moment ushered in “a new era” for unions in Mexico.

Panasonic (Reynosa)

Similar to the two prior disputes, workers at a Panasonic-owned auto parts plant in Reynosa (and members of the SNITIS union) filed a petition with the U.S. claiming that their employer signed an illegitimate collective agreement with a rival union (*Sindicato Industrial Autónomo de Operarios en General de Maquiladoras de la República Mexicana*, or SIAMARM). According to the petition, the company then undertook to deduct union dues from workers' paycheques on behalf of the illegitimate union while terminating SNITIS supporters.

Shortly after the U.S. filed a formal complaint to Mexico under the RRLM, an agreement was struck with the company on July 14, 2022,

coordinated by the Mexican government. The agreement included a commitment from Panasonic to renounce the illegitimate collective agreement and reimburse workers for dues deducted. The company also agreed to recognize SNITIS as the legitimate bargaining representative for workers at the facility and to reinstate 26 of the terminated workers, with back pay.

Teksid Hierro (Frontera)

The fourth complaint initiated through the RRLM involved auto parts supplier Teksid Hierro, a subsidiary of global automaker Stellantis. Through a petition jointly submitted by the United Auto Workers and *Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana* (the Miners union), the workers alleged that the company denied them their right to an independent union, favouring, instead, relations with CTM. The company went so far as to fire supporters sympathetic to the Miners.

Shortly after the U.S. filed its complaint, the company voluntarily recognized the Miners union, agreeing to rehire 36 workers who were previously fired, with back pay. This representational dispute at Teksid between the Miners union and CTM extends as far back as 2014, marking one of the longest active representational disputes in Mexico.

Despite its commitment to “inclusive” trade, Canada has let the Biden administration carry the torch in challenging deep-rooted gaps in industrial democracy in Mexico.

Manufacturas VU (Piedras Negras)

The fifth and most recent complaint under the RRLM surfaced from a joint petition by Mexican groups *La Liga Sindical Obrera Mexicana* (La Liga) and *Comité Fronterizo de Obreras* (CFO) to the U.S. on July 21, 2022. The workers in this case alleged the company denied them the right to organize the union of their choice while affording special treatment to a CTM-backed union instead.

In response to the U.S. complaint, Mexican authorities undertook efforts to supervise a fair and neutral representation vote at the auto parts facility in Coahuila, a northern border state, on August 31, 2022. The vote resulted in workers choosing the independent union *La Liga*, and, at the time of writing, were preparing for their first round of collective bargaining with the company.

Notably, most of the workers at this plant are women, and *La Liga* and CFO are both women-led unions that are committed to feminist approaches. This case demonstrates the potential for Mexican labour reform and the CUSMA RRLM mechanism to combat the traditional male-dominated culture in the Mexican labour movement.

Renewing international labour solidarity

Apart from establishing new and timely enforcement tools, CUSMA also led to new forms of support from trade unions and non-governmental organizations in Canada and the United States for promoting labour freedom and democracy in Mexico.

The U.S. Bureau of International Labor Affairs (ILAB) has, so far, committed some US\$50 million to projects in Mexico as a direct result of CUSMA and has pledged to spend an additional \$130 million in technical assistance and cooperation over the next four years. The \$50 million has gone to partners like the AFL-CIO's Solidarity Center and the Partners of the Americas.

The Canadian government, through Employment and Skills Development Canada (ESDC), has also pledged some \$10 million CDN to Canadian actors. Unifor has received funding for a four-year project to support its counterpart in Mexico, the Centre for Labour Research and Trade Union Advice (CILAS). With this support CILAS, which has worked for years to support the independent labour movement in Mexico, is establishing a network of six worker centres in industrial cities in Mexico to promote workers' understanding of their rights. CILAS was also very active in supporting the SINTTIA workers in Silao to win recognition and achieve a collective agreement.

Another multi-year project supported by ESDC includes five partners in Canada: the Steelworkers Humanities Fund, the Canadian Labour Congress, the Public Service Alliance of Canada, the Canadian Union of Public Employees, and *Centre International de Solidarité Ouvrière*. These Canadian groups are supporting four Mexican organizations: the Border Workers Committee, the Network of Women Trade Unionists, the Miners union, and the Authentic Workers Front. The work of these organizations includes such activities as worker education, public forums, radio shows on labour issues, all of which put a strong focus on gender issues.

Both Canada and the United States have also posted new labour attachés in Mexico to monitor and support labour standards, assist with cases brought under CUSMA's labour chapter and the RRLM, and to build capacity in the Mexican government and new labour institutions.

Overall, these efforts are supporting longstanding ties between democratic labour activists in the three countries, building state capacity, and helping to eliminate forced labour, child labour and gender discrimination, and to enforce the new labour laws.

Where do we go from here?

The RRLM reinforces the Mexican labour reform, which was included in the constitution in 2019. Prior to this reform, Mexican workers suffered systematic violation of their rights in a corporatist system supported by the state, corporations, and "official" unions. Under this system, workers weren't aware of their rights and were often subjected to "protection contracts" which, in effect, protected employers against workers forming democratic and independent trade unions.

Contracts contained minimum legal requirements regarding wages and social benefits. In exchange, the unions received dues from the companies—usually 2% of payroll—often without workers even being aware that they were "represented" by a union. Independent labour activists were often subject to reprisals and strikes undertaken by independent unions were declared illegal. The system also entrenched sexist norms and male domination in the labour movement.

The new labour law lays out several key elements to support a democratic labour relations system, including free, direct and secret votes for union leadership, the creation of new labour justice tribunals and gender parity in union leadership, among many other important reforms.

The law also established a deadline of May 2023 for the legitimization of Mexico's entire catalogue of collective agreements following these new guidelines. Given that only about 5,000 of some 80,000 contracts have been ratified so far, it is extremely unlikely that Mexico will meet its self-imposed timeline. It is not clear what happens after that date. We can anticipate considerable confusion and possibly some chaos unless timelines are extended.

As effective as the RRLM has been, it has also been used in only a fraction of legitimization cases—often in the largest industrial workplaces, with independent unions and advocate groups playing an active role. So far, only a small fraction of current collective agreements (the vast majority of which are protection agreements) have been rejected by workers through the legitimization process.

That means thousands of existing CTM-controlled workplaces are being greenlit under the labour reform, with little public scrutiny. Further, millions of Mexican workers have no recourse to the RRLM, including those working in services, because they're not in trade-facing industries as designated in CUSMA. This suggests that while the RRLM is a useful tool, it is not, in itself, a guarantee of a successful labour reform.

Apart from funding mentioned above, and the work of two new labour attachés, no complaints have been launched by Canada against Mexican plants under the RRLM. Despite its public commitment to "progressive" and "inclusive" trade policies, Canada has let the Biden administration carry the torch in challenging deep-rooted gaps in industrial democracy in Mexico.

There is concern that the coming years will result in a breakdown in the political alignment over labour standards that has defined U.S.-Canada-Mexico relations in the last several years. The possibility of a Morena party defeat in 2024 and a resurgent Republican Party in America might stall whatever momentum has been built. In that scenario, Canada might need to serve as torchbearer under the rapid response mechanism—a role it has been reluctant to play so far.

There are still big challenges ahead in combating the historical inequities in Mexican society and in the North American region, and in finding ways to make trade agreements work better for workers. **M**

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Unions win the right to challenge unfair trade practices

WORKERS achieved a long-fought-for trade victory in the 2022 federal budget: trade unions will soon have the right to file trade complaints against unfair imports, something only domestic producers could do before now.

While unions gained the right to participate in trade remedies cases in 2017, that participation needed to support a complaint from domestic industry. Amendments to the *Special Import Measures Act* in Bill C-19 (the *Budget Implementation Act*), along with amendments to the Special Import Measures Regulations and CBSA rules, will effectively allow unions to file anti-dumping and countervailing duty cases.

The changes bring Canada's trade remedy law more closely in line with comparable laws in Australia and the United States. But Canada has gone a step further in some areas. In addition to expanding the right to initiate trade cases, the recent reforms grant the Canadian International Trade Tribunal (CITT) the ability to consider the impact of unfair trade on workers.

In essence, workers' interests only used to matter to the extent that any harm to them could be considered a harm to industry. Layoffs, contracting out, community harm, pension cuts, or anything else that can be linked to unfair trade may now be taken into consideration when the CITT determines whether an imported product is harming Canadian industry.

The trade remedies reforms are the result of extensive testimony from workers about the on-the-ground impact of unfair trade on steel and other products. Workers are often the first to see unfairly traded

products entering the markets. They hear the rationale from employers during collective bargaining that they cannot afford a wage increase, or need to cut pensions, or need to contract out positions because of cheap products flooding the market.

Initially, unions—and particularly local union leaders—were viewed with suspicion by the established players from industry, employer-side trade lawyers, government, and the CITT itself. The Steelworkers in Canada led the charge, with local union leaders testifying in over 20 cases over the past five years.

Eventually, virtually no steel trade remedies cases proceeded without hearing from workers about the impact of unfair trade on their livelihood. Combined with extensive lobbying efforts, the Canadian labour movement, led by the Steelworkers, were able to achieve substantial gains.

In its participation in cases, the Steelworkers focused largely on the steel industry, where the union represents tens of thousands of workers. The Canadian steel industry has been harmed by cheap products entering the market for decades. According to Statistics Canada, employment in primary steel fell from over 35,000 in 1990 to about 22,000 today.

While there are multiple causes for this drop in primary steel employment, global steel overproduction—often facilitated by unfair subsidies—has played a part. As of 2020, steel overcapacity hit 640 million tonnes, which is more than 40 times the size of the Canadian market alone, according to the Canadian Steel Producers Association.

Workers bear the brunt of a volatile industry defined by

overproduction and, until now, had little recourse to deal with a situation that directly affects their livelihoods. The recent trade remedy reforms will provide workers with additional power to fight back against conditions that allow products to enter Canadian markets as a result of unfair subsidies or currency manipulation.

But the reforms will help well beyond the steel industry. Trade unions have participated in cases involving aluminum products, copper pipe, as well as manufactured consumer goods. Any industry exposed to trade will likely be affected by unfair trading practices at some point. Now Canadian workers will have a voice in those disputes.

These changes to trade law were almost unimaginable as recently as five or six years ago.

The United Steelworkers (USW) took its first stab at leading a trade case this October. While the union has mostly been involved in steel sector cases, the first-ever case led by a union alleges that mattresses dumped into the Canadian market are harming employment in mattress manufacturing across Canada.

Ultimately, while these changes to trade law, regulations and practices are important, they must accompany broader efforts to develop worker-centered trade policy. Specifically, governments need to create a trade environment that veers away from facilitating the influx of products made cheap through labour and environmental exploitation. **M**

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Public resources, private profits

The effects of NAFTA and CUSMA on mining and investment in Mexico

MINING activity in Mexico has been a decisive factor in the country's economic development and, as such, has a history of its own.

For more than a century, mining functioned in an enclave, exploited exclusively by foreign investment. It wasn't until the middle of the 20th century that, together with oil, mining became an activity controlled by the Mexican government.

Thanks to state control, and use, of oil and mining resources, the process of economic modernization in Mexico achieved unquestionable progress that contributed to impressive growth in the country. Between 1940 and 1982, average annual GDP growth fluctuated between 6.15% and 6.75%.

The financial crisis between 1982 and 1985 triggered a sharp fall in GDP, with annual growth falling to a meager 0.18% in 1988. Under pressure from international financial organizations, the Mexican government sought a way out. Between 1988 and 1996, the federal government sold off many important state enterprises, including companies belonging to the mining-metallurgical production chain.

Besides these direct privatizations, the Mexican government implemented other measures to facilitate and expedite the divestment of state-owned companies. Fiscal and legislative reforms concentrated Mexican capital in the hands of a relatively restricted number of businessmen who were favoured by, and were therefore favourable to, economic liberalization. This process was the prelude to the negotiation and implementation of the North American Free Trade Agreement (NAFTA), which significantly

consolidated the neoliberal hold on state policy.

While the Mexican government carefully excluded oil from the NAFTA negotiations, mining was subject to tariff relief and full liberalization under the agreement, despite also involving non-renewable natural resources. The result showed a government intent on controlling hydrocarbons and on protecting the profits and privileges of the corporations in the mining sector.

The mining companies' lobbying focused on achieving four objectives: reducing tariffs, defining the scope of rules of origin in mining, establishing rules to protect foreign investment operations, and incorporating a dispute settlement mechanism into the agreement that could arbitrate disputes between companies and governments outside the national courts.

With NAFTA's implementation, 75 per cent of the Mexican mining sector became fully liberalized. U.S. inputs, including of specialized equipment and machinery, could now enter Mexico duty-free while

the tariffs on the products of Mexican mining were removed in the U.S.

Still, while NAFTA triggered many changes in the mining sector, a more elaborate analysis must account for the pre-1994 interventions of the World Bank, including its conditional loans and continuous expert missions aimed at increasing private investment in the mining sector. This lobbying laid the groundwork for NAFTA's mining outcome, which positioned Canadian companies, rather than U.S. companies, as decisive winners.

NAFTA removed the government's ability to put conditions on the extent of foreign investment or its ability to exploit mining resources in Mexico. Mining concessions could now extend for 50 years or more and be purchased and sold between companies without state intervention. These conditions, and international financial speculation related to natural resources, have enriched mining companies, while mining and surrounding communities remain impoverished.

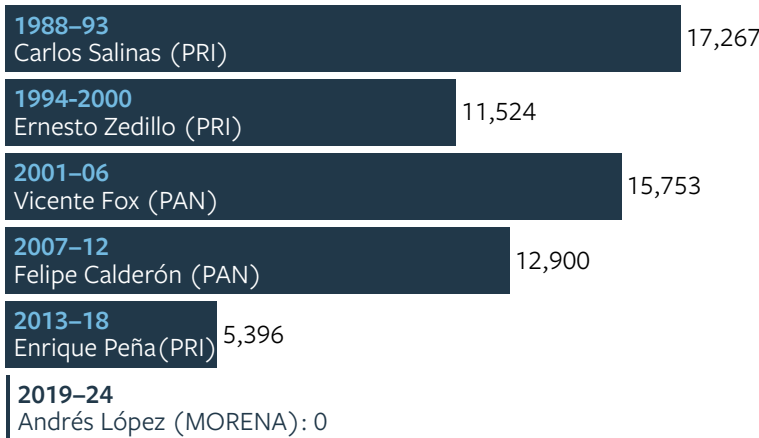
Things began to change in 2018.

In a radical shift, the newly elected government of Andrés Manuel López Obrador (AMLO for short) decided that no new mining concessions, or new investments in the sector, would be granted before community and environmental impacts of proposed projects were examined. This decision was not meant to affect existing investment, and some mining companies continue to expand projects using legal loopholes.

For example, Chinese investment and concessions in Mexico's lithium deposits are officially to be

The incorporation of ISDS in NAFTA fundamentally altered business-government relations.

Sum of concessions granted by presidential six-year term



SOURCE: MEXICAN SECRETARY OF ECONOMY

respected. But the government has also stated that new permits will definitely not be granted due to lithium's place on a list of minerals reserved by the Mexican State for exploitation by LITIO MX, a recently created state-owned company.

Undoubtedly, the Mexican position has been reinforced by the change in U.S. industrial policy exemplified by the *CHIPS and Science Act of 2022*, which contemplates strong investment in the research and production of semiconductors. This, and the Biden administration's plans to boost the domestic electric vehicle and renewable energy sectors, will require both raw materials, such as lithium, and the booming maquiladora infrastructure and skilled labour of its southern Mexican neighbour.

However, AMLO's energy and mining reforms have caused bitter polarization and drawn the ire of legislative, executive and diplomatic bodies in the U.S. and Canada. Both countries have officially charged Mexico, in separate claims, of discriminatory measures in violation of multiple articles of CUSMA. As the *Monitor* went to print, the U.S. and Mexico were reportedly close to an amicable settlement of their dispute but there was no word about

Canada's complaint, which is much more focused on Canadian investment in Mexico's electricity sector.

If no agreement is reached in either of the cases, an arbitration process would be initiated that, should Mexico lose, opens the field to retaliatory measures against Mexican exports. A dispute panel ruling against Mexico's energy and mining policies would almost certainly unleash a wave of corporate investor-state dispute settlement (ISDS) claims for compensation.

Prior to 2013, when a constitutional reform on energy in Mexico significantly opened the sector to private and foreign investors, it would have been difficult for a foreign company to file such a claim against the Mexican government. NAFTA contained several exceptions protecting Mexico's right to limit foreign investment in the oil and gas sectors. However, with the 2013 reform, the exploitation and extraction of oil was opened to investment through various bidding rounds to initiate exploration and production in offshore waters.

Following its 2018 election success, AMLO's National Regeneration Movement Party (MORENA) sought to reverse these measures and reassert state control over

both hydrocarbons and electricity. The government is also interested in reinforcing the participation of PEMEX, the state oil company, and the *Comisión Federal de Electricidad* (CFE), a state-owned electrical utility, in the country's economic development.

The dispute between the government and foreign companies on these matters has refocused political discussion in Mexico on the state's right to self-determination in the implementation of economic development strategies. However, it has also produced a backlash among foreign companies, who claim the Mexican government is failing to observe the rule of law with respect to CUSMA.

Unlike the marked disputes between the government and companies linked to electricity and oil, mining conflicts are generally socio-environmental in nature, in which mining-affected communities fight back against unwanted projects. Paradoxically, although many mining-related investor-to-state disputes have been motivated by such protest, there has been an outright refusal on the part of companies to dialogue with the communities during NAFTA and other treaty-based arbitrations or to settle the conflict with the federal government.

The incorporation of ISDS in NAFTA, and its continuation in CUSMA between the U.S. and Mexico, fundamentally altered business-government relations. A CCPA review of NAFTA arbitration claims up to 2022 revealed that companies enjoyed a high success rate against government policy, with Canada being the most sued country and Mexico not far behind. Given this record, it was not surprising that Canada agreed to remove ISDS from the new agreement.

Under NAFTA, Mexico faced 23 ISDS lawsuits, and it has been subject to another six "legacy" cases, so far, under CUSMA's three-year extension of NAFTA's

generous investment protections. Additionally, during this period, another six lawsuits have been filed against Mexico under different bilateral investment treaties containing ISDS. In most cases, the claimants waive their right to pursue their disputes in Mexico’s courts so that they might seek a more preferential (to them) settlement through international investment arbitration.

ISDS claims against Mexico in the mining sector have been quantitatively smaller than those in manufacturing and services. A peculiarity of these claims is the nature of the economic activity they cover, which isn’t always directly related to extraction. Four of the six current mining-related ISDS claims against Mexico involve disputes between mining companies and the Tax Administration Service (the SAT in Spanish) for the alleged non-refunding of tax payments made by the company.

All too often, foreign mining companies use legal loopholes or manipulate mineral production data to pay less tax to the Mexican tax authorities, or they demand the reimbursement of the deductible part of the tax amount. Such is the case of First Majestic Silver, which Mexican tax authorities accuse of altering the prices of silver extraction since 2002, thereby evading full taxes. Efforts by the state to reclaim those taxes resulted in First Majestic filing a NAFTA “legacy” ISDS claim before a World Bank (ICSID) tribunal.

Among the most controversial ISDS cases against Mexico, however, are the lawsuits filed by two U.S. extractive companies. The first is from Legacy Vulcan LLC/Calizas Industriales del Carmen (CALICA), which extracts limestone from the beaches of Quintana Roo and exports it as a construction input to the U.S. The second case is from Odyssey Marine Exploration, a company dedicated to deep sea mining that also exports stone material to the U.S.

CALICA was founded in 1989 as a subsidiary of U.S.-based Vulcan Materials Company. It was originally

owned by Mexican Grupo ICA and U.S. company Vulcan, which bought ICA’s shares in 2001. Vulcan Materials Company is the largest producer of construction aggregates (mainly crushed stone, sand and gravel) in the U.S., and produces asphalt and ready-mix concrete.

CALICA filed its notice of intent to submit an ISDS claim (the first step in the arbitration process) in 2018. The dispute then escalated into a case that overstepped the boundaries of ICSID arbitration. In September this year, ICSID publicly declared that the president of Mexico should refrain from launching public attacks against Vulcan Materials Company, after the company requested injunctive relief in view of the repeated attacks in AMLO’s press conferences.

On September 16, the tribunal hearing the case ruled that the requests of Vulcan Materials Company, through its subsidiary Sac-Tun (formerly CALICA), to stop the government’s remarks—and to include additional claims as a consequence of the closure, in May 2022, of mining operations, as ordered by President López Obrador—were admissible, even though they postdate the alleged violation at the heart of the ISDS claim.

The statements made by the ICSID tribunal reflect how openly investment dispute tribunals will interfere in the sovereign decisions of government. In this case, we are dealing with a company that has ostensibly modified the coastal orography of Quintana Roo and weakened the safety of the population in the face of hurricanes, which no longer find natural obstacles to slow down their entry to the mainland.

The second lawsuit from an extractive company comes from Odyssey Marine Exploration. The dispute relates to Mexico’s refusal to grant an environmental permit to dredge around 91,000 hectares of the seabed in the Gulf of Ulloa, in Baja California Sur, for the purpose of extracting an estimated seven million tonnes of sand and phosphate rock per year for 50 years. Unlike the CALICA case, this one involves a

ISDS mining claims against Mexico, 2016–22

Plaintiff company	Initiated	Nationality of company	Treaty	Site of arbitration	Sector
Legacy Vulcan/Calizas Industriales del Carmen (CALICA)	2018	U.S.	NAFTA/CUSMA	ICSID	Maritime Mining
Odyssey Marine Explorationw	2019	U.S.	NAFTA/CUSMA	ICSID	Maritime Mining
Jinglong Dongli Minera Internacional S.A. de C.V.	2018	China	Bilateral Investment Treaty	ICSID	Tax administration
Coeur Mining Inc.	2020	U.S.	NAFTA/CUSMA	ICSID	Tax administration
First Majestic Silver Corp	2020/2021	Canada	NAFTA	ICSID	Tax administration
Primero Mining Corp/Primero Mexico	2016	U.S.	NAFTA	CIADI	Tax administration

SOURCE: INTERNATIONAL CENTER FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID).

community of fishermen—represented by the cooperative *Sociedad Cooperativa de Producción Pesquera Puerto Chale*—that depends on the marine ecosystem and who will suffer irreversible damages from the dredging.

The case of Odyssey Marine is even more worrisome than that of Vulcan Legacy because the affected community has requested, on two occasions, that they be allowed to participate in the preliminary arbitration process. Though local fishers and other community members could provide important context, two of three of the ICSID arbitrators hearing the case considered this input unnecessary and denied them *amicus curiae* standing.

The appearance of floating mining, made up of immense ships that suck up the seabed from the port of Manzanillo, undoubtedly represents a major danger for the future of fauna in Mexican seas. The Swiss-owned ship Hidden Gem has a mission is to collect mining material from the seabed. Its current target is the Clarion-Clipperton Zone, an area on the high seas between Hawaii and Mexico famous for its rich biodiversity, where the private company Nauru Ocean Resources owns a mining concession.

Hidden Gem has a capacity of 60,331 tonnes and its initial objective is to collect 3,600 tonnes of polymetallic nodules containing cobalt, manganese and nickel, which are separated from other materials that are returned to the sea with unwanted sediment. This waste contains extremely harmful elements that irreversibly weaken native species and the ecosystem.

Within the Mexican mining universe, it is noteworthy that the demands coming from Canadian and U.S. companies, in general, come from medium-sized companies. The near absence of large companies, with the exception of the U.S.-based Newmont, allows us to infer that large corporations have alternative channels for resolving disputes with the government. Smaller companies rarely consider resorting to ISDS because of the high costs involved in sustaining a lengthy extra-territorial arbitration process, though access to third-party funding is increasingly common.

Mining and increasingly offshore mining remain hotly contested issues in Mexico as elsewhere. Efforts to strongly regulate or else ban these activities, in response to environmental and public pressures, are bound to attract more ISDS cases from Canadian, U.S. and other foreign firms. While Mexican government policy in the mining sector has hardened under AMLO's presidency, residual investment protections in CUSMA and the persistence of ISDS in Mexican free trade and investment treaties will be a constant threat to Mexico's sustainable development prospects. **M**

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Colour-coded Justice

ANTHONY N. MORGAN

Globalization's exploitative reality, and a way out

ONE OF MY favourite parables of political philosophy is the haunting short-story classic by Ursula Le Guin, "The Ones Who Walk Away from Omelas."

In it, Le Guin describes Omelas as a tranquil and idyllic utopia of a city. It sits nestled along a bay and is bordered by sloping snow-capped mountains along its north and west coasts. Lush with green meadows and rolling scenic fields, the air that flows through the city is sweet, and its tree-lined streets hum with community chatter in manicured neighbourhoods that sit alongside great parks and beautiful public buildings.

The people of Omelas are genuinely joy-filled. Their happiness might leave some to wrongly assume that they are simple or naive when, in fact, as Le Guin notes, they're as complex a people as any. The folks of Omelas are described as "mature, intelligent, passionate" people living peacefully in an inviting, homey city. Omelas' people and picturesque landscapes convey the feeling of a "fairy tale, long ago and far away, once upon a time."

It's a rare and special city where peace reigns, life is leisurely and neighbours are familiar and friendly.

But there's more to Omelas than this, as Le Guin ominously reveals.

Deep in the basement of one of this quaint city's beautiful and spacious structures is a dark, damp and windowless dirt-floor cellar that's the size of a broom closet. Locked in this room is a small child who is nearing age 10, but looks closer to six. The child is described as "feeble-minded", due to either a birth defect or as a result of the fear, malnutrition and neglect of being shuttered for years in this cold, cramped closet, where the child sits in its own excrement.

At unpredictable times, the locked door rattles wildly and gets swung open. When it does, one or more people stand peering at the child with fright and disgust as a small ration of cornmeal and water are hastily shoved into the closet-prison before the door is quickly slammed back shut.

Sometimes, before the door is re-sealed, the naked, emaciated child begs and whimpers, saying, "Please let me out. I will be good!" But stunned onlookers never

speak back. They just stare, silently horrified until the door is hurriedly shut again.

Le Guin soon reveals that the child's tortuous suffering is no secret to the people of Omelas.

"They all know it is there, all the people of Omelas," she writes. "They all know that it has to be there," she continues. The people of Omelas are not just aware of the child's suffering, but more troublingly, they have come to recognize and accept that their joyous, bountiful and beautiful utopia cannot exist without this child's cruel captivity.

"Of the people of Omelas," she writes "they all understand that their happiness, the beauty of their city, the tenderness of their friendships, the health of their children [...] depend wholly on this child's abominable misery."

Herein lies the shameful open secret of Omelas: all the city's pleasures are predicated on this child's pain.

How much of what we enjoy in Canada is contingent on the exploitative suffering of others, or those who are othered, within and beyond our borders?

This is the question that the current issue of the *Monitor*, with its focus on trade, leaves me thinking about.

Canada's relative political peace, social pleasures and economic prosperity is powered by the imbalanced extraction of the benefits of labour that produces for us the materials that foster our access to cheap goods, services, and products.

This is not only exploited labour of the world's people of colour in countries in Asia, Africa, the Americas and elsewhere, but also on our own lands; on farms and fields where we find Caribbean and Mexican workers toiling as part of Canada's Seasonal Agricultural Workers Program.

We might peer periodically at the plight of globalization's exploited people and feel a momentary pinch of guilt, but we quickly shake it off and go back to everyday lives, having resolved within ourselves that the suffering of these "others" is a necessary evil to be tolerated so the rest of our Canadian society and global capitalist economy can succeed.

The twisted political morality of Omelas is probably most present among Canadians when we consider the continual socio-economic disadvantage and dispossession of First Nations, Métis and Inuit Peoples on the parts of Turtle Island now claimed as Canada.

While non-Indigenous Canadians lament the skyrocketing costs of housing, food and fuel since the onset of the COVID-19 pandemic, Indigenous communities across these lands have been dealing for decades with boil-water advisories, dilapidated housing infrastructure and food prices that have always been and continue to be several percentage points higher in cost than the increases that non-Indigenous Canadians are recently complaining about.

Indeed, there would be no affordability crisis for the rest of us to complain about without the histories and

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Predatory lending and housing insecurity

An obvious link worth stressing

By Ricardo Tranjan

legacies of colonial violence on which our modern state, economy and society has been built.

How do Canadians escape the bankrupted political morality of Omelas? In Le Guin's tale, this is done by some in the city being so saddened and/or enraged after encountering the horrific suffering of the child that they decide to abandon the city. They simply leave. These are the ones who "walk away from Omelas."

But for Canadians, we know that it's more complicated. Leaving is neither a reasonable or practicable possibility for most. What is needed is a fundamental reorganization of the terms and conditions of our collective prosperity as a country.

Instead of our collective well-being continuing to be reliant on and rooted in economic exploitation of the land and labour of racialized others here and abroad, it has to shift to being grounded in a globalized social solidarity. This means a commitment to trade and labour policies and practice that are intentionally geared towards limiting and reversing global and local inequality.

A Canadian national and international economic policy that is driven by fostering collective well-being is what's needed to realize ethical and equitable prosperity in this country.

Otherwise, we might as well anticipate that the tortured and suffering child locked away in a cellar will eventually go from being a random child of Omelas city to one day becoming a child of your very own family. Let's not wait until then to leave this exploitative reality. **M**

Why an oil firm's legal win is bad news for climate action

INA DECISION that could have a chilling impact on climate policy in Europe and around the world, a panel of three arbitrators has unanimously awarded U.K.-based oil firm Rockhopper more than 190 million euros (about \$249 million) in compensation for the Italian government's refusal to grant it an offshore oil concession.

The dispute originates in Italy's efforts to ban oil drilling within 12 nautical miles of the coast. Local opposition to oil and gas exploration, particularly in the aftermath of the Deepwater Horizon oil spill in the Gulf of Mexico, resulted in an initial halt to offshore oil concessions in 2010. The freeze on concessions was temporarily lifted in 2012.

Rockhopper would have been aware of this history when, in 2014, it acquired Mediterranean Oil & Gas (a company with an exploration permit that had been denied a concession) for £29.3 million (about \$44 million). In December 2015, the Italian government re-introduced the ban on coastal concessions, and in response, Rockhopper brought a claim against Italy under the Energy Charter Treaty (ECT) in 2017.

The ECT is an investment treaty signed in 1994 that originally aimed to increase investment in the energy sector. It currently has 50 member countries, predominantly in Europe. Like other investment treaties, the ECT includes a highly controversial investor-state dispute settlement (ISDS) process, which allows foreign investors to bring claims against governments when policies negatively impact them.

In ISDS, investors can make claims for compensation that are

many times what they initially invested. This means fossil fuel companies can profit from legal claims against climate policies. The companies will then likely re-invest some of these profits in further fossil fuel projects. For example, Rockhopper told its investors the award against Italy will help finance the company's drilling plans in the Falkland Islands.

While there are thousands of bilateral investment treaties, most of which provide access to ISDS, the ECT is the most utilized by investors. Italy recognized the problems with ISDS prior to Rockhopper launching its case and withdrew from the ECT in 2016. Unfortunately, a "sunset clause" in the treaty provides continuing protection for existing investments for 20 years.

There is huge potential for more Rockhopper-type disputes under the ECT and other investment treaties. In a study that we published in the journal *Science* earlier this year, we showed that 19% of oil and gas projects that are incompatible with a 1.5 degree Celsius pathway for mitigating the impacts of climate change are protected by treaties. This creates an ISDS liability of \$340 billion in potential awards for oil and gas companies.

In fact, this huge amount likely underestimates the cost of climate action for governments, as corporations can easily restructure their investments to access treaties with ISDS and are being advised by law firms to do so. The Rockhopper ruling sends a chilling message to governments: if you cancel oil and gas projects in line with climate science, you could end up having to

pay hundreds of millions, or even billions, in compensation.

European Union member states are currently contemplating whether to accept a "modernized ECT" or to entirely withdraw from the agreement. The modernized deal, which could be adopted at the next Energy Charter Conference in November, includes a "flexibility mechanism" through which countries may, with the approval of the Charter Conference, exclude fossil fuel assets in their territories from treaty coverage. The EU and U.K. have negotiated such an opt-out in the modernized draft agreement, but existing fossil fuel investments will still be protected for another 10 years.

This is a critical decade for global climate action. The modernization deal proposed to save the ECT is too little, too late. A coordinated withdrawal from the treaty, one that neutralizes the sunset clause for those countries that leave, would be far preferable, substantially reducing protection for fossil fuel assets.

But it isn't just the EU that needs to act. There are thousands of investment treaties threatening climate action that provide no public benefits. A coordinated plan to terminate them as quickly as possible is urgently needed. With so much at stake, the international community cannot afford to ignore the dangers of ISDS any longer. **M**

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After neoliberalism, a progressive globalization?

The institutions of global economic governance can be retooled to advance social and environmental justice

FOR SEVERAL YEARS now, a consensus has been building that the era of neoliberal globalization may be coming to a close. There is less agreement on what will, or should, come next.

While progressives should welcome the decline of neoliberalism in the global economy—if that is, in fact, what’s happening—we shouldn’t lose sight of the promises of globalization itself. Instead, we should learn from the successes of our political opponents in order to establish an egalitarian global political economy and a new era of progressive globalization.

Globalization refers to the growth of interconnectedness in the world’s political and economic systems. One simple metric for tracking globalization is the World Bank’s indicator of the share of global GDP accounted for by international trade, which nearly doubled between the mid-1980s and 2008.

This jump in trade has been attributed to technological changes, like the adoption of uniform shipping containers, dropping long-distance transportation costs, and advancements in communications. But radical changes to the rules of the global economy also played an important part.

Free trade agreements were adopted and global institutions were mobilized to pressure countries to cut regulations and government spending, privatize public industries, and lower protective tariffs on trade.

The new rules of the global economy fostered the outsourcing

of labour-intensive production to low-wage countries, facilitated the extraction of vast amounts of wealth from developing to developed countries, and expanded the reach and security of private property rights. Above all, the new rules heavily favoured investors and large multinational corporations.

These changes were driven and informed by neoliberalism, a political ideology aimed at shrinking the state through privatization and austerity, reducing government intervention in the economy through deregulation, and unleashing the “free market.” Thus, we can see the shift from pre- to post-1990s globalization as the beginning of neoliberal globalization.

After a period of explosive growth, the global trade-to-GDP ratio has been slowly falling since 2008. In 2019, before the trade disruptions

caused by the pandemic, the *Economist* wrote that “the steam has gone out of globalisation.” Stagnation or decline in cross-border investment, trade, bank loans, and supply chains all pointed to a new era of “slowbalisation,” noted the magazine.

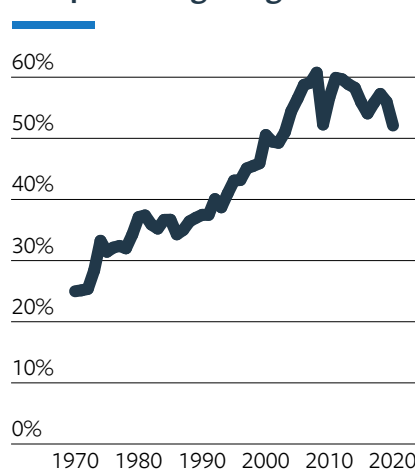
Many observers agree that these trends herald the end of the era of neoliberal globalization. Economic historian Adam Tooze recently wrote that this era, with its “low rates, low inflation and growing global ties under liberal-democratic hegemony,” has been toppled by geopolitical shifts of power, the rise of populism, the global energy transition, and the aging of the global population. Similarly, BlackRock CEO Larry Fink told company shareholders in March 2022 that the Russia-Ukraine war put the final nail in the coffin of globalization.

Financial Times columnist Rana Foroohar argues that the world is entering a post-neoliberal era due to shifts in China’s economy, declining benefits from wage and energy arbitrage, and a push for higher environmental, social and governance standards.

Similarly, economist Dani Rodrik writes for *Project Syndicate* that “hyper-globalization” has been defeated by tensions between specialization and diversification as well as between national security and economic integration, distributional problems, and neoliberal assumptions about the irresistibility of economic forces.

While they disagree on the causes, both the champions and enemies of neoliberal globalization

International trade as a percentage of global GDP



SOURCE: DATA.WORLDBANK.ORG/INDICATOR/NE.TRD.GNFS.ZS

agree that the global economy of the future will not look like that of the last 30 years.

The world neoliberal globalization built

This may at first seem like good news. After all, there have been many problems with the era of neoliberal globalization. For one, while the unprecedented globalization of the last 30 years has led to an equally unprecedented tripling of growth in global GDP, the distribution of that new wealth has been grossly unequal.

Analyzing shifts in wealth from 1988 to 2008, Christoph Lakner and Branko Milanovic’s famous “elephant graph” showed that globalization had mostly benefited the “global middle” and the world’s richest (the global top 1% captured 44% of the increase in global income).

A 2013 World Bank report agreed that gains from globalization had mostly gone to “an emerging ‘global middle class’” in China, India, Indonesia, and Brazil and to the world’s

top 1%, while the world’s poorest and lower- and middle-income earners in developed countries “lost out.”

An updated elephant graph from the 2018 World Inequality Report confirms this trend in more detail, showing that the global top 1% drastically increased its share of global income (from 16% in 1980 to 22% in 2000) while the global bottom 50% only slightly improved its share (from 8% to 10%). The report also notes that widespread privatization transferred vast sums of public capital into private hands.

An accompanying paper from the same authors, “The Elephant Curve of Global Inequality and Growth,” showed a similar trend for national income, with the top 10% growing and the bottom 50% shrinking their share of national income in almost all regions, but especially in the United States and Canada, India, and China.

And while neoliberal globalization’s damage to the environment is too extensive to properly summarize here, Tim Stobierski’s list, in his April 2021 Harvard Business School

blog, gives an overview: climate change, pollution, deforestation, the spread of invasive species, habitat destruction, and loss of biodiversity.

All of these findings undermine the optimistic predictions of neoliberal evangelists for market rule. At the very least, neoliberal globalization has been very uneven in its reduction of international inequalities while drastically exacerbating domestic inequalities and supercharging climate change and ecological destabilization.

Given these problems, it may be tempting to celebrate the decline of globalization or, as commentators such as Foroohar have put it, the reassertion of politics over economics in global matters. But this would repeat a critical error made by neoliberals: assuming or pretending that economics can be apolitical.

Neoliberalism’s conceit was to paint the market as an apolitical, almost organic force that governments should avoid disrupting; that state action should be limited to the barest of regulations to correct rare market failures and keep market forces operating smoothly.

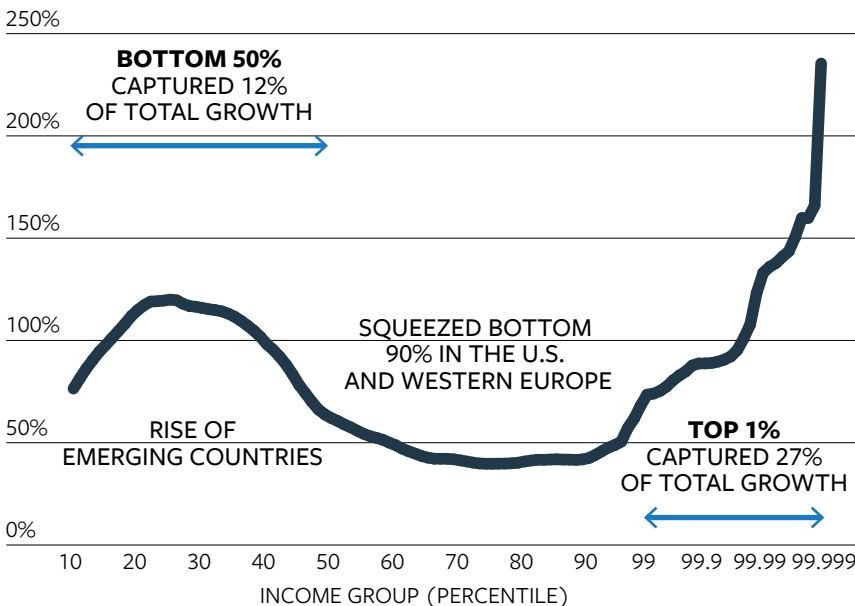
This belief allows neoliberalism to portray itself as a post- or non-ideological system for dispassionately managing the economy, to naturalize existing power relations, and to disguise its policy-making as a natural science rather than a pro-capital and anti-egalitarian political project.

In response, progressives point out the political decisions upon which market economies and capitalism depend. It was through political decisions that private property, patent law, incorporation rights, export credit agencies, court systems, police forces, taxation, regulation, and other prerequisites of market economies were established. And it is only by upholding these rules and institutions that markets can function at all.

That is, the “free market” is an oxymoron: capitalism does not exist in a state of nature and the economy is always political.

The elephant curve of global inequality and growth, 1980–2016

REAL INCOME GROWTH PER ADULT (%)



SOURCE: WORLD INEQUALITY REPORT 2018

So, despite what neoliberals would have us believe, the current arrangement of the global economy is neither natural nor inevitable; it is the result of a particular political project by particular people for ideological and self-enriching reasons. And its current problems are no more immutable in a globalized economy than private property, market exchange, and commodity production are in a domestic economy.

All economies are shaped by power, as enacted through institutions of economic governance, and control over these institutions is a primary object of political struggle. In a domestic economy, a powerful working class may use these institutions to win higher pay, shorter hours, better working conditions, and union rights. Or a powerful owning class may use them to enforce low pay, long hours, and unregulated work, and to suppress unionization.

The same dynamic exists in the global economy and allows us to see the era of neoliberal globalization as an era of neoliberal control over the institutions of global economic governance.

The World Trade Organization (WTO) was established in 1995 to facilitate and govern international economic relations based on neoliberal principles establishing extensive global rights and protections for corporations and investors. There is currently no floor in any of the WTO agreements for labour rights or environmental protections, allowing (if not encouraging) countries to compete for investment based on low wages and lax regulations. Nor do these agreements support more active, pro-worker economic policies.

Other institutions were used even more aggressively to enforce neoliberalism's political project in the global economy, such as the global web of investment treaties adjudicated by the World Bank's International Centre for the Settlement of Investment Disputes (ICSID) and the bank's structural adjustment loan programs (see David Schneiderman's article in on page 37).

Investor-state dispute settlement (ISDS) cases against environmental policies are becoming so common—what Joseph Stiglitz has called “litigation terrorism”—that the IPCC's 2022 report warned that they pose a serious risk to global climate action (see Kyla Tienhaara and Rachel Thrasher's article on page 24).

In stark contrast to these highly enforceable rights for investors, James Harrison explains in the *Journal of Common Market Studies* that “there have been no complaints taken to the expert panel in any EU [free trade agreement]” regarding the deals' trade and sustainable development provisions.

And while Canada's “inclusive trade agenda” aims to help women-owned, Indigenous-owned, and other small businesses do more international trade, it includes little in the way of enforceable guarantees for workers and does nothing to address the climate emergency.

If the neoliberal narrative about the natural and apolitical course of economies is accepted, then all

these outcomes would seem to condemn globalization. But as Harrison explains, “the deficiencies of labour provisions, coupled with the strength of provisions that promote the interests of capital...mean that it is perhaps more illuminating to see the trade and labour story so far as more about class struggle.”

That is, the era of neoliberal globalization resulted from neoliberal victory in the struggle to control the institutions of global economic governance. Under a different balance of political power, globalization could have taken—and can still take—a different path.

Glimpses of an alternative

The growing criticism of neoliberal globalization has pressured international trade negotiators to produce agreements that can be deemed progressive. This often ends up as meaningless progressive branding tacked onto status quo agreements, but it is starting to lead to incremental positive reforms.

For example, the 2016 Morocco-Nigeria bilateral investment treaty requires investors to conduct social impact assessments of their activities; the Indonesia-EFTA free trade agreement conditions lower tariffs for palm oil imports on meeting certain sustainability criteria; and the EU-Mercosur agreement, if it is ever signed, will require Argentine and Brazilian chicken egg traders to prove their products meet EU-style animal welfare criteria.

The original Trans-Pacific Partnership (TPP, now the CPTPP) also included a unique attempt to raise labour standards in Vietnam, Malaysia, and Brunei through “labour consistency plans” negotiated by the United States.

Instead of merely including a list of best practices in the TPP text and trusting all parties to live up to the spirit of the deal, these country-specific labour plans required explicit changes to domestic labour laws to bring them into compliance with the core International Labour Organization (ILO) conventions listed in the TPP's labour chapter.

These changes included legislating freedom of association, collective bargaining rights, protection against employment discrimination, improvements to rights for migrant workers, prohibitions of forced labour, prohibitions of child labour, and requirements for minimum wages. The plans also contained transparency, reporting, inspection, and third-party review mechanisms to ensure labour reforms were implemented before the U.S. would ratify the agreement, as well as the opportunity for the U.S. to suspend tariff reductions if the conditions were not met.

When the U.S. pulled out of the TPP negotiations under the presidency of Donald Trump, there was no one left at the negotiating table with the market clout to enforce the labour consistency plans, which were pulled from the final CPTPP package. Workers in Vietnam, Malaysia, and Brunei are worse off under the

ostensibly “progressive” CPTPP championed by Canada than they would have been under the original deal, and they likely would have been better off under the TPP than under no deal at all.

More success was found when NAFTA was renegotiated and replaced with CUSMA (or USMCA in the United States). The new agreement removed the investor-state dispute settlement process between Canada and the U.S. and limited its use between Mexico and the U.S.

Also importantly, CUSMA introduced a novel Rapid Response Labour Mechanism (RRM) through which labour rights violations at individual Mexican workplaces can be contested and corrected or sanctioned at the company level (see the article by Laura Macdonald and Angelo DiCaro in this issue). In just two years, this mechanism has resulted in more enforcement cases for labour rights violations than all previous trade agreements put together.

Most recently, the European Commission’s 2022 report to the European parliament on trade and sustainable development (TSD) provisions in EU trade deals lays out plans to extend dispute settlement mechanisms to cover labour and environmental commitments. This change is the direct result of pressure from labour and environmental voices on the EU’s domestic advisory groups, which are to be tasked with helping the EU enforce TSD chapters in future agreements.

A new era of progressive globalization

While some are small and others are not yet solidified, these victories should inspire progressives to fight for even more. Future free trade agreements could advance workers’ rights around the world, with rapid response mechanism-type provisions, or advance environmental and social causes with TPP-style up front demands for specific reforms.

Raising the enforceability of environmental and social provisions

to the standards investors have enjoyed for decades could turn trade agreements from one of climate action’s greatest impediments into one of its greatest guarantors.

Progressives could also reorient existing institutions toward new ends. Instead of conditioning loans on pro-investor laissez-faire reforms, the International Monetary Fund could tie funds to preventing deforestation or habitat loss.

Or preferential loans could fund green energy transitions, public transportation infrastructure, and expanded public health systems.

The World Bank could be retrofitted to support sustainable development instead of purely extractive industries, or to advance the sort of reforms known to encourage sustainable and inclusive growth, like low unemployment, high wages, high levels of education, gender equality, progressive taxation, and public ownership of basic utilities.

At the WTO, instead of the self-interested reforms proposed by the developed countries of the “Ottawa Group,” the organization could be reformed along the lines described by Rorden Wilkinson in his book, *What’s Wrong With the WTO and How to Fix It*.

This highest institution in the global political economy could be remade from a technocratic facilitator of “market openings” into “a global version of a national department of trade and industry” focused on trade-led development for all.

The ability for corporations to exploit regulatory arbitrage could be ended by introducing global regulations to match global supply chains, including global minimum corporate tax rates, carbon pricing, and environmental protections.

Workers of the world could truly be united by making the ILO Conventions as enforceable as the TRIPS Agreement and empowering the organization to be an effective champion of worker’s rights globally, even eventually working toward global sectoral bargaining.

Women, queer people, disabled people, migrants, and other marginalized groups could be uplifted by making participation in the global economy conditional on respect for basic human rights instead of basic investor rights. Not only could countless present and future lives benefit from an equitable distribution of the prosperity that comes with a globalized economy, but a new era of progressive globalization could bring about the greatest advances in human equality the world has ever seen.

To achieve this, progressives must adopt a thoroughly globalized perspective on democracy, justice, and equality.

We must reject the anti-democratic idea that a globalized progressive politics represents developed countries telling developing countries what to do.

We must reject the nationalist idea that using global institutions to fight for justice everywhere represents an unjust encroachment on national sovereignty.

And we must reject the inegalitarian idea that we only have a stake in what happens within the borders of our own nation-state.

Solving global problems like climate change, global inequality, and global poverty requires powerful global political institutions, which can only exist in an extensively globalized political economy.

That is why progressives around the world must fight to save globalization through progressive global economic governance. Only with the establishment of a new era of progressive globalization can the world achieve an egalitarian global political economy. **M**

Joseph Gubbels is the coordinator of the Trade Justice Network.

International trade and investment through a climate lens

A **S** **M** **U** **L** **T** **I** **P** **L** **E** world regions grapple with more frequent and aggressive climate-related disasters, new findings from the World Meteorological Organization show that greenhouse gas (GHG) emissions are rising at record rate.

According to the Intergovernmental Panel on Climate Change (IPCC), ecosystems and human societies are on the brink of collapse and our efforts to adapt have been no better than efforts to mitigate the crisis.

The IPCC report *Impacts, Adaptation and Vulnerability*, released in early 2022, calls for transformational change in the way that we produce and consume. It points to the dire need for governments to invest more heavily in adaptation.

But domestic and international climate policy alone can't solve this problem. Governments need to acknowledge the profound impact of trade and investment policies on climate change and reverse long-standing patterns of deep incoherency.

For example, public and private finance for GHG-intensive fossil fuels still greatly exceeds finance in climate adaptation and mitigation. Global trade and investment trends are driving us further into the climate crisis at exactly the time when governments should be helping each other and their populations to adopt more climate-sensitive lifestyles while ensuring that global inequalities don't worsen.

As one of the largest per capita greenhouse gas emitters and exporters of coal, oil and gas, Canada has a major role to play. Even more recent

climate science showing the world is set to surpass multiple climate tipping points, and the devastating realities of intensifying climate-related extreme events, such as the floods in Pakistan, should motivate governments to halt all expansion of fossil fuel infrastructures.

In addition to expanding adaptation actions at home, Canada should enhance the international co-operative dimensions of its National Adaptation Strategy to assume its fair contribution to international climate finance. Importantly, we should also be mobilizing Canadian trade and investment policies as vectors for climate action.

Although multilateral and bilateral agreements for sustainable trade and investment are key to changing global industrial production and consumption patterns, trade wasn't a major topic at the 2021 COP26 climate summit in Glasgow. But commitments made by Canada and others, including those aimed at halting deforestation and ending international fossil fuel project financing, have clear links to trade and investment policy.

Just a few days after COP26, Canada and Association of Southeast Asian Nations (ASEAN) member states announced negotiations for a comprehensive free trade agreement. While these could be an opportunity to create trade rules and practices aligned with international and domestic climate policy objectives, climate change wasn't mentioned in Canada's notice of intent to enter negotiations.

Similarly, trade Minister Mary Ng's mandate letter incorporates expectations linked to advancing Canada's climate change

commitments but not explicit references to how trade policy might advance them.

A joint economic analysis by Canada and ASEAN projected that a regional trade deal could increase Canada's GDP by US\$2.54 billion (about 0.001%), but it offers little insight about how the projected growth relates to and may negatively affect the biodiversity, climate and pollution crises.

Canada's so-called progressive approach to free trade negotiations is outdated and risks exacerbating the climate crisis. Canada should follow the lead of countries like New Zealand, Costa Rica, Fiji, Iceland, Norway and Switzerland, which are negotiating an Agreement on Climate Change, Trade and Sustainability to bring coherence to climate, trade and sustainable development agendas.

These regional trade and climate negotiations cover the removal of barriers to environmental goods, binding commitments on environmental services, efforts to eliminate fossil fuel subsidies, and guidelines for high-integrity eco-labels.

Canada should draw on this innovative approach and re-orient its trade policy agenda to centralize the economic, social and environmental threat of the climate crisis. To ensure that greening trade policy doesn't negatively affect poor countries, it must incorporate rules to promote transfer of sustainable technologies and increase access to intellectual property.

Sabaa Khan is the director-general (Québec & Atlantic Canada) of the David Suzuki Foundation. A version of this article first appeared in *Policy Options*.

ASAD ISMI

Sri Lanka's neoliberal nightmare

WITH THE COLLAPSE of its economy in June, the situation is dire in Sri Lanka. According to the World Food Programme (WFP), Sri Lanka faces a “serious food crisis,” with 6.3 million people—close to 30% of the 22 million population—being food insecure. Food inflation has reached a record-high of 90%, making staples such as rice unaffordable for millions of people. Overall, inflation is running at 60%.

“What we are really worried about now is the food crisis—we are looking at even the dangers of a famine in the near future,” says Ahilan Kadirgamar, a political economist and senior lecturer at the University of Jaffna, located in the capital city of the Northern province of Sri Lanka.

“Starvation is already hitting some sections of the population.”

Sri Lanka, which is very import-dependent, ran out of foreign exchange in April, leaving it unable to import food supplies, fuel, medicines and fertilizer. Buses, trains, ambulances and many cars cannot be driven and electricity power cuts have become common, crippling farming, fishing and factory production.

Sri Lanka defaulted on its \$56 billion external debt in May, its first default. The country has obtained 16 loans from the International Monetary Fund and tried to obtain a 17th loan in May but was not able to come to an agreement.

Widespread public protests against President Gotabaya Rajapaksa's government drove him out of the country in July. Rajapaksa appointed political rival Ranil Wickremesinghe prime minister before leaving. Wickremesinghe then took over as president, swiftly cracking

down on protests by tear-gassing and jailing dozens of demonstrators under draconian counterterrorism laws.

The immediate causes of the Sri Lankan crisis were the unsustainability of its \$56 billion external debt when faced with the effects of the COVID-19 pandemic, which resulted in a drop in tourism and migrant worker remittances from abroad, as well as tax cuts carried out by the Rajapaksa regime.

The pandemic disrupted supply chains for Sri Lanka's main exports of textiles, garments and tea, resulting in reduced revenues.

Worker remittances, which were a major source of foreign exchange, hit a 10-year low in 2021, partly due to COVID-19.

Bomb blasts in 2019 in Colombo (Sri Lanka's capital), along with COVID-19 both reduced tourism revenue, from \$5 billion in 2018 to only \$200 million in 2021. This compounded the pressures on Sri Lanka.

In 2019, the government implemented massive tax cuts, causing its revenue to plummet. The value-added tax was reduced from 15% to 8% and seven other taxes were eliminated. As a result, the

state lost vital tax revenue from a million taxpayers.

Eighty-one per cent of Sri Lanka's external debt is owed to Western financial institutions as well as Japan and India. The financial institutions are mainly commercial banks and vulture funds, namely: BlackRock, JP Morgan Chase, Prudential (all three U.S.), Ashmore Group, HSBC (both U.K.), Allianz (Germany), UBS (Switzerland). These corporations own 47% of Sri Lanka's debt, the largest portion. The Asian Development Bank owns 13% of Sri Lanka's debt, the World Bank 9%, Japan 10%, China 10% and India 2%.

There are, however, deeper reasons for Sri Lanka's collapse. Kadirgamar blames colonialism, neocolonialism and neoliberalism:

“The economic trajectory for this crisis was set in 1977 by the Junius Jayewardene government, which subjected Sri Lanka to neoliberal reforms, liberalizing trade and finance,” Kadirgamar says. “But this trajectory has to be contextualized in the long history of colonialism and neocolonialism.”

Sri Lanka was first colonized by the Portuguese, then the Dutch and the British, amounting to almost 450 years of colonialism. Kadirgamar says this made the country's economy dependent on what colonial powers wanted: the exports of commodities—first spices and then coffee and tea.

These exports were aimed at fulfilling the demands of the colonial powers' markets. This colonial strategy was continued by the World Bank in Sri Lanka after the country's independence in 1948. The World Bank advocated primary production for export markets, “as opposed to even minimal forms of industrialization, so that Sri Lanka became dependent on agricultural

We're headed for global changes that will make the last century look like a cakewalk.

exports to Western markets with declining terms of trade,” Kadirgamar emphasizes.

“Sri Lanka was the first economy in South Asia to go through neoliberalism and we have now had four-and-a-half decades of this strategy, which includes paying for our huge import bill through external debt, which became unsustainable—especially because Sri Lanka was borrowing from Western capital markets at very high interest rates,” Kadirgamar says.

That focus made Sri Lanka particularly vulnerable to economic collapse.

“This heavy borrowing was not balanced by income because Sri Lanka had only four sources of this that were inadequate: agricultural and garment exports, tourism and remittances from migrant workers” Kadirgamar says. “Other factors, such as the COVID pandemic and the authoritarian Rajapaksa regime, (which) completely mismanaged the economy, contributed to the collapse but the primary reason for this was the dependent character of Sri Lanka’s economy.”

Balasingham Skanthakumar agrees with Kadirgamar, emphasizing neoliberalism’s disastrous effects on Sri Lanka. He is a researcher and member of the editorial collective of *Polity Magazine* of the Social Scientists’ Association of Sri Lanka.

As Skanthakumar told me, “Neoliberalism is an extension of historical processes of exploitation and domination of poor countries by rich countries, in so far as it entrenches the colonial division of labour through which Sri Lanka began cultivating tea (a non-Indigenous crop) as its primary export to satisfy the tastes of Western consumers.”

Today, Skanthakumar says, Sri Lanka’s main export is ready-made garments, which is a result of the neocolonialism through which labour-intensive, low-value added apparel is produced by women workers. Capital-intensive, high-value added manufactured goods are imported from abroad.

“There is no space within neoliberalism for Sri Lanka to diversify its economic base, to promote import-substitution, nor to prioritize self-sufficiency in basic foods and other essential needs including pharmaceuticals,” says Skanthakumar.

In other words, low-income countries in the Global South cannot win in the neoliberal system because their manufactured imports are always much costlier than their raw material exports, which are all that they are allowed to send by the dominant Western powers that control the global trading system.

The attempt by southern countries to bridge this gap by taking on increasing debt only primes them for economic collapse, which also now threatens Pakistan, Bangladesh, Argentina, South Africa and Zambia.

Thirty-six countries are in a state of “debt distress,” according to the World Bank.

But there is something different about this international crisis, as it has ensnared not just poor countries

but the Western enforcers of neoliberalism and neocolonialism as well. European countries face spiralling energy costs. For example, energy costs in Germany have increased by 860% in this year alone.

According to geopolitical analyst Drago Bosnic, writing on the Infobrics website, “The European Union is going through a tremendously difficult economic and financial crisis. Sanctions aimed at Russia are wreaking havoc in many...Western economies.”

Ten million people face poverty in the United Kingdom as it experiences its “sharpest economic contraction” in 313 years, according to Reuters.

Meanwhile, French President Emmanuel Macron has informed his compatriots that France is in a “series of crises, each more serious than the other” and warned of “the end of abundance and tough times ahead.”

“The collapse of Sri Lanka is not isolated,” says Sri Lankan writer Indrajit Samarajiva. “These are global trends going back to the 1980s. The broad logic is that if your economy is not productive and you don’t control your means of production, you’re in a debt trap—and sooner or later it will clang shut.

“Every country that hasn’t secured its energy, food, and productive capacity is vulnerable to shocks and COVID-19 was just the first of many to come this century. Climate collapse is already well advanced. We’re headed for global changes that will make the last century look like a cakewalk.”

Sri Lankans are not bereft of progressive solutions to extricate their country from its crisis.

“There has to be a focus on local agricultural production and, where possible, self-sufficiency in food,” Kadirgamar says, “but to be able to do that, we need to completely change the trajectory of our economy, which has been focused on agricultural production for exports.

“This change has to be tied to the creation of a public distribution system where the state takes responsibility to import essential foods that we cannot produce and to distribute them and then to also buy produce from farmers and possibly set prices.

“Marketing boards and cooperatives should be part of this distribution system. The government also needs to provide stimulus and relief to farmers. All of this can only happen if there is redistribution of wealth through a wealth tax on money accumulated over decades.”

Samarajiva calls for “a socialist or communist revolution in Sri Lanka and a dictatorship of the poor and working class.

“We have to seize the means of production. Sri Lanka is facing an energy, food, and foreign exchange crisis and the neoliberal consensus only offers more debt and monetary tinkering instead of doing the obvious. We need massive public works projects in renewable energy, agriculture, and industrialization.” **M**

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CLARE MIAN

75 years later

When will Canada stand up for Palestinian rights?

IN NOVEMBER 1947, the United Nations General Assembly adopted a partition plan for the British mandate of Palestine, drafted under the leadership of Canadian Judge Ivan C. Rand.

Then Prime Minister Mackenzie King had vigorously resisted pressure on Canada to assume a leadership role in this issue, as he feared the risks of antagonizing one of his two chief allies, Britain or the United States which held opposing views.

Britain opposed partition as it was a *de facto* betrayal of its responsibility to shepherd the Palestinian people to self-rule and to limit Jewish immigration. The U.S. favoured it as a solution to the pressure to accept a large number of Jewish refugees from post-Holocaust Europe.

When he finally relented, King made it clear that, in acquiescing to Judge Rand's role as chair of the UN Special Commission on Palestine (UNSCOP), his government was in no way committed to adopting the committee's recommendations as Canadian foreign policy. Canada

did vote in favour of partition in the end.

Over the intervening 75 years, with the decline of Britain as a world power and the ascendance of the U.S. as "superpower" and major supporter of Israel, Canada has inhabited this hornet's nest of international relations.

Canada's current relationship with Israel is one of "steadfast friendship and strong, growing bilateral relations in many areas based on shared values, including democracy," according to Global Affairs Canada.

At the same time, Canada is on record as supporting the Fourth Geneva Convention, which condemns the ongoing occupation of territories taken in war and imposes on Israel the responsibility to treat humanely the residents of the occupied territories.

Regarding the Palestinian people, Canada recognizes their right to self-determination and to a sovereign state and has supported peace and a two-state solution in the context of the need to "support and respond to the humanitarian

and development needs of the Palestinian people," according to Global Affairs Canada.

Canada's current quandary is reminiscent of that of Britain in the mandate years. Britain had an international commitment to protect the people of Palestine and prepare them for self-government. At the same time, it made a commitment, albeit ambiguous, to "view with favour" (wording of the 1917 Balfour Declaration) the settling of Jewish refugees in the same territory.

Unlike Britain in 1947, Canada does not garner world attention, but as a credible Western democracy it needs to decide whether it will continue to close its eyes to well-founded accusations of Israeli abuses of Palestinian human rights or whether it will speak up as a defender of international humanitarian law.

This summer, two important developments provided the Canadian government with opportunities to do just that: one was a particularly egregious attack by the Israeli government on Palestinian Civil Society Organizations (CSOs), the other was a highly revealing report on Canada's voting record on Palestine-Israel issues at the UN.

In 2016, the Israeli Parliament passed a new Domestic Counter-Terrorism Act, which expanded both the definition of terrorist organization and the powers of the Israeli government to break those organizations so designated.

In August, the Israeli government authorized a series of raids on the following Palestinian CSOs: Al-Haq, Addameer, the Bisan Center for Research & Development, Defence for Children International-Palestine,

Regarding the Palestinian people, Canada recognizes their right to self-determination and to a sovereign state.

the Union of Agricultural Workers Committees (UAWC), and the Union of Palestinian Women's Committees (UPWC). Their files were confiscated, staff were detained or threatened with detention, and their offices were sealed shut.

Al Haq promotes human rights and the rule of law in the West Bank. Addameer supports the rights of political prisoners who are held in both Palestinian and Israeli prisons. The Bisan Centre for Research and Development provides education to increase awareness of civil and democratic rights. Defense for Children International (Palestine) is the only organization to focus on investigating cases brought against children. The Union of Agricultural Workers' Committees focuses on the longest-standing sector of the Palestinian economy. The Union of Palestinian Women's Committees works to achieve gender equality.

Both Michael Lynk, a Canadian law professor at Western University and UN special rapporteur on human rights in the Palestinian Territory occupied since 1967 and Mary Lawlor, UN special rapporteur on the situation of human rights defenders since 2020 have condemned the attacks, stating, "These organi[z]ations speak the language of universal human rights... the misuse of counter-terrorism measures in this way by the government of Israel undermines the security of all."

Human Rights Watch and Amnesty International have linked the recent attacks on these Palestinian CSOs to the progress that these groups were making in reporting their human rights abuse findings to the International Court of Justice (ICJ).

Even though neither Israel nor the U.S. recognizes the authority of the ICJ, the court does enjoy international credibility. Bringing Israel before it would be a significant stain on its reputation as a democracy.

Mélanie Joly, Canada's minister of foreign affairs, expressed "concern" over the raids and said her government was "in touch with Israel to seek information."

Despite calls to condemn these raids—by the UN human rights rapporteurs, organizations such as Human Rights Watch and Amnesty International, the European Union, and Canadian civil society groups (Canadians for Justice and Peace in the Middle East, independent Jewish Voices Canada), Minister Joly and the Government of Canada continue to be silent.

NDP leader Jagmeet Singh has issued 13 demands to the Trudeau government, urging it to bring its policy and practice on Palestine and Israel into alignment.

In September, Canadians for Justice and Peace in the Middle East (CJPME) published a report that shines a light on Canada's contradictory position on human rights in the Middle East. According to documents released by Access to Information and Privacy (ATIP), the report says "Canada's pro-Israel voting record at the UN contradicts its own values and interests and harms its international reputation."

The report examines the content of the yearly group of Israel-related resolutions and the correspondence between foreign policy officials and politicians on deciding Canada's vote. It shows that, despite assertions by Minister Joly and Global Affairs Canada (GAC) that Canada judges each resolution on its own merits, the voting record demonstrates that is not the case.

Canada takes a pro-Israel position to the block of resolutions, based on the rationale that Israel is unfairly singled out for criticism. This practice, begun under the Harper government, has, with one exception, extended to the Trudeau government.

CJPME's conclusion is that Canada demonstrably votes against its own values and interests and jeopardizes its reputation as a credible Western democracy as it is perceived to vote with Israel and the United States without assessing each resolution through the lens of international humanitarian law.

In 2019, Canada attracted attention when, for the first time in eight years, and in a last-minute decision, it voted in favour of a resolution on Palestinian self-determination.

Foreign policy officials had recommended two alternatives to the predictable no vote: one was to examine the current practice of block voting, the second was to vote yes on this resolution and postpone a full discussion of the practice to a later date.

It was this yes vote that surprised the UN community. The review of Canada's voting practices, which has been advocated by officials, has had no follow-up.

What the CJPME report, on the heels of Israeli attacks on Palestinian CSOs, made abundantly clear is that successive Canadian governments are paying lip service to their commitment to international humanitarian standards. The votes they cast are evidence of their commitment to maintaining unshakeable ties with Israel and the United States on a whole range of economic, military and political issues.

The issue of Palestinian rights can be ignored because, sadly, the Palestinian people do not constitute a powerful lobby. Stories, such as the raids on Palestinian CSOs or the recent murder of Palestinian-American journalist Shireen Abu Akleh, gain no more than a day or two of press attention. They are generally followed by Israeli denials, American support and Canadian silence.

Many Canadians are counting on the Trudeau government to turn the page and put human rights at the top of the agenda. **M**

Clare Mian is a retired teacher and administrator in the public system. She is now a student and writer in Toronto.

YOUR CCPA

Get to know Niall Harney

OFFICE: **MANITOBA**

POSITION: **SENIOR RESEARCHER, ERROL BLACK CHAIR IN LABOUR ISSUES**

YEARS WITH THE CCPA: **EIGHT MONTHS**

You're new to the CCPA.

What drew you to this think tank?

I was drawn to the CCPA while at the University of Manitoba. Not only were many of my favourite teachers CCPA research associates but, studying political economy, I was made deeply aware of the influence ideas have on politics and the importance of promoting progressive alternatives.

You've worked in the social innovation universe. What's the most promising social innovation trend and why?

There is certainly a lot to be questioned in the social innovation universe. The erosion of public services, financialization, and corporate profits, which all provide the backdrop to social innovation and social finance, tend to go unquestioned. But a lot of exciting work was going into developing and financing deeply affordable housing solutions while I was in the space, which is desperately needed in Canada.

You grew up in Winnipeg.

What makes you proudest of your hometown?

I'm constantly feeling proud of the arts and culture scene here in Winnipeg. In particular, there are so many young Indigenous artists, filmmakers, and writers coming out of this city. It's exciting to see young storytellers showcasing this place on the national and international stage.



What was a pivotal moment in your life—a decision you made that took you in the direction that you're heading now?

Last summer I made the decision to move from Montréal back to Winnipeg in order to be closer to family for a few years. While I was driving across Northern Ontario this position at the CCPA came up. I applied as I was moving into my new apartment and ended up getting the job. What was in many ways a difficult move quickly became an incredible opportunity.

When you're not at work, what are some ways that you decompress?

You can regularly find me on one of Winnipeg's soccer fields playing for my beloved Crescentwood Saturday Soccer Club. The near 50-year-old team is a constant source of joy and community in my life. Otherwise, you can find me cross-country skiing, cycling down Manitoba's long dirt roads,

or painstakingly making my way through various sewing projects.

Dogs or cats? Why? Sadly, I am allergic to cats so it has to be dogs. I spend a lot of time running, skiing, or cycling on trails and I hope to have a four-legged companion one of these days.

What's the biggest issue facing progressive movements today?

Progressive movements I am connected with are struggling with burnout and rebuilding momentum. Many people are still struggling to cope on a day-to-day basis, and there seem to be fewer people around to help rebuild movements. Some complicated conversations around how to build political power on the left are in order over the next year.

What gives you hope right now?

Watching the latest wave of union organizing and strike activity across North America gives me hope. The successful union drives at Amazon and Starbucks employed creative tactics and vaulted some inspiring leaders and ideas onto the international stage. Union organizing has traditionally been a huge source of political power, and it feels as though we are watching a generation rediscover this strength.

REVIEW BY MEGAN LESLIE

The book that every progressive thinking about running should read

WOMEN WINNING OFFICE: AN ACTIVIST'S GUIDE TO GETTING ELECTED PEGGY NASH

Between the Lines, Toronto 2022

IN 2008, I decided to run to be nominated as an NDP candidate. Former Halifax MP and NDP leader Alexa McDonough was stepping down. It would be a contested nomination and then the election.

I was a local community activist and had low-level volunteer experience on election campaigns. I didn't really know what to do, so I made a little notebook where I documented all the advice and information I could gather to try and understand how I could plan to win, and then what the "day after" might look like in the event I won or lost.

There is a page where I wrote down all the tasks that came from my first nomination campaign team brainstorm (*raise money; phone canvass members; plan events to recruit members; get a Facebook page*).

There's another where I identified constituencies of people and the names of individuals who could introduce me to those groups (*Social workers—Anna; Halifax MLAs—Howard; Youth—Cassandra*) and yet another for people who could volunteer for all the tasks on nomination day (*Driving people to the meeting—David; Handing out "Megan" flags—Susanne; Cheering loudly—Tony*).

When I look at that little book now, I think about how much I didn't know. I had to decide if I should put my name forward and then understand what a campaign

looked like by piecing together as much information as possible.

This spring, former MP Peggy Nash published a new book called *Women Winning Office: An Activist's Guide to Getting Elected*. I wish I had this book when I ran for my nomination. I wish I had it as a resource to prepare for winning (and losing). I also wish I had it when I was an MP and was asked to give advice to other people about running.

This book is a gift to all progressives who believe that electoral politics is one way (of many) to make change happen in our country. Whether you are thinking about running yourself or want to support someone who is running, this book is an essential guide to help activists get elected.

It is written as a guidebook for women but is really a book for any activist who comes from a group that has been historically denied access to power.

Right from the introduction, Nash is clear about this being a guide book and how to use it: if you've already decided to run, skip to part three; if you've jumped right into the fray and want to get re-inspired and rejuvenated, go back to part one. And everyone should read part seven, the "one piece of advice" section.

Part one asks the important question "who gets to lead" and Nash makes short work of assumptions we make about women who have ambition, who engage in competition, and who don't shy away from confrontation. Nash includes stories from her own experience (starting by asking herself "who do you think you are?") as well as excerpts from hours and hours of interviews with

progressive women and non-binary people who have run. This combination of practical tips with stories from people who were candidates and campaign workers make the book an interesting read for anyone with an interest in politics.

Parts three through six are about the nuts and bolts of putting together a campaign. Nash has chapters on practical topics, like public speaking, speech writing, getting out the vote, and fundraising. She includes a very important chapter called "Eyes Wide Open" that doesn't shy away from some of the brutal realities of campaigning as a woman or as any person who comes from a marginalized group, especially racialized and Indigenous candidates.

She notes that this book is about encouraging progressive activists to run, but that the levers of power continue to reside with the wealthy, privileged and traditional white male power elite—and that power never willingly gives way without a struggle. Anyone taking on that traditional power elite by running needs to understand what they're getting into, and I appreciate that Nash not only confronts it in her book but offers tips on how to be prepared for the difficult parts of getting involved in public life.

Nash has pulled from her own experience as well as numerous other activists who have run for public office. As Nash says, these activists "want you to know what they know" and "they want you to run"! **M**

Megan Leslie is a former NDP Member of Parliament and is president and CEO of World Wildlife Fund Canada.

BRUCE CAMPBELL

Breaking through regulatory corporate capture in Canada

CORPORATE RULES: THE REAL WORLD OF BUSINESS REGULATION IN CANADA BRUCE CAMPBELL, EDITOR

James Lorimer, May 2022

THE IDEA FOR *Corporate Rules: The real world of business regulation in Canada* grew out of my July 2013 book, *The Lac-Mégantic Rail Disaster: Public betrayal, justice denied*.

I wanted to know whether that book's main theme, the power relationship between corporations and government—capture and complicity—was unique to rail, or if it was something afflicting other sectors.

Corporate Rules covers a range of sectors: oil and gas, nuclear, health, pharmaceuticals, transportation, trade, climate, engineering and construction, financial institutions, governance issues, and more.

The chapters reveal that capture-complicity has infected a broad swath of industrial sectors. Here is a sample.

Mark Winfield demonstrates that over the last three to four decades regulatory governance models, under which there was a clear separation between public and private interest, underwent a profound shift.

The new *modus operandi* became one of partnership, mutual interests, use of guidance documents, voluntary measures—i.e. the merging of public and private interests, the embedding of corporate capture into the practices and operations of regulatory agencies.

Under these models, governments delegate to companies the responsibility for key functions,

such as safety oversight, provision of critical information concerning public health, safety, and environmental protection.

In the nuclear sector, Theresa McClenaghan writes that the regulator's approach to licensing consists of "guidance" rather than binding regulations, includes over-delegation to staff, lacks consistency, provides the conditions for bias, utilizes ambiguous requirements, and sets in place the conditions for self-regulation.

Contributors examine the interplay between policy, legislation and regulation.

How, with rare exceptions, regulatory oversight bodies were gutted of resources and personnel.

How regulatory enforcement and accountability have been hollowed out.

How the intent of legislation has at times been distorted by the implementing regulations.

They document the existence of private-public networks of corruption and how powerful corporations have used their insider status to avoid serious legal scrutiny, including criminal wrongdoing, which is entrenched in the very structure of the system.

Edgar Schmidt, a former general counsel in the Department of Justice, provides a damning critique of how the department's criteria for evaluating the legitimacy of departmental regulatory proposals underwent a major change.

The Department of Justice no longer asked itself whether it believed those regulations to be legally valid. Rather, it asked itself only whether, in Schmidt's words, "they had the faintest of

hopes of being legally valid" or, put another way, "where the certainty of illegality is 100 per cent or very near it."

The chapters on the petroleum industry deepen understanding of how it covers up its role in driving ballooning greenhouse gas emissions (GHG) and its ongoing efforts to torpedo policies designed to transition away from fossil fuels.

These corporations have known of the dangers to the planet from GHG emissions for decades. They cynically engage in greenwashing their role in reducing GHG emissions.

The capture-complicity relationship in the fossil fuels sector is described by William Carroll as an "echo system of obstruction," which consists of officials and lobbyists who are interacting with industry associations and which continues to obstruct the transition away from fossil fuels. It includes a revolving door between senior officials and corporations as well as overlapping corporate directorships.

Jason MacLean demonstrates how the mainstream media has aided and abetted the regulatory capture of what he calls the "public policy imagination," shaping the terms of discussion and debate, thereby legitimizing climate policy inaction.

Leading health care experts Michèle Brill-Edwards and Joel Lexchin shed light on how the government disabled the *Food and Drugs Act* and regulations. They also reveal the inner workings of the relationship between the pharmaceutical industry and Health Canada's drug approval process, which has, in some cases, led to the

approval of unsafe drugs, causing widespread illness and death.

Corporate capture risks due to complex international regulatory frameworks are heightened in aviation and shipping industries because of the outsourcing of regulatory oversight to industry-financed private international classification societies.

How capture-complicity plays out in international trade and investment agreements is described by the CCPA's own Stuart Trew. International government-corporate regulatory cooperation body activities are largely hidden from public scrutiny. Their purpose is to minimize the regulatory burden imposed by domestic regulators and their impact on international trade.

Contributors offer measures to rebalance the capture-complicity power relationship. They include the following:

1. Restore resources to regulatory agencies. Build in-house analytical and research expertise to initiate and evaluate regulatory proposals. Ensure regulatory agencies are not conflicted by dual mandates of promotion and safety, and that they do not report to ministers who have these dual mandates. Restructure industry advisory bodies with new mandates and broader public participation; build firewalls to prevent corporate dominance.

2. Lift the veil on government-business activity protected under "commercial confidentiality." Mandate greater transparency and public information disclosure. Make transparent corporate financial resources allocated to lobbying, to supportive think tanks, university departments and scholarships, media organizations, etc.

3. Ensure the costs associated with regulatory oversight are paid out of general tax revenue not out of a corporate levy.

4. Monitor and regulate the revolving door of personnel, including politicians between industry and government. Measures should include effective conflict of interest

and ethical standards. Require government officials to reveal networks of private sector contacts relevant to their work as regulators. Strengthen Canada's whistleblower protections—currently among the world's weakest—for public and private sector employees.

5. Revise the Department of Justice criteria for evaluating proposed regulations to ensure that they are consistent with the legislative intent of laws passed by parliament.

6. Restructure the *Cabinet Directive on Regulatory Policy*. Notably, eliminate the *Red Tape Reduction Act* and the one-for-one rule, which mandates that regulatory agencies offset each proposed new or amended regulation by removing at least one existing regulation. Limit the policy's preference for voluntary codes over regulation. Prioritize the precautionary principle over risk management in regulatory decisions about health, safety, and the environment.

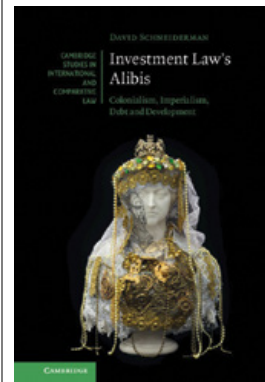
7. Strengthen civil and criminal liability regimes to hold senior government officials, corporate executives, directors, and owners accountable for decisions that endanger public health, safety, and the environment, and for those whose actions involve bribery or personal gain.

Can we break out of the capture complicity mold? In this existential climate moment, the stakes could not be higher for the planet. It requires political will and collective action: widespread citizen mobilization, labour, farm, environmental and public interest groups, using a broad toolbox of actions: nonviolent protest, advocacy, campaigns and more. **M**

Bruce Campbell is the former executive director of the CCPA.

DAVID SCHNEIDERMAN

The ruinous nature of modern investment law



INVESTMENT LAW'S ALIBIS

DAVID SCHNEIDERMAN

Cambridge University Press, 2022

WAS THUMBING THROUGH a well-worn copy of Albert Memmi's *The Colonizer and the Colonized*, purchased during my undergraduate years at McGill University in the late-1970s, when I noticed something startling.

Memmi's "portrait" of the colonizer, as revealed to him in colonial Algeria, was strikingly similar to the countenance of investment lawyers, arbitrators, and scholars.

These are the norm entrepreneurs, promoting and participating in the spread of international investment law, a regime of almost 3,300 treaties (bilateral and regional) protecting the property, contract, and due process rights of foreign investors.

The object of my book, *Investment Law's Alibis*, is to draw out

resemblances, but also differences, between colonialism and the newer regime to protect foreign investors abroad.

What became clear as the writing proceeded was that, in so far as investment law's rationales and techniques replicated elements drawn from a discredited past, it raised concerns about the very premises of these myriad treaties. It became apparent that the normative foundations for today's investor-state dispute settlement regime reproduces discursive practices that are less than compelling and whose colonial origins lie in ruins.

Much of the scholarship on investment law chooses to ignore the past. Institutional memories are of little consequence to contemporary international investment lawyers as colonial North-South relations have been overtaken by a new treaty-based regime premised on consent and reciprocity.

States in both the global North and South have voluntarily signed onto these treaties, it is said, which continue to undergo "refinement," in the parlance of the UN Conference on Trade and Development. Even if there is dissatisfaction expressed in some quarters, very few states have withdrawn from the regime.

Moreover, treaties ensure reciprocity between party states; both capital-exporting and capital-importing states are bound by investment treaty disciplines. Scholars of investment law, therefore, choose to emphasize rupture over resemblance with past colonial relations.

Leading investment law textbook authors Rudolf Dolzer and Christoph Schreuer are among those who prefer to ignore the past. They write, "[w]ithin this new climate of international economic relations, the fight of previous decades against customary rules protecting foreign investment [have] abruptly become anachronistic and obsolete." If the past is of no consequence, it offers no guidance to grasping the

Citizens deserve something more than historically discredited reasons to justify the exercise of power over them.

contemporary international regime, they argue.

The historical context, treaty texts, and exercises of power that propelled "take-off" of the investment treaty regime in the mid-1990s all point in the direction of its colonial origins. The rise of investment law clearly has affinities to "colonial occupation and its aftermath," observes Gus Van Harten of Osgoode Hall Law School.

For the most part, however, the historical roots of investment law remain stationed outside the field's barricades. This estrangement from contemporary debates seems more than peculiar—it looks strategic. Indeed, investment lawyers and scholars favour a sort of "progressive teleology" in which the world is increasingly overwhelmed by the spread of markets over politics. It would be intolerably disruptive to the field for discredited forms of domination, such as colonialism, to be invoked today.

My book, however, is not about history; nor does it employ historical methods. The typical inquiries associated with the history of international law, namely, narratives associated with the discipline's founding fathers, are not of concern. Rather, I interrogate the justifications, techniques, and legal forms—the matrix of

practices—that arose in the past and that resonate today.

In so doing, my book uncovers investment law's normative ends that are aimed at disciplining its principal targets: vulnerable states and citizens of the Global South. What is of interest is how powerful actors have justified and managed politico-legal orders of the past that are now mostly discredited—those associated with colonialism, imperialism, civilized justice, orthodox development, and debt—but that serve similar functions today.

Modern investment law practices continue to cause damage and increase economic disparity. They are ruinous, in so far as they continue to justify the maintenance of regimes that "lay waste" to certain peoples, social relations, and environments. I characterize this matrix of practices as "alibi" because they provide cover for a set of rules and institutions that increasingly are indefensible.

Legal dictionary definitions of "alibi" treat it as a "defence that places the defendant at the relevant time in a different place" than the scene of a crime. It is, in short, an excuse. The plea serves to place an accused somewhere else, a place before and other than where the crime occurs.

Investment law has its own excuses which, rather than generating convincing justificatory narratives, weaken its very foundations. Citizens deserve something more than historically discredited reasons to justify the exercise of power over them, something more than mere pretext. This is why the tropes of the investment law regime serve as alibis. Left without a compelling justification for its rules, and without deliberative spaces with which to contest its norms, there are no convincing reasons for carrying on in this fashion. **M**

This text is drawn from the introduction to *Investment Law's Alibis: Colonialism, Imperialism, Debt and Development* (Cambridge University Press 2022). David Schneiderman is professor of law and political science at the University of Toronto.

Meet Bruna Nota, CCPA donor

Bruna Nota is a CCPA donor from Toronto.

Bruna has been supporting the CCPA for 18 years.

Tell us about someone you find particularly inspiring right now.

It is not 'someone' who continually inspires me. It is the strength, vision and integrity I meet every day in so many Indigenous persons sustained by their Traditional Knowledge. I am also strongly energized by volunteering with Conscience Canada to delegitimize all wars, to stop the unredeemable waste of violence and the greed attached to it.

Can you give us one example of how COVID-19 has forced you to think outside the box?

When the severity of COVID first surfaced I saw it as a wakeup call to recognize the essential value of the caring professions. I saw COVID as an opportunity for our society to re-question its choices. I saw it as a fertile ground for innovations to fully respect the natural world and humanity, as an opportunity to apply Indigenous Traditional Teachings... HOW wrong and naïve was I!

Tell us about someone who was a big influence on you early in life and how you became a long-time CCPA supporter. Since I was a small child in Italy during WWII, I have been passionate to oppose war, violence, injustice. My parents inculcated an unshakable sense of respect for everyone and everything, even the grain of wheat that fell in the courtyard. From respect comes



humility and justice. Discovering the Indigenous' profound kinship and respect for all beings, not only human, has deepened and expanded this passion, calling on my conscience not to contribute, not to abet, not to remain silent against all forms of violence. CCPA offers a concrete way for me to manifest my values.

What have you read or watched that has made you think in a different way? Lately, I've learned a great deal from Erica Gies' *Water Always Wins*, Wahinkpe Topa (Four Arrows) and Darcia Narvaez' *Restoring the Kinship World View*, Gae Ho Hwako and the Circles of Odagahodes' *O da gaho se:s: reflecting on our journeys*, and Stephen Harrod Buhner's *Earth Grief*.

What has the CCPA done lately that's made you feel proud to be a supporter? Rather than point to any one special accomplishment, what makes CCPA special for me is the consistent continuum of alternatives it explores to face the dysfunctionalities of the mainstay policies.

What is your hope for the future? Name one policy the government should adopt today that would make people's lives better. Just one? I could suggest many... I'll limit myself:

- Sign and ratify the United Nation Treaty on the Prohibition of Nuclear Weapons;
- Cease all litigation with Indigenous Peoples;
- Enact a strong, courageous, just 'land back' policy;
- Include Indigenous Peoples as one of the Three Founding Pillars of Canada;
- Implement fair taxation, inspired by the recommendations of the 1963 (yes, 1963!) Royal Commission on Taxation;
- Eliminate corporations' personhood, set stringent conditions to their mandate, including regular review for compliance and mandatory sunset clauses.

A legacy gift is a charitable donation that you arrange now that will benefit the CCPA in the future. Making a gift to the CCPA in your will is not just for the wealthy or the elderly. And a legacy gift makes a special impact—it is often the largest gift that anyone can give. To ask about how you can leave a legacy gift to the CCPA, or to let us know you have already arranged it, please call or write Katie Loftus, Development Officer (National Office), at 613-563-1341 ext. 318 (toll free: 1-844-563-1341) or katie@policyalternatives.ca.



The good news page

ELAINE HUGHES

Stunningly perfect 'Einstein ring' captured by James Webb Space Telescope

Recently, NASA's James Webb Space Telescope snapped a perfect shot of an 'Einstein ring', the stunning halo resulting from light from a distant galaxy passing through warped-space time surrounding another galaxy aligned between the distant light source and Earth. Perfectly circular Einstein rings are extremely rare because they require both the distant and foreground galaxies to be perfectly aligned with the observer. / [Live Science](#)

New Zealand river's personhood status offers hope to Maori

In 2017, New Zealand passed a groundbreaking law granting personhood status to the Whanganui River, declaring that the river is a living whole, from the mountains to the sea, incorporating all its physical and metaphysical elements. The precedent-setting law was part of a settlement with the Whanganui Iwi, comprising Maori from a number

of tribes who have long viewed the river as a living force. In June, five years after the New Zealand law was passed, The Associated Press followed the 290-kilometre (180-mile) river upstream to find out what its status means to those whose lives are entwined with its waters. For many, its enhanced standing has come to reflect a wider rebirth of Māori culture and a chance to reverse generations of discrimination against Māori and degradation of the river. Whanganui Maori have a saying: "Ko au te awa, ko te awa ko au: I am the river, and the river is me." / [The Associated Press](#)

Gaza farmer unearths Byzantine-era mosaic

While working in his olive orchard about a kilometre from the Israeli border, Palestinian farmer Salman al-Nabahin recently unearthed an ornate Byzantine floor mosaic showing a variety of colourful birds and other animals. Having been an important trading spot for civilizations dating as far back as the ancient Egyptians and the Philistines, depicted in the Bible through to the Roman empire and the crusades, Gaza is rich with antiquities. / [Reuters](#)

Patagonia founder gives away company to help fight climate crisis

Recently, Yvon Chouinard, the billionaire founder of the outdoor apparel brand Patagonia, stated that he is giving away the company

to a trust that will use its profits to fight the climate crisis. While rich individuals often make financial contributions to causes, the New York Times said the structure of the Patagonia founder's action meant he and his family would get no financial benefit and, in fact, would face a tax bill from the donation. / [Reuters](#)

Police dog that saved 38 lives is honored for bravery

After an eight-year career, Luna, a 10-year-old German Shepherd police dog, recently received the Lifesaver Award at the Thin Blue Paw Awards gala. Skilled at searching and tracking high-risk missing people, Luna saved 38 lives during her career before retiring in June and celebrated by going on her first-ever vacation, enjoying playtime on the beach and swimming in the sea with her handler, Linda McBride. / [Good News Network](#)

Restoring the lost art of seed saving in New Hampshire

The goal of the newly organized Moose Mountain Seed Savers is to take control of seeds out of the hands of a few companies and, by setting up seed libraries, the group can make seeds available to anyone who wants them, regardless of ability to pay. Although the group has no formal status, it recently received \$1,000 in grant funding from the New England Grassroots Fund to cover some of the costs

of materials required to set up the workshops and seed libraries. / [New Hampshire Bulletin](#)

UN General Assembly declares access to clean and healthy environment a universal human right

Recently, the UN General Assembly adopted an historic resolution, declaring access to a clean, healthy and sustainable environment a universal human right. "The resolution will help reduce environmental injustices, close protection gaps and empower people, especially those that are in vulnerable situations, including environmental human rights defenders, children, youth, women and indigenous peoples," said UN Secretary-General, Antonio Guterres. / [UN.org](#)

Treaty Six First Nations woman 1st to join NHL's Winnipeg Jets as collegiate scout

Originally from Treaty Six territory in Saskatchewan, Sydney Daniels, 27, is joining the Winnipeg Jets, a National Hockey League team, as a college scout. Daniels grew up in the United States for most of her life and attended Harvard University where she was captain of the Harvard Crimson hockey team. When her playing career in the National Collegiate Athletic Association ended, she became an assistant coach with the team. Now, she's closer to her First Nation as she settles in with the Jets. / [CBC News](#)



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