MONITOR

A LOOK INSIDE THE

TRANS-PACIFIC PARTNERSHIP

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Stuart Trew

Continuity and "real change"

A YEAR AGO, CANADIANS voted for "real change." Today, questions are being raised about whether the Liberal government is prepared to deliver on some of its most hopeful election pledges.

For example, the party promised the 2015 election would be "the last... conducted under the first-past-the-post voting system." But months into a cross-Canada public consultation on what a new voting system might look like, Prime Minister Trudeau has suggested reform may be less urgent with the Harper Conservatives out of power.

In October, the government moved swiftly to ratify the Paris climate agreement and announced it would create a national carbon pricing scheme by 2018. But Environment Minister Catherine McKenna has now said Canada will not revisit the Conservative government's low target of reducing greenhouse gas emissions by 30% under 2005 levels by 2030—a target Canada will not even be able to meet because of planned expansion in the fossil fuel sector.

The pursuit of new energy pipelines and other megaprojects—a cornerstone of Conservative economic policy—has been unaltered so far by the government's stated goal of working toward real reconciliation with First Nations. In a move that angered many Indigenous communities in British Columbia, the federal government recently approved both the unnecessary and highly unpopular Site C hydroelectric dam on the Peace River (see Gail Davidson and Rohan Shaw on page 39) and an equally controversial liquefied natural gas pipeline to transport fracked gas to the West Coast (see Marc Lee on page 7).

"The Crown's practice of relying solely on engagement activities by industry proponents and completing the Crown's consultation obligations after project decisions are made is wrong-headed and has to end," wrote Assembly of First Nations Chief Perry Bellegarde in the *Toronto Star* after the Site C green light. "The practice of forcing First Nations to court because the regulatory system is not designed to consider our rights before decisions are made, has to end."

Should we be surprised about the gap between the government's rhetoric and its actions? Probably not. For some time, Canada's two dominant political parties have shared the economic belief that "the market" works best when free of state meddling. Where regulatory agencies have sought to respond to new public needs or new science (e.g., on GMO labelling, plain packaging laws on tobacco, bans on likely toxic chemicals or more activist climate policy) they have been frequently shut down by politicians or powerful corporate interests.

The National Energy Board has become a rubber stamp for fossil fuel megaprojects, for example. Health Canada seems more interested in approving new GMOs, based on industry science, than on opening the testing process to independent scrutiny. Deregulation reforms initiated shortly after Canada signed a free trade agreement with the United States in the late-1980s have rolled along since then no matter who held power in Ottawa, all in the name of reducing the burden on business and eliminating barriers to trade.

In fact, the deregulation project (or re-regulation to serve business supply chains, not consumers) is intimately connected to Canada's free trade agenda—the one policy area where the Liberals and Conservatives in government clearly sing from the same hymnbook. With each new free trade deal the tools Canadian regulators are allowed to use—for protecting the environment, enhancing public services, better organizing the delivery of private services, or improving food quality standards, etc.—are fewer and fewer.

One of those deals, the Trans-Pacific Partnership, is the focus of this special issue of the *Monitor*. As explained in our "Coles Notes" summary and accompanying features, the TPP will place even more onerous restrictions on Canada's ability to protect the environment, expand the health care system and keep the cost of medicines down, transition away from fossil fuels to a more renewable energy and industrial model, and meet its obligation to consult with First Nations on all matters affecting their international and treaty rights.

Responding to public and some business concerns about the TPP, the Liberal government has been consulting for the past year on whether Canada can ratify the deal or not—a decision the prime minister will likely not make until after a new U.S. president takes office in the new year (see Scott Sinclair on page 12). "[P]eople do not feel that trade is working for them," said Trudeau at a youth labour summit in Ottawa last month, echoing comments from Canadian Trade Minister Chrystia Freeland.

The TPP doesn't just expand NAFTA geographically, it entrenches a type of globalization that has con-

centrated income in the hands of the global one per cent, and which contradicts the positive objectives of the Paris climate agreement and UN Sustainable Development Goals. But while a parliamentary trade committee scrutinizes the transpacific agreement, the government has essentially shut out democratic debate about an equally (and in some cases more) harmful deal with the European Union.

The fate of CETA hung in the balance as the *Monitor* went to print. Despite enormous outside pressure, the plucky government of Wallonia, and its charismatic minister-president Paul Magnette, held out for changes to the agreement, particularly its controversial investment court system. European consumer, environmental and other civil society groups, who have been campaigning for two years against CETA and a sister agreement with the United States, support the Walloon resistance, as do hundreds of cities that have declared themselves CETA/TTIP-free zones.

Given Canada's dismal record of being sued under NAFTA's investor-state dispute process, one might expect our new government to jump at the chance to fix or remove the same anti-democratic feature from its European deal. But it hasn't, which undermines the already laughable idea that CETA is "the most progressive" trade deal either Canada or the EU has ever negotiated.

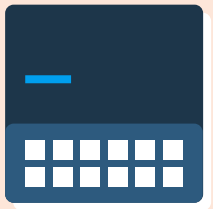
The TPP will place even more onerous restrictions on Canada's ability to protect the environment.

Some things have changed for the better since the 2015 federal election. Where the last government encouraged us to see terrorists under every bed, behind every encrypted phone call, and entering the country in large numbers as refugees, the new regime talks of strength in diversity, and the social and economic benefits of wider immigration.

Likewise, it is important that when asked about sexual harassment and sexual assault allegations against presidential nominee Donald Trump, Canada's prime minister answered "as a feminist, as someone who has stood clearly and strongly all my life around issues of sexual harassment, standing against violence against women." Words matter—they are the entry point for a true understanding of the too many ways women remain unequal citizens in this country.

It is a positive sign that where the federal government once saw deficits lurking behind every positive public policy enhancement, it is currently (if mostly on paper for now) looking to invest large amounts of money in public and private infrastructure. The Canada Child Benefit has been a relief for many families struggling to raise children. The success or failure of the program should not be judged by whether or not monthly government cheques are stimulating personal consumption.

The government has in these and other ways changed the conversation, and polls show the public shares Trudeau's more optimistic worldview. But as long as the fundamental building blocks of our economy stay in place—extractivism, deregulation, the pursuit of anti-democratic trade deals—Canadians are sure to see more continuity than change, let alone the "real change" they so clearly demanded a year ago. M



Letters

Can the media be fixed?

Thank you to Marc Edge for describing the failures of past, feeble attempts to act on ongoing, seemingly continuous public concern for the increasing business and political bias of Canadian news sources and their concentration ("Can Canada's media be reformed," May-June 2016).

The emergence of digital newcomers like the *National Observer*, along with the *The Tyee* in Vancouver, testifies to the mainstream news vacuum where the impact of extractive industries on Canadian ecology and politics is concerned. In fact, the words "social democracy" never appear in Canada's "national newspaper," and its "science reporter," appearing ever more infrequently, forgoes mentioning the latest atmospheric CO2 readings or even climate change. The longtime reader has to go back to issues from the 1980s to find meaningful news or comment about concerns for the biosphere.

The late senator Keith Davey should also be mentioned as the last "activist" member of that now-tormented chamber, who brought real concern to bear on the undemocratic state of Canada's news media. The shock and awe of American citizens and the world at large at a massive outbreak of neofascist opinion among the marginalized working class of America, and the threat to the nation's judicial system, is frightening evidence of what can result from years of cultivated ignorance.

George Burrett,
Cambridge, Ont.

The Nordic model works

I read with dismay the article in the January-February issue of the *Monitor* entitled "Sex Work is Work," which is most notable for what it does not say and for its complete lack of data. The article seeks to frame prostitution as just another way to make a living. There is no acknowledgement of the core issue: why does prostitution exist? Is it because so many women and girls are clamouring to join this glamorous profession? Or does it have more to do with desperation and the demand side—the (mostly) men who want to buy sex?

In Canada, according to a 2005 study in the journal *Transcultural Psychiatry*, most people in prostitution enter as adolescents (89%) starting before the age of 16, some 12 or younger. A majority of them (82%) were sexually abused as children. In the same study, Indigenous women were shown to be dramatically overrepresented—52% of those in Vancouver's sex trade were of Indigenous background, though they made up only between 1.7% and 7% of the population. When asked about their current needs, respondents in the Vancouver study were most likely to list four: to exit prostitution (95%), to get drug or alcohol addiction treatment (82%), job training (67%) and a home or safe place (66%). Clearly, those involved in prostitution are not a typical cross-section of women in Canada, nor do they appear to be a group of people who have freely chosen the sex trade.

Let's now take a look at the demand side. In a 2009 study by the London, U.K. group Eaves, among 103 men interviewed about their use of trafficked women, the four reasons most often cited for buying sex were the immediate satisfaction of a sexual urge, entertainment or pleasure, the ability to seek variety in sexual partners based on physical, racial or sexual stereotypes, and lack of sexual or emotional fulfillment in a current relationship. In other words, buying sex, for men, appears to be simply the fulfillment of their sense of entitlement to have sex whenever they want. The evidence for the truth of this is being borne out in Sweden, where the number of men buying sex has been reduced from one in eight to one in 13, according to Swedish journalist Kajsa Ekis Ekman. Swedes overwhelmingly support the law, which criminalizes buyers but not sellers of sex.

Canada recently passed a law that follows the Swedish (or Nordic) model in that the buyers, rather than the sellers, of sex will be charged as criminals. This type of legal framework has also been adopted in Norway, Iceland and, most recently, Northern Ireland and France. While it may be the case that the law needs to be strengthened, there is absolutely no acknowledgement in the CCPA article of the existence of the bill or of the Nordic model. The issue now in Canada should be to work to uphold the law as it exists, ensure there are rigorous exit and recovery programs available for those who wish to leave prostitution, and work with educating police forces so that they are fully committed to upholding the law.

Rosemary Dzus,
Deux-Montagnes, Que.

Banking reform clarification

I appreciate David MacDonald's article ("Ask the CCPA," July-August 2016) saying that provinces and municipalities in Canada could be saved money, without causing inflation, through receiving interest-free loans from the Bank of Canada. Mentioned, but not stressed, is the fact the federal government could benefit similarly. But try as I may, I cannot follow his argument that if the Bank of Canada made such loans, its participation in the private banks' cheque-clearing process would result in costing the federal government money (how much is not clear). The upshot of the article is an unenthusiastic

acknowledgement that such loans are possible, but perhaps inadvisable.

Missing from this article is any mention of the huge amounts of interest that governments at all levels across Canada have been paying on their debts to private banks and other private money lenders—some $50 to $60 billion each year, even with current low interest rates. Use of the Bank of Canada to provide interest-free loans could enable our governments to phase out their interest payments, to invest quickly in infrastructure with green jobs, and to overcome the devastating austerity agenda.

Also missing from the article is mention of the fact that about 97% of our money in circulation has been created out of nothing by private banks in their process of making loans. Bank-created money requires interest payments that add 30% to 40% to the cost of everything we—businesses, governments and ordinary folk—buy. If all these parties began responsibly to pay off their debts, the money supply would shrink, quickly bringing on depression. We need to have in circulation lots of debt-free Bank of Canada–created money in order to have a thriving, fiscally responsible economy.

Would Bank of Canada lending cost the federal government money? Perhaps. But would not its savings on interest payments, and its increased tax receipts from a stimulated economy, greatly exceed its costs? Our Liberal government does not have to consult with Wall Street bankers (as I understand it has been doing) about how to establish an infrastructure bank, which would surely favour private banking interests. We already have our publicly owned Bank of Canada, which served us very well between 1938 and 1974, and could be used now for infrastructure and for all sorts of other public benefits.

George Crowell, London, Ont.

Keep postal services public

I am writing to thank you for the excellent article on Canada Post by Erika Shaker ("Canada Post's reality check is in the mail," September-October 2016). While I agree with all the points Ms. Shaker made, I would like to raise an additional issue, and that is that there is no reason why Canada Post should be, or need be, making a profit.

Postal service should be a service that is available to all Canadians, no matter what their location. In geographical terms, Canada is the second largest country on the planet, and I think it is reasonable to say that all Canadians should have access to postal service. Just as we expect our health care system and CBC/Radio-Canada to be available and accessible by all of us, so also should postal services.

Postal delivery was never intended to be a money-making enterprise, rather a service that we all should expect as residents of this very large country. This should be true of those of us who live in large cities, as well as those who live in remote communities in the North. The idea of funding this service through our taxes should be no more controversial than spending tax dollars on roads, other infrastructure and health care.

Marcia Almey, Ottawa, Ont.

Population and climate

I have just been reading the powerful article by Naomi Klein in the last issue ("Edward Said and the violence of othering in a warming world," September-October 2016). However, I am concerned that this article is similar to most commentaries on climate change in its failure to recognize the role of population growth.

It seems as if the population explosion is being accepted as inevitable rather than as another aspect of the crisis demanding our attention. The increased consumption of all resources due to this reality will be very measurable. A population of nine billion in 2050 will be much more of a threat to our survival than the current seven billion. We are rapidly filling up our spaces with human bodies, gradually taking up space needed by other flora and fauna, and for agricultural production. This is even true in Canada where we have a relatively small area of land suitable for agricultural production and are rapidly turning natural areas and agricultural land into urban or suburban development. Do we even have the right to supplant populations of other species to make more space for ourselves? All these factors will contribute to not only a higher climate temperature but also an increased shortage in food supply, just as the needs increase. The increase in industrial-style agriculture promoted by some sources is, at best, only temporary. It borrows from the future potential of the land by mining it of its nutrients and befouling the soil with all sorts of chemical interventions. And, of course, these higher levels of population will need to consume ever-larger quantities of all our resources, both renewable and non-renewable.

I am not optimistic about the outcome and, in spite of my advancing age, I am distinctly unhappy about it. I think of the disturbing legacy we are leaving to our children and grandchildren. I see too few signs of society taking the draconian steps needed to bring the Earth back to a sustainable level of occupation and consumption of its resources.

Peter Moller, Almonte, Ont.

Correction

In the Good News Page of the September-October issue, it should have read that Salt Lake City hopes to reduce carbon emissions by 80% by 2040 (not 2014).

Send us your feedback and thoughts: monitor@policyalternatives.ca

Behind the numbers

ZOHRA JAMASI AND TRISH HENNESSY

Nobody's business: Airbnb in Toronto

"Home sharing" platform Airbnb has grown significantly in popularity, including in Canada, since hitting the market less than 10 years ago. But how much "sharing" is really happening?

We looked into Airbnb activity for Toronto, whose city council is just beginning to grapple with regulatory considerations.

The first thing we noticed was Airbnb's dramatic rise in popularity: in 2011, there were no known Airbnb listings in Toronto. In July 2016, there were 10,156 Toronto rentals available on the Airbnb website — a 288% increase from December 2013.

What type of listings predominate Airbnb rentals in Toronto? Where are those listings located? And who is doing the renting?

Our new report for the CCPA-Ontario, *Nobody's Business*, came up with some surprising findings.

Airbnb markets its service as an opportunity for homeowners to make extra money by "sharing your extra space with travellers." But we found a disconnect between the Airbnb narrative around "sharing," which is at the heart of its advertising campaign, and what the data reveals.

For example, almost two-thirds (64%) of Airbnb listings in Toronto are for entire homes (houses, apartments or condos), while private room listings represent 33% and shared rooms only 3% of available city listings.

Overall, 13% of hosts in Toronto have more than one listing. This small group is a key player in the Airbnb business in Toronto — renting out 37% of all listings and generating 46% of estimated revenues in the city.

Not only does Toronto's waterfront region attract the greatest number of Airbnb listings and visits, growth there has soared over the past year — from about 400 listings between December 2013 and May 2014 to 1,676 in July this year. A remarkable 84% of these listings are for entire homes (houses, condos or apartments) and 35% of those listings are posted by hosts with multiple listings.

This begs the question: Are the Toronto waterfront's Airbnb hosts part of the sharing economy or are they an extension of unlicensed short-term rentals?

A look at vacancy rates for row/apparent rental units in Toronto's three Airbnb hotbeds raises a significant concern for policy-makers tasked with ensuring affordable housing in the city.

Vacancy rates have virtually flatlined in the Liberty Village and

Church-Yonge areas, and increased by only 2% in the waterfront community between 2013 and 2016, which is far less than the rise in the number of condos or units that have been built in that area.

The affordable housing waitlist in Toronto is one of the longest in the country: there were 82,414 households on the list in 2015, representing a 5.1% increase over 2014, according to the Ontario Non-Profit Housing Association.

The increase in unregulated, short-term rentals could very well impact the supply of long-term rentals and potentially increase the cost of the rest of the available housing stock. Many U.S. cities are already experiencing this and have moved to regulate Airbnb.

In San Francisco, where short-term rentals have been blamed for contributing to the city's housing crisis, the city's board of supervisors fines Airbnb $1,000 a day for every unregistered host on its service, and effective July 2, 2016, hosts are required to pay $50 to register. In New York, lawmakers have made it illegal to rent a whole apartment on Airbnb for fewer than 30 days. Anaheim, California has decided to phase out and ultimately ban short-term rentals in that community, while Chicago has set limits on where and for how long listings can be available.

It is clear the City of Toronto, and other Canadian communities with a growing Airbnb listing base, have many options for addressing the policy issues that arise from online short-term rental platforms. One thing is for certain: short-term rentals offered through the platform do not in any way help the problem of low vacancy rates for long-term renters seeking affordable housing in Toronto and elsewhere.

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MARC LEE

The abysmal economics of LNG

In the lead up to the last provincial election, British Columbians learned about an economic panacea named LNG: liquefied natural gas. This new industrial sector would take vast amounts of fracked gas piped from northeast B.C. and convert it to liquid form for shipment to Asia, where high prices would justify multi-billion-dollar investments. B.C., it was alleged, would benefit from a staggering $100 billion in additional revenues to the public sector, and 100,000 new jobs.

The CCPA has been critical of these bloated claims, while raising concerns about the impacts such megaprojects would have on energy security, carbon emissions and key environmental areas like water. But it is neither climate nor environmental issues that are hampering the birth of an LNG industry; rather, it is the global marketplace.

In part this reflects the massive drop in oil prices since the second half of 2014, which has continued into this year and is likely to persist for the foreseeable future. Because LNG prices are often contractually linked to the price of oil, price falls get passed onto LNG. It is also about the specific supply and demand dynamics of the global trade in LNG: a lot of new supply coming onto the market but a weakening of demand.

A look at the International Gas Union's *2016 World LNG Report* is instructive. On the demand side, the heyday of high prices in Asia came largely in the aftermath of the Fukushima nuclear disaster, which led the Japanese government to take its nuclear capacity offline. A nuclear scandal in South Korea involving faked safety documentation also led to reactors being shut down.

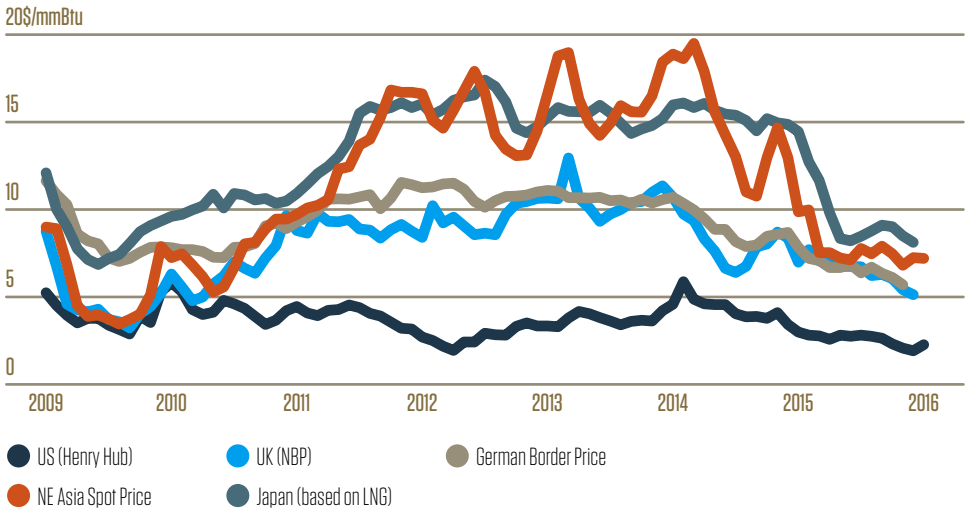
In both cases this capacity is being restored, and in 2015, LNG imports fell by 3.5% in Japan and 12.2% in Korea. Importantly, the two countries represent almost half of global LNG imports. China is a small but growing player in LNG (about 8% of global imports), but saw no import growth in 2015 due to its economic slowdown. China also has other, cheaper options like piped gas from Russia, so it is not clear that future Chinese economic growth will be sufficient to drive up global demand for new LNG supply.

On the supply side, major new liquefaction capacity has come online from the United States and Australia, with much more to come between now and 2020. According to the IGU, new LNG plants already under construction will add 142 million tonnes to global supply. That's equivalent to almost half the existing world LNG market (301.5 million tonnes in 2015). In spite of current low prices, oil and gas companies in B.C. and elsewhere have kept production levels high rather than lose market share, in order to get any cash flow they can after having sunk billions upfront into projects.

You don't need a degree in economics to conclude that surging supply amid weak demand will lead to lower prices—and these conditions could persist for some time. The IGU report shows how much prices have come down relative to the heady days of 2012–13, when the B.C. government began its wishful thinking about LNG riches (see Figure 3.16 of the IGU report).

Note that by 2015, prices fell below $10 in all key regional markets. This is a significant threshold as the full cost of getting LNG to Asia (including extraction, processing, pipeline, liquefaction, shipping and regasification) is estimated to be about $10. If B.C. exporters could get that price, they would break even and perhaps turn a small profit. For the B.C. government to generate substantial additional revenues by taxing LNG profits, prices would need to be much higher. Yet, by May 2016, the price of LNG in Asia dropped even further than the figure

Monthly Average Regional Gas Prices, 2009–16



Source IGU, 2016 World LNG Report

on this page shows—to $4.24, as reported in the *Wall Street Journal*.

In this tough economic environment, major oil and gas companies have been under pressure to reduce their capital spending. The IGU adds that B.C.'s prospects have been hurt by an inability to secure buyers and high costs relative to the alternatives:

> Apart from high liquefaction costs, greenfield projects proposed in Western Canada and Alaska require lengthy (300 miles or more) pipeline infrastructure. Fully integrated Western Canadian projects have announced cost estimates of up to $40 billion, while in Alaska the estimate ranges from $45–65 billion.

Arguably, the B.C. government has pulled out all the stops to lower the cost of capital for potential LNG investors. Yet, the IGU also finds that the B.C. government's attempts to provide certainty on taxes and regulatory requirements are "unlikely to have a major impact on the overall pace of project development."

Even those LNG projects that have major buyers as equity partners have been reluctant to say yes to expensive, multi-decade LNG megaprojects. This includes the LNG Canada consortium led by Shell, with PetroChina, Kogas and Mitsubishi as partners. In July, LNG Canada announced it was postponing a final investment decision on its proposed terminal in Kitimat.

Further up the coast, an LNG venture with similar characteristics, proposed for Alaska, was also shelved. This project featured carbon majors BP, ExxonMobil and ConocoPhillips, but proponents decided in August not to proceed to the design and engineering phase. A report commissioned by the proponents found:

> Currently the competitiveness of the Alaska LNG project ranks poorly when compared to competing LNG projects that could supply North Asia, specifically Japan, South Korea, China and Taiwan.... [N]ot only will the project not make sufficient returns for investors at current LNG market prices, but it may struggle to make acceptable returns even under a US$70/bbl [oil] price.

Another massive B.C. proposal, Pacific Northwest LNG (on Lelu Island near Prince Rupert), led by Malaysia's Petronas, has also delayed making a final investment decision many times. In 2015, it issued a "conditional final investment decision" after a deal with the B.C. government to lock in the tax and regulatory regime for 25 years.

But conditional is not final, and this statement may have been an attempt to help out a B.C. government that has staked so much political capital on LNG. Despite a green light for the project from the Trudeau government in late-September, Petronas still faces challenges in getting the approval of First Nations on the north coast.

Perhaps the best shot B.C. has at reaching a final investment decision is the relatively small Woodfibre LNG plant proposed near Squamish. This plant is only a fraction of the size of the proposed Pacific Northwest LNG or LNG Canada facilities. It also does not require significant new pipeline capacity, and can tap into BC Hydro electricity (although a purchase agreement has not been signed). The project has received approval from federal and provincial governments, and from the Squamish First Nation. According to news reports, the project has buyers for half its planned supply. But it still faces local opposition from the people of Squamish. And even this smaller proposal has significant GHG impacts, as I've outline previously for the CCPA.

Four years down the road, B.C.'s LNG dream is still just that—a dream—largely due to global market conditions. While one or more LNG projects could get off the ground in coming years, they would need Asian buyers willing to pay a substantial premium over market prices for the privilege of locking down several decades of supply. Virtually no one outside the B.C. government believes that an LNG industry of five to seven plants is realistic.

In light of concerns the costs of LNG development could vastly exceed benefits, this delay is a good thing for the province. Indeed, as governments begin to take serious climate action in response to the 2015 Paris Agreement, future demand for fossil fuels will be squeezed in favour of renewable sources, with only lower-cost supplies being developed. The legacy of the B.C. government's failure to close a deal on LNG may be saving companies from investing in tomorrow's stranded assets, as the world shifts away from fossil fuels.

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MEG GINGRICH

Cap-and-trade's potential impact on Ontario jobs

This spring, the Ontario Government introduced legislation that lays the groundwork for a greenhouse gas cap-and-trade system and is the legislative basis for Ontario joining Quebec and California in the Western Climate Initiative. Setting emission reduction targets and putting a price on carbon are essential to combat climate change. This legislation is a decent start, but there is more that needs to be done on a number of issues, including internationally traded goods, the use of funds raised through cap-and-trade and just transition for workers in carbon-intensive industries.

The government has made only broad statements acknowledging the connection between jobs and the cap-and-trade legislation, stating: "good environmental policy is good economic policy. Reducing our use of fossil fuels, such as coal, oil and gas, will create jobs now and form a central pillar of our prosperity in the coming years." Its focus is frequently on start-ups that may emerge, or on promoting private electric car ownership rather than public investment.

The hope seems to lie in incentives for private business to take on large-scale shifts that will be required rather than a focus on the need for large-scale public projects like transit infrastructure. This sidesteps the issue that government will have to lead the way to protect workers from mass job displacement as a result of this policy.

The steel industry is an example of the kinds of industries and workers that will be affected. According to the Canadian Steel Producers Association, the industry in Canada provides 20,000 direct and 100,000 indirect jobs, many of which are unionized and located in Ontario. Steel, as an energy-intensive and trade-exposed industry, will be negatively impacted by GHG emission reduction efforts.

The initial four-year exemption for large industrial emitters may be a short-term solution. However, we need a more comprehensive plan to deal with the threats posed by carbon leakage and trade agreements over the longer term. The solution to reducing emissions from energy-intensive industries cannot be to offload our emissions to other jurisdictions where emissions standards and wages are lower, while causing the loss of many well-paid jobs in Ontario. Any broad-based climate change strategy must ensure that this type of carbon leakage does not occur.

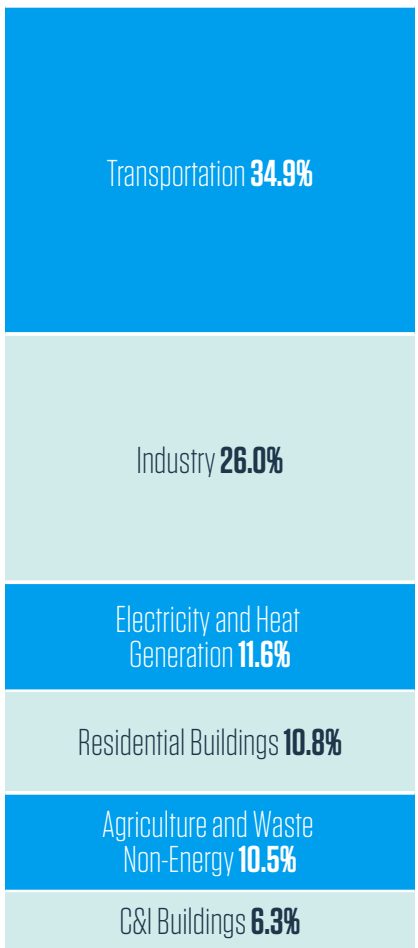
Along with low wages for workers, and inadequate health and safety standards, steel from places such as China and India has a much larger carbon footprint than the steel made in Ontario. This is a result of production methods, electricity sources for steel-making and emissions from transportation. Options to address these carbon leakages include tariffs, taxing imported steel to reflect the environmental cost of production and transportation, and investing in the domestic steel industry to compete with state subsidies in other jurisdictions. Ontario, as a sub-national jurisdiction, has somewhat limited options, but that does not mean it has none. The province could press the federal government to impose border carbon adjustments to ensure that the true environmental price is reflected in the cost of imported steel.

Alongside such efforts, the government must also make concrete plans to address the impact on workers in industries more affected by measures to lower greenhouse gas emissions. That should include using the planned Greenhouse Gas Reduction Account to help displaced workers transition into new areas of work. Marginalized groups, who might bear a disproportionate impact of a transition to a lower-carbon economy as a result of higher electricity prices, should also benefit from the fund. These kinds of specifics need to be added to the guidelines on the use of the funds.

Border adjustments, intelligent use of the Greenhouse Gas Reduction Account, and involvement of workers to help determine the best way to shift toward a less carbon-intensive economy are necessary to ensure Ontario's legislation is effective.

MEG GINGRICH IS A RESEARCHER WITH THE UNITED STEELWORKERS' CANADIAN NATIONAL OFFICE.

2010 GHG Emissions By Sector



SOURCE Climate Vision: Climate Change Progress Report (Government of Ontario)

New from the CCPA

"Commercial" hosts dominate Airbnb in Toronto

It's supposed to be a "home sharing" platform, but a small percentage of hosts account for just under half of all Toronto Airbnb revenue, according to estimates in a new report by the CCPA's Ontario office.

In ***Nobody's Business***, CCPA-ON Director **Trish Hennessy** and economist **Zohra Jamasi** find that 13% of Toronto's Airbnb hosts offer 37% of the city's total listings, which generated 46% of all Airbnb rental revenues in Toronto in July 2016. More than this, the report finds that 64% of listings are for entire homes (houses, apartments or condos), compared to 33% for private rooms. (See Behind the Numbers on page 8 for more details.)

"For a company that bills itself as an opportunity to share your home for extra cash, a large proportion of listings are posted by a small group of hosts who list multiple properties," says Hennessy. "The high concentration of revenue in the hands of a small percentage of multiple listing hosts suggest they may using the Airbnb platform for commercial purposes to set up a short-term rental business without being subject to regulatory oversight."

Making (more) sense of CETA

The Canada–EU free trade agreement (CETA), negotiated by the Harper Conservatives but fully embraced by the current Liberal government, was still on rocky ground in Europe when the *Monitor* went to print. Environmentalists, labour unions, students, farmers and hundreds of other progressive organizations are so opposed to CETA that its ratification cannot be assured.

The CCPA recently partnered with a dozen European NGOs to produce a follow-up to the 2014 report ***Making Sense of CETA***, so that citizens in Canada and Europe have the fullest information possible on CETA's likely impacts on public services, environmental and consumer safety regulations, financial stability, food sovereignty and democratic governance.

Scott Sinclair and Stuart Trew of the CCPA were invited to Europe in October for a Week of Action on CETA, where they went over the concerns raised in the report with elected representatives, government officials and other NGOs. "European opponents can see CETA is a 'gold-standard' agreement only in the sense that it goes further than previous free trade treaties in protecting the 'gold-plated' rights of corporations and foreign investors," wrote Sinclair and Trew in a *Toronto Star* column in September. "It is a backward-looking, last-century free trade deal that will erect even more barriers to addressing today's two most pressing issues: climate change and inequality."

Liquor regulation in Manitoba

New research by the CCPA's Manitoba office concludes the provine's liquor sales and distribution model is better than in other western provinces.

Balancing Convenience with Social Responsibility, by public finance economist **Greg Flanagan**, finds that Manitoba employs the responsible social practice of setting alcohol taxes so that more revenue is collected on a lower volume of sales. This method dampens the tendency to over-consume while raising necessary revenue to pay for the health and social programs that alcohol consumption inevitably necessitates.

Government net income as a percentage of revenue from the sale of alcohol is lowest in Alberta, where liquor sales are fully privatized, and second lowest in B.C., whose system is also partially private. Manitoba and Saskatchewan did extremely well on this measure, with considerably higher net incomes (though this might change now that Saskatchewan is privatizing half its publicly owned liquor stores.)

Prices for most products rose in Alberta after privatization, even as the percentage of revenues going to government went down. Alberta's move to privatization has resulted in a deadweight welfare loss, says Flanagan. Not only do consumers pay more, but alcohol consumption has increased. As Alberta's net revenue from sales decreased, so too did its capacity to deal with the health and social problems arising from alcohol consumption.

Overall, Manitoba has the best results among the four western provinces in mitigating the harms generated by alcohol consumption. But there is always room for improvement. In some instances, such as alcohol abuse or dependence, our standing is worse than the national average. In order to improve these results, we need to maintain our commitment to a strong public system, argues Flanagan.

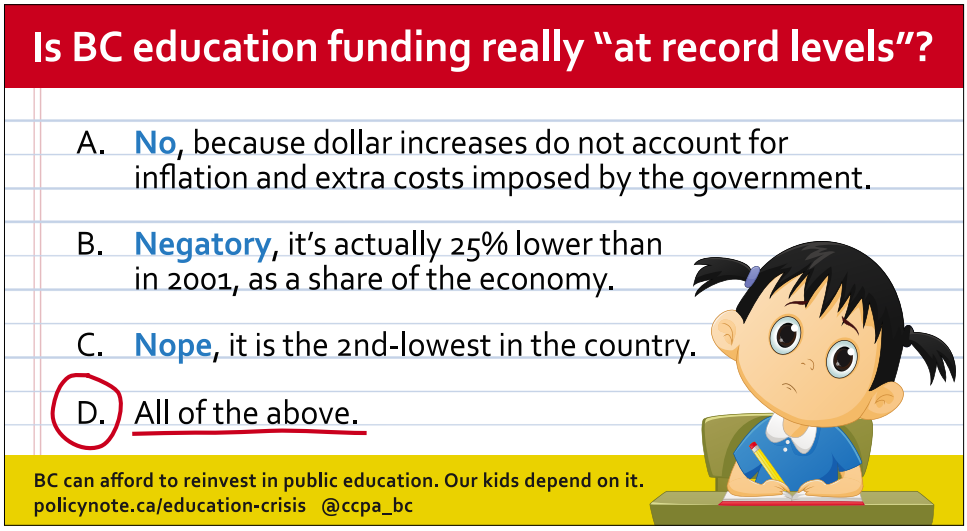
B.C. underfunding education

Contrary to provincial government claims that education funding is at "record levels," a new analysis from the CCPA-BC finds it has dropped by 25% since 2001 as a share of the provincial economy (GDP).

In ***What's the Real Story Behind B.C.'s Education Funding Crisis?***, the CCPA-BC's public finance policy analyst Alex Hemingway demonstrates how education funding dropped from 3.3% of GDP in 2001 to a projected 2.5% in the

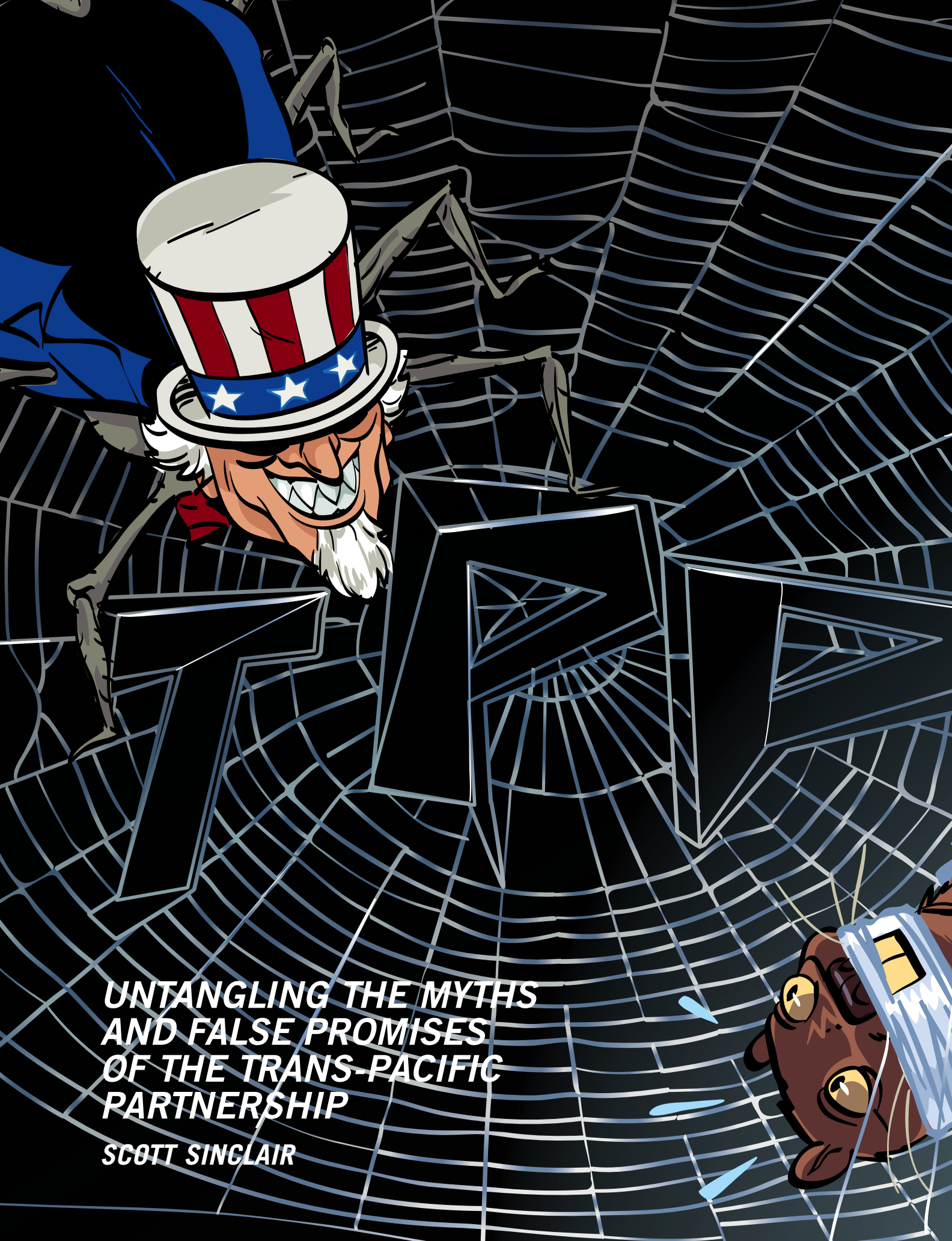
2016 provincial budget. As a result, B.C. has the second lowest level of education funding in the country—nearly $1,000 per student below the national average.

"The government's numbers are misleading because they don't take into account inflation or cost pressures from higher hydro and MSP (Medical Services Plan) rates, which are being downloaded onto school districts," says Hemingway. "The government says this is about declining school enrolment, yet the funding crunch has hit school districts with growing enrolments, as well as those seeing declines. And the government's own data project an almost 40,000-student increase in enrolment by 2024."



Calling underfunding a political choice, Hemingway says: "If we dedicated the same share of our economy (GDP) to public education today as we did 15 years ago, we'd have nearly another $2 billion. That much additional funding might go beyond what's necessary, but it tells us what's possible. We certainly wouldn't be facing school closures, overcrowded classrooms or cuts to vital programs and student supports."

For more reports, commentary and infographics from the CCPA's national and provincial offices, visit www.policyalternatives.ca.



UNTANGLING THE MYTHS AND FALSE PROMISES OF THE TRANS-PACIFIC PARTNERSHIP

SCOTT SINCLAIR

THE TRANS PACIFIC PARTNERSHIP (TPP) is an overtly U.S.-driven and dominated trade agreement designed to bolster America's corporate and geopolitical ambitions. The U.S. Trade Representative even calls it a "made in America" deal.

This does not mean the majority of U.S. citizens and workers will benefit. On the contrary, the TPP is simply the latest in a series of U.S.-led agreements that subject American workers to intensified globalization and international competition, resulting in job losses, growing inequality and downward pressure on wages. The deal protects the rights of corporate investors while offering little assurance that any benefits from enhanced trade will be shared fairly.

Whether the TPP ever comes into force will also be largely determined by U.S. domestic politics. Both Hillary Clinton and Donald Trump profess their opposition to the TPP as currently negotiated. This makes U.S. ratification far from certain, especially since both houses of Congress must either approve or reject the deal without amendments.

As I write this, the outcome of the U.S. elections is still undecided. Even for Canadians it has been chilling to watch the campaign unfold. A Trump victory would be an unthinkable calamity on so many levels. The likely demise of the TPP, while welcome, would hardly register in the balance given his climate change denial, support of lavish tax cuts for the rich and services cuts for the rest, threats to abolish the Environmental Protection Agency, racist and sexist slurs, and disturbing personality.

On the other side there is Clinton, who now opposes the TPP, despite her past support of the agreement. Unfortunately, this provides one of the few openings for Trump's bombast and bullying to resonate in head-on debate. Trump's attack on the TPP, which mostly boils down to a narcissistic belief in his own deal-making acumen, has little in common with the principled opposition of U.S. progressives such as Bernie Sanders, or the contributors to this special issue of the *Monitor*.

In July 2016, Clinton's supporters on the Democratic platform committee defeated an attempt by Sanders's followers to have the party clearly oppose ratifying the TPP. Sadly, Trump's "Is it Obama's fault?" taunt to Clinton evokes the disillusionment many feel with the party establishment's approach to trade treaties. Trump's rhetoric strikes a chord with the Democrats' disregarded working class base.

To the extent there is any elite soul-searching over the negative impacts of a quarter-century of NAFTA-style globalization, it is mostly confined to hand-wringing over failures to share the benefits of trade and help displaced workers adjust to intensified global competition. The policy neglect for the plight of blue-collar workers, marginalized groups and rust-belt communities is indeed shameful.

But this narrative conveniently misses the main substance of the progressive critique of globalization and free trade agreements. These treaties are more about concentrating corporate power than they are actual trade. In fact, the addressable barriers to international trade (mainly tariffs) are now so low that

ILLUSTRATION BY REMIE GEOFFROI

even the proponents of new deals like the TPP are forced to admit any conceivable economic boost is marginal (see article by Hadrian Mertins-Kirkwood on page 29). Further liberalization would create little new wealth to distribute, even if elites were so inclined.

Unfortunately, as Sanders, Elizabeth Warren, Joseph Stiglitz and other progressive critics warn, the not-so-hidden purpose of the TPP and similar treaties is to coerce governments into making legislative and regulatory changes that favour corporate special interests—reforms that most politicians are not willing or able to justify in open debate before their own citizens.

The Obama administration's dogged support for the TPP is a case in point. The president must rely almost entirely on Republican members of Congress to advance his failing hopes of approving the treaty on his watch. As Melinda St. Louis and Melanie Foley write in their TPP update on page 32, the Obama administration still views the lame-duck session of Congress, when enough retiring and defeated members might be coaxed into backing the unpopular deal, as its chance to ram through TPP ratification before a new president takes office. It is pursuing this profoundly cynical, anti-democratic strategy even at the risk of undermining the Democratic campaign for the White House and control of Congress.

Fortunately, at this point, it looks like the administration does not have the Congressional backing it needs, and progressive U.S. groups are working hard to keep it that way. The most probable scenario appears to be that the new U.S. president, especially if it is Clinton, will reject the agreement in its current form and seek to reopen negotiations. This, and the recent narrow electoral victory for the ruling coalition in Australia (which threatens TPP ratification there), could well unravel the deal.

Canadians and their government need to prepare for either eventuality: U.S. ratification in the lame-duck session or, as appears more likely, a renewed push from the incoming U.S. administration to re-negotiate the already imbalanced deal. Whoever becomes the next president, U.S. pressure for re-negotiation can hardly be expected to improve the deal from a public interest perspective.

While most of the TPP drama is occurring south of the border, the Canadian people and their new government still have the power to decide whether Canada should be part of the agreement. There are very good reasons, many of them outlined in this special issue, why Canada should walk away.

The commitments government trade negotiators make behind closed doors lock in a myopic and increasingly embattled neoliberal orthodoxy—small government, big finance, weak regulation and a preference for privatized service delivery—that prevents future governments from changing course without great political and financial costs. Progressives might welcome such policy handcuffs as part of a global environmental treaty for reversing climate change. In the case of the TPP we get the opposite: more restraints on environmental protection measures in the interest of freeing capital and investment.

From a Canadian perspective the agreement is riddled with ideology from the previous Harper government, surely one of the most right-wing regimes in recent Canadian history. There are numerous examples of how the TPP does not reflect the values of those who voted for a new government and progressive change:

- The inclusion of the increasingly discredited investor-state dispute settlement (ISDS) mechanism when NAFTA's similar system has already led to Canada being the most sued developed country in the world;
- The extension of monopoly patent protections when we already pay too much for prescription drugs, while brand-name drug companies invest so little in Canadian research and development;
- The pigeonholing of Canada as a seller of raw and semi-processed goods while acceding to U.S. and industry demands on copyright, trade secrets and digital rights that dig us further into this hole; and
- The locking-in of future privatization of public services, down to even the local level, through so-called standstill and ratchet clauses that prevent remunicipalization of privatized services such as sanitation or transit.

As currently written, the TPP can only worsen today's inequality of wealth and power. Likewise, it will strip governments of the tools they need to address climate change—an existential threat that will require more, and more assertive, government intervention and regulation. Extreme investor rights agreements such as the TPP are relics of an era when market fundamentalism—the belief in the virtues of fully liberalized markets—was the prevailing political wisdom. Even institutions like the International Monetary Fund, the notorious enforcer of neoliberal "structural adjustment" the world over, is rethinking this position.

The significant public opposition to the TPP in the U.S. from across the political spectrum is a sign the ideology driving the TPP and other expansive trade and investment agreements is close to exhausting its public legitimacy. Protest against the TPP is as strong in Japan, Malaysia, New Zealand, Australia and Mexico. Canadians and their political leaders would be wise to pay attention. At the same time, it would be irresponsible for progressive voices to sit back and expect the TPP to meet its demise as a result of U.S. domestic politics.

This special issue of the *Monitor* sets out the case against Canadian ratification of the TPP. Criticism of the nakedly self-interested corporate agenda embodied in the TPP is neither anti-trade nor protectionist—it is simply drawing an obvious conclusion. A project defined overwhelmingly by the commercial aims and interests of U.S. multinationals—from Big Pharma and Hollywood to the powerful fossil fuel, banking and biotech industries—cannot be assumed to advance the broader public interest within any of the TPP countries. M

WHAT'S THE BIG DEAL?

IT'S 6,000 PAGES LONG, SPREAD OUT OVER 30 FREQUENTLY IMPENETRABLE CHAPTERS, AND DANGEROUSLY CLOSE TO BEING RATIFIED BY CANADA

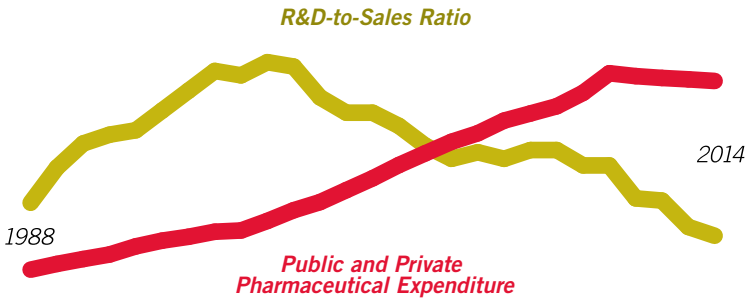
The TPP was crying out for a Coles Notes version, and the *Monitor* is only happy to oblige (with A LOT of help from the experts). Keeners are encouraged to grab a copy of the new Lorimer-CCPA collection, *The Trans-Pacific Partnership and Canada: A Citizen's Guide*, from which many of these excerpts are taken.

UNNECESSARY COSTS TO THE HEALTH CARE SYSTEM

Without doubt, the TPP's single biggest direct impact on the Canadian health care system will be to increase drug costs as a result of extending patents. Canada already has an industry-friendly system of intellectual property protection for pharmaceutical patent holders. This is reflected in the high prices Canadians pay for prescription drugs. Per capita drug costs in Canada are the third highest among countries in the Organization for Economic Cooperation and Development (OECD). According to recent OECD data, Canadians pay an average of US$713 annually for pharmaceuticals, significantly higher than the OECD average of US$515.

The TPP will further increase these costs by requiring the federal government to extend the term of patents to account for supposed regulatory delays. Specifically with respect to patented drugs, TPP parties must "make available an adjustment of the patent term to compensate the patent owner for unreasonable curtailment of the effective patent term as a result of the marketing approval process." The TPP does not specify precisely how countries must meet this obligation, leaving some flexibility to define national patent term restoration systems. Canadian officials have indicated the federal government will meet this obligation through the so-called *sui generis* patent extension system required by the signed but not yet ratified Canada–European Union Comprehensive Economic and Trade Agreement (CETA).

It should be stressed that when the previous federal government insisted the TPP would require no changes to Canada's existing intellectual property regime for drugs, it was already including the future changes Canada would have to make to comply with the CETA.



Ratification of the pact with the EU, initialled by the federal government and European Commission in late 2013, was still, in the fall of 2016, in question over strong public opposition in Europe. By agreeing to the TPP system of patent term restoration, the federal government concedes that our drug costs will rise, whether the CETA goes ahead or not.

The TPP and CETA requirements for patent term restoration are roughly equivalent. Under its proposed *sui generis* approach, Canada plans to limit the patent term adjustment to a maximum of two years. Carleton University professor Marc-André Gagnon estimates that if the patent term restoration system required by the TPP were implemented in Canada today it would increase the average market exclusivity for patented drugs by 287 days. By further delaying the availability of cheaper generic medicines, this would result in an annual cost increase of $636 million, or 5% of the annual cost of patented drugs in Canada. Provinces have demanded compensation for the fiscal impacts of these changes — costs the Harper government claimed, in a technical summary of the CETA, it was "prepared to address." Yet even if the new Liberal government were to abide by this vague pledge, it simply means that Canadian taxpayers would pay at the federal rather than the provincial level in order to boost the profits of the brand-name pharmaceutical industry. People paying for their drugs out of pocket or through private insurance will be hit twice — through higher drug costs and an increase in their federal taxes (or reduced public services).

FROM THE REPORT, "MAJOR COMPLICATIONS: THE TPP AND CANADIAN HEALTH CARE," BY SCOTT SINCLAIR, SENIOR TRADE RESEARCHER AT THE CCPA.

WORKERS THROWN UNDER THE FREE TRADE BUS

In promotional material for the agreement, Global Affairs Canada states the TPP:

> *provides the opportunity to raise and improve labour standards and working conditions in TPP member countries through an ambitious level of obligations to ensure that national labour laws and policies in partner countries respect international labour standards. Canada is committed to fundamental labour rights, and supporting high labour standards through a fully enforceable TPP Chapter is a key part of that commitment.*

This is not the view of labour federations from many of the participating TPP countries, as well as a range of human rights–focused non-governmental organizations and academics, who argue the labour chapter fails to provide sufficient tools to address labour rights violations — even where they are most apparent as in Brunei, Malaysia, Mexico and Vietnam. The experience of workers under similar free trade agreements provides ample evidence to back this position.

Article 19.3.2 of the TPP's labour chapter establishes the requirement to adopt and maintain laws and regulations on minimum wages, hours of work, and occupational safety and health. This article is limited by a footnote clarifying that it refers to "acceptable conditions of work as determined by that Party." Both articles are further limited by the requirement to demonstrate that the failure to adopt or maintain a specific statute or regulation affects trade or investment between the parties.

The pending Canada–European Union trade deal has stronger language in its labour chapter referring to the ILO's Decent Work Agenda and committing to implement ILO conventions that have already been ratified, as well as committing to "continued and sustained efforts" to ratify those ILO core conventions not yet ratified. The TPP presented a real opportunity to advance the language on labour rights, but failed to do so.

Article 19.5 of the TPP deals with the enforcement of labour laws. As in the U.S. May 10 Agreement, non-enforcement is limited to cases of a "sustained or recurring course of action or inaction *in a manner affecting trade or investment between the parties*." This presents an extremely high bar for any potential complaints regarding enforcement of labour provisions under the TPP.

Article 19.4, the "non derogation clause," deals with weakening or lowering labour standards to encourage trade or investment. Its sub-clause (a) specifies a general prohibition on weakening or offering to weaken labour laws with respect to Article 19.3.1 (fundamental rights), but contains nothing with respect to Article 19.3.2 (acceptable conditions of work). Article 19.4(b) applies only to special trade and customs areas such as export processing zones (EPZs), and specifies the obligation around non-derogation with respect to both 19.3.1 and 19.3.2.

All this seems to imply that TPP governments would be permitted to weaken laws around minimum wages, hours of work, and occupational safety and health outside of EPZs — even if it were clear that doing so would affect trade or investment between the parties. For example, member states must adopt and maintain a minimum wage according to 19.3.2, but they are within their rights to lower that minimum wage outside export processing zones in order to attract investment. If this is the case, it is difficult to imagine

HOW WILL THE TPP AFFECT DRUG POLICY AND PRICING?

Among the 30 chapters in the TPP, five contain language specifically related to medicines in the following ways:

- Chapter 8 (Technical Barriers to Trade) contains clauses on transparency, regulatory harmonization and acceptable marketing approval processes that further entrench the views of foreign governments—and by proxy their pharmaceutical sectors—in federal medicines policy, with no guarantee that harmonization will be upward (to the highest standards) and no additional requirements on Canadian manufacturers to be open about public inspections of their facilities.
- Chapter 18 (Intellectual Property) creates additional monopoly rights for brand-name pharmaceutical companies in the form of extended patent terms, while locking in Canada's costly patent-linkage system and permanently setting long data exclusivity terms on traditional and biologic drugs. Depending on whether the TPP or the very similar Comprehensive Economic and Trade Agreement (CETA) with the European Union is ratified first, drug costs are expected to rise by between 5% and 12.9% from about the year 2023.
- An annex of the chapter on transparency and anticorruption (Chapter 26), related to "transparency and procedural fairness for pharmaceutical products and medical devices," could have negative effects on pharmaceutical costs and regulation in the future. Though there is currently no national drug plan in Canada, should one be established this annex would threaten the ability of the federal government to use certain cost-control measures.
- The dispute resolution procedures in Chapter 9 (related to investment) and Chapter 28 create unnecessary and unforeseeable risks to public policy on medicines. Specifically, an investor–state dispute settlement (ISDS) process would allow investors (e.g., brand-name pharmaceutical corporations) in TPP countries to challenge government measures outside the normal court system, in largely unaccountable private tribunals whose decisions are binding. Canada is already facing such a challenge from U.S. drug firm Eli Lilly, which is demanding $500 million in compensation for Canadian court decisions invalidating two of its patents on the grounds they were granted based on claims about the drugs that could not be demonstrated.

FROM THE REPORT, "INVOLUNTARY MEDICATION: THE POSSIBLE EFFECTS OF THE TRANS-PACIFIC PARTNERSHIP ON THE COST AND REGULATION OF MEDICINE IN CANADA," BY JOEL LEXCHIN, EMERITUS PROFESSOR IN THE SCHOOL OF HEALTH POLICY AND MANAGEMENT AT YORK UNIVERSITY IN TORONTO.

a successful TPP labour complaint related to acceptable conditions outside of EPZs.

While the TPP officially offers equal access to dispute settlement for labour violations, there is a lengthy process of co-operation (Article 19.10), co-operative labour dialogue (Article 19.11) and labour consultations (Article 19.15) before a party may request the establishment of a dispute settlement panel. Cases may be raised by individual workers, unions or other civil society actors, but are actually brought by governments.

For example, unions in Canada and Vietnam might make a submission to Canada's labour department on behalf Vietnamese workers—an institutionally awkward arrangement for protecting labour rights. Documenting violations will be time consuming and expensive given the requirement to demonstrate an impact on trade or investment between the parties. The lack of reference to the details of the ILO core conventions further limits the extent to which existing ILO jurisprudence will be helpful in resolving disputes. On the other hand, the article on co-operation (19.10) is extensive, and may be a more effective route for raising labour standards in TPP nations because of the possibility of trade sanctions if co-operation fails.

Unions from nine of the 12 signatory states to the TPP have proposed an alternative labour chapter that builds on and improves the labour and dispute resolution chapters of the U.S.–Peru FTA. Unfortunately, while business groups were regularly consulted throughout the TPP negotiating process, labour unions in Canada were given little opportunity to put their alternative proposals on the table. As such, the TPP simply reproduces an ineffective rights regime while further expanding a free-trade model that has perpetuated labour rights violations in many countries. The race to the bottom continues.

FROM THE REPORT, "DOES THE TPP WORK FOR WORKER?" BY CARLETON UNIVERSITY PROFESSOR LAURA MACDONALD AND CANADIAN LABOUR CONGRESS ECONOMIST ANGELLA MACEWEN.

CLIMATE CHANGE AND THE ENVIRONMENT SIDELINED

In February 2016, a World Trade Organization (WTO) dispute panel ruled that India's national solar program was illegal under the General Agreement on Tariffs and Trade (GATT 1994) because of its domestic technology quotas. Two years earlier, the local content requirements in Ontario's Green Energy Act were similarly found to be illegal at the

WTO. In March 2015, a NAFTA investment arbitration panel held that a company's rights were violated because the Canadian government adopted the decision of an independent environmental assessment panel to reject a planned quarry project.

The limitations that trade agreements put on environmental policy-making are becoming easier to point out with each new case like these. It's the reason the United States Trade Representative (USTR) felt the need to assure everyone the Trans-Pacific Partnership (TPP) contains "the most robust enforceable environment commitments of any trade agreement in history." In fact, the language in the TPP's environment chapter is generally weak and unenforceable, TPP parties are given discretion to decide whether and how to act on environmental issues, and, importantly for federal states like Canada and Australia, the chapter only covers central governments, leaving the provinces off the hook altogether—a privilege these levels of government do not have under the rest of the agreement.

Environmental protection measures vary widely between TPP member countries. Rather than encourage the adoption of high standards across the region, Article 20.3.2 of the TPP's environment chapter allows each party to determine "its own levels of domestic environmental protection and its own environmental priorities." Article 20.3.5 provides states with further discretion to determine whether or how to investigate and prosecute violations of domestic environmental rules.

In other words, state sovereignty is treated as inviolable with regard to setting minimum levels of environment protection, while elsewhere in the agreement strong environmental measures that might interfere with trade and investment are exposed to challenge under the TPP's investment chapter.

The TPP's reliance on the current state of environmental law in each member country is also reflected in Article 20.4.1, which affirms the state's commitment to implement the multilateral environmental agreements to which it is already a party. There is no requirement for TPP parties to adopt any additional multilateral environmental agreements or uphold the standards in particular agreements to which it is not a party....

While the language of many TPP environment chapter articles is vague and discretionary, its reach is also narrowed by the definition of "environmental law" in Article 20.1, which is limited to any statute or regulation of the *central* government of each TPP party. There appears to have been no effort to expand the scope of protections or include subnational governments (provinces) in the negotiations of the environment chapter....

A further weakness of the TPP environment chapter is that it does not regulate a TPP party's environmentally detrimental actions in general. Rather, it seeks to prevent such actions only if they can be demonstrated to affect trade between the parties. The commitment in Article 20.3.4 is that a party shall not "fail to effectively enforce its environmental laws through a sustained or recurring course of action

MIGRATION BASED ON EMPLOYER PREFERENCES

It is increasingly common for international free-trade agreements (FTAs) to contain a chapter on temporary entry for business persons. These provisions, included in the TPP, allow certain categories of workers to cross borders on a temporary basis without going through the usual immigration process. In theory, this is meant to help executives and investors move capital into, or manage their investments in, other countries. In practice, these provisions allow *employers* to move an unlimited number of certain types of workers between countries regardless of local labour market conditions.

Unfortunately, past FTAs such as the North American Free Trade Agreement (NAFTA) have had precisely this negative effect. Employers are finding ways to game the FTA system in order to import workers, with little regulatory oversight. To make matters worse, the migrant workers themselves are at risk of abuse and have limited pathways to permanent residency in the places where they are employed.... The TPP does nothing to address employer abuse of Canada's migrant worker programs. We can expect more of it in certain sectors under the TPP, especially as companies become more familiar with the rules for transferring and hiring foreign workers.

Indeed, as the Canadian government cracks down on abuses of the more transparent Temporary Foreign Worker Program, employers may seek out other, less-regulated pipelines for migrant workers. There are no institutional measures to prevent an employer banned from the TFWP from turning to the terms of an FTA to hire the same migrant worker, provided they meet the FTA's requirements. Moreover, even if the TPP did not significantly worsen the situation created by the temporary entry provisions in past FTAs, that would not mean the present situation is desirable. Canada's entire international mobility regime is a troubled model that does little to address the long-term needs of either workers or employers. If Canada has genuine labour shortages, then greater training and greater permanent immigration are necessary.

FROM THE REPORT, "MIGRANT WORKERS AND THE TRANS-PACIFIC PARTNERSHIP: A REGULATORY IMPACT ANALYSIS OF THE TPP'S TEMPORARY ENTRY PROVISIONS," BY CCPA RESEARCHER HADRIAN MERTINS-KIRKWOOD.

"THE WORST TRADE AGREEMENT FOR ACCESS TO MEDICINES"

"MSF (Doctors Without Borders) expresses its dismay that TPP countries have agreed to United States government and multinational drug company demands that will raise the price of medicines for millions by unnecessarily extending monopolies and further delaying price-lowering generic competition. The big losers in the TPP are patients and treatment providers in developing countries. Although the text has improved over the initial demands, the TPP will still go down in history as the worst trade agreement for access to medicines in developing countries, which will be forced to change their laws to incorporate abusive intellectual property protections for pharmaceutical companies.

"For example, the additional monopoly protection provided for biologic drugs will be a new regime for all TPP developing countries. These countries will pay a heavy price in the decades to come that will be measured in the impact it has on patients. As the trade agreement now goes back to the national level for final approval, we urge all governments to carefully consider before they sign on the dotted line whether this is the direction they want to take on access to affordable medicines and the promotion of biomedical innovation. The negative impact of the TPP on public health will be enormous, be felt for years to come and it will not be limited to the current 12 TPP countries, as it is a dangerous blueprint for future agreements."

JUDIT RIUS SANJUAN, U.S. MANAGER AND LEGAL POLICY ADVISER FOR THE MSF ACCESS CAMPAIGN, OCTOBER 5, 2015.

or inaction in a manner affecting trade or investment between the Parties." Article 20.12.9 similarly provides for a dialogue regarding a sustained or recurring course of action or inaction by a subnational level of government *only if it affects trade or investment between the parties*.

This threshold for compliance is weaker than the requirement in Article 22.1 of the North American Agreement on Environmental Co-operation (NAAEC), NAFTA's environmental side-agreement, which allows a party to challenge actions that show a "persistent pattern of failure by that other Party to effectively enforce its environmental law," but does not require that the complaint show how those actions affect North American trade or investment flows.

FROM THE REPORT, "BAIT AND SWITCH: THE TRANS-PACIFIC PARTNERSHIP'S PROMISED ENVIRONMENTAL PROTECTIONS DO NOT DELIVER," BY JACQUELINE WILSON, A LAWYER WITH THE CANADIAN ENVIRONMENTAL LAW ASSOCIATION.

CORPORATE PROTECTION BEYOND THE LAW

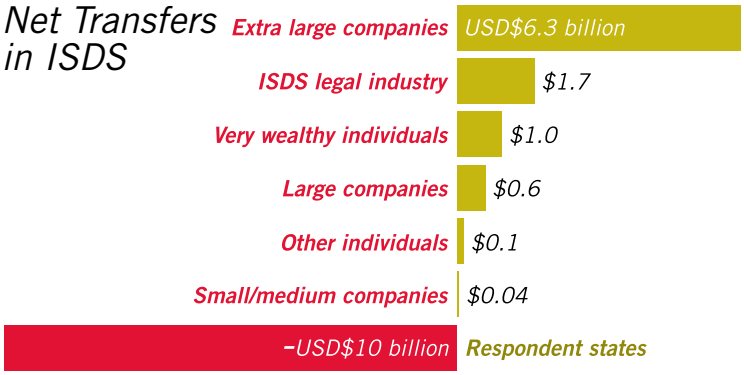
There is a simple reason why investment lawyers have encouraged foreign investors to use treaties like the TPP to attack countries' decisions, even at a potentially high cost in legal and arbitration fees for both the foreign investor and the sued country. The reason is that the treaties give advantages for foreign investors that are not available to them, or anyone else, in domestic law and other areas of international law. The following list illustrates some of the special legal benefits that investor–state dispute settlement (ISDS) provides for foreign investors and, in turn, how it privileges foreign investors over everyone else:

- There is no right of a government or any other affected party to bring a claim against a foreign investor in ISDS. Instead, foreign investors have been granted the most powerful rights and protections that exist for any private actor in international law, without any corresponding and actionable duties for foreign investors to respect labour standards, the environment, public health, anti-corruption rules, etc.

- Foreign investors can challenge directly any decision of a country — even by its highest legislature, government body or court — at the international level. Typically, international disputes are resolved among countries and their governments, as at the World Trade Organization (WTO), for example.

- Foreign investors can be awarded uncapped amounts of compensation as the primary remedy for sovereign conduct that is deemed by the arbitrators to have been unlawful. This is an extraordinarily powerful and highly unusual aspect of the treaties. It can create major challenges for legislatures and governments attempting to plan for the cost of their decisions. In effect, corporate lawyers and lobbyists working for foreign investors can use this aspect of ISDS to put an unknown price tag on a proposed law or other decision when a deep-pocketed foreign investor objects to the proposal.

- There is no general doctrine of deference or balancing in the ISDS arbitrators' review of legislatures and courts, in contrast to the domestic law of Canada and other countries such as France, the United Kingdom and the United States. These doctrines of deference or balancing were developed historically to accommodate the role of legislatures as elected bodies and the role of governments in dealing with complex or urgent policy questions.



- The provisions that describe the rights and protections of foreign investors—such as "fair and equitable treatment" or "indirect expropriation" or "de facto discrimination"—are very broadly worded. As a result, they give immense power to the lawyers who sit as arbitrators and decide foreign-investor claims. The core power of the arbitrators is to interpret the ambiguous rights and to award public money to foreign investors, with no monetary cap on the amounts that can be awarded. In past cases, the amounts that countries have been ordered to pay have ranged from tens of thousands to billions of dollars per case.

- The foreign investor directly controls or influences half of the makeup of the arbitration tribunal's membership. Normally, judges would be appointed by a public body and as a part of a publicly accountable process.

- The lawyers appointed as arbitrators in each case, especially the "core" arbitrators who have been appointed over and over, stand to profit from their own decisions. Because they do not have secure tenure and are paid a lucrative daily or hourly rate, the arbitrators have an evident interest to encourage claims, which can be brought only by one side (the foreign investors), and to stretch out the proceedings. Due to the absence of conventional safeguards of judicial independence, a range of conflicts of interest arises in the system, typically favouring deep-pocketed potential claimants, i.e., multinational companies and very wealthy individuals (see chart).

- There is no opportunity—or a very limited opportunity, depending on the rules under which a foreign investor chooses to bring the ISDS claim—for review of the arbitrators' decisions in any court, whether domestic or international. Instead, review of the arbitrators' awards is done on limited grounds by another tribunal of for-profit arbitrators or by a domestic court in a place that is typically chosen by the arbitrators themselves. In this way, the power of the arbitrators over public money is de-linked from the courts as well as legislatures and governments.

- The arbitrators' awards are widely enforceable against a country's assets located in other countries. Corporate lawyers have adopted creative strategies to chase assets in this context by attempting to seize warships, public art on loan to foreign galleries, or cultural properties—let alone more conventional commercial assets such as money owed by the customers of a country's state-owned companies.

- No right of "standing" is allowed in ISDS arbitration proceedings for other affected parties, besides the foreign investor and the state's national government. For a legal proceeding to be fair, all parties whose legal interests are affected by the process should be given a right of standing to the extent of their interest.

- There is no requirement for a foreign investor to use a country's domestic courts before resorting to ISDS, no matter how fair and independent the domestic courts are. This anomalous situation arises because the TPP does not apply the usual requirement in international law that a foreign national must go to a country's own courts first, where they are reasonably available and offer justice, before bringing an international claim against the country. Thus, implicitly, agreements like the TPP operate from the position that the courts in all countries cannot be relied on to protect foreign investors. Foreign investors are not required to use the courts, or even to demonstrate that the courts are inadequate in some way, before bringing an ISDS claim. Yet the courts in Canada and many other countries are clearly more independent and more fair than ISDS itself.

To repeat, in these and other ways, the TPP gives special privileges to foreign investors. No other system of international protection, beyond other trade and investment agreements that allow for ISDS, comes close to delivering such a powerful legal position to anyone, even in the most extreme situations of mistreatment. By adding to existing agreements that cover far fewer foreign-owned assets, the TPP would vastly expand this lopsided arrangement in which the largest and wealthiest actors in society are given special access to public compensation for risks that apply to everyone and against which no one else has these special protections.

FROM THE REPORT, "FOREIGN INVESTOR PROTECTIONS IN THE TRANS-PACIFIC PARTNERSHIP," BY OSGOODE HALL LAW PROFESSOR GUS VAN HARTEN.

FROM PROTECTING TO COMMERCIALIZING CULTURE

In the TPP negotiations, the U.S. and several other countries were radically opposed to the idea of acknowledging a distinction between cultural products and other commercial products, as well as recognizing the legitimacy of state intervention for protecting or promoting national cultural expressions. Though Canada took a similar negotiating approach on culture in the TPP as it did in the CETA, and even had allies at the TPP table, in the end the pacific agreement significantly dilutes Canada's traditional approach in three important ways:

1. The expression of cultural considerations in the TPP preamble makes no reference to any UNESCO legal instru-

ments; instead, it prioritizes a neoliberal conception of cultural promotion through trade and investment, with no clear statement on the legitimacy of cultural policies;

2. The cultural exception in the TPP is conditional on whether or not member countries are parties to other international treaties for the protection and promotion of cultural diversity, and further limited to those related to traditional knowledge and traditional cultural expressions, concepts that are too narrow to preserve the integrity of Canada's cultural policies; and

3. Relying on limited chapter-specific cultural reservations, which are constrained by the TPP's ratchet effect and circular general cultural exception, will have long-term negative consequences for cultural policy flexibility at the national and provincial levels. This threat is compounded for Canadian-content rules, and with respect to regulating streaming video and audio services, by Canada's problematic "exception to the exception" in Annex II with respect to Cross-Border Trade in Services and Investment Non-Conforming Measures.

In the TPP, Canada fell far short of attaining the moderately effective cultural exception that has been sought by previous Canadian governments in all free trade agreements. Instead, the outcomes far more closely reflect the views and interests of the U.S. government and entertainment industry. This is a setback for Canadian advocates of cultural diversity and their international allies. It is far from clear whether the partial and fragmented cultural exclusions the Canadian government ultimately settled for in the TPP can be relied on to adequately safeguard Canadian cultural identity and industries in the future.

FROM THE REPORT, "THE TPP AND CULTURAL DIVERSITY," BY ALEXANDRE LAROUCHE-MALTHAIS, FORMER TRADE AND LEGAL AFFAIRS CONSULTANT WITHIN THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD).

THREATS TO CANADA'S PUBLIC POSTAL SYSTEM

Canada Post's involvement in express delivery services, including its relationship with Purolator, has been a source of controversy and risk. Competitor companies, most notably UPS, have long argued that Canada Post's relationship with Purolator is not only anticompetitive but also unlawful under international trade rules.

In 2000, UPS launched a lawsuit against the government of Canada under NAFTA, raising numerous allegations related to issues as diverse as pension regulation and customs processing rules. Among the various complaints UPS raised were allegations that Canada Post violated rules related to equal treatment for foreign investments and competition policy by granting Purolator access to its infrastructure and facilities (thousands of post offices and delivery networks across the country) while denying equal access to UPS, and that Canada Post's own courier services unfairly took advantage of monopoly infrastructure. UPS launched a similar case under European Union competition rules after the

INVESTORS TARGET ENVIRONMENTAL POLICY

Before the North American Free Trade Agreement (NAFTA) came into force in 1994, there was significant debate about its likely impact on jobs, energy and sovereignty. The environmental movement of the day nearly scuttled the deal on fears that it would severely curtail the ability of governments to enact strong environmental protection and conservation policies. It was saved only by the last-minute inclusion of environmental and labour side-agreements, which have proven extremely difficult to enforce.

Much less attention was paid at the time to an obscure investor–state dispute settlement (ISDS) provision in the NAFTA investment chapter. It established a process through which foreign investors could choose to settle disputes with government—related to policy, regulations and other decisions—through binding private arbitration instead of national courts. ISDS grants investors guarantees of "minimum standards of treatment," protection from direct and indirect expropriation resulting from government action, and other broadly defined investor rights.

The number of ISDS cases has expanded exponentially since 2000, with high-profile examples including corporate challenges to anti-smoking legislation in Australia and Uruguay, a ban on hydraulic fracturing in Quebec, a government environmental assessment process in Nova Scotia and the U.S. government's decision to block the controversial Keystone XL pipeline. Foreign investors have targeted a broad range of government measures in North America—notably in the areas of environmental protection and natural resource management—that allegedly impaired their investments. Canada has faced 39 ISDS claims, more than any other developed country in the world.

SOURCE: CANADIAN CENTRE FOR POLICY ALTERNATIVES

A BOOST FOR PUBLIC-PRIVATE PARTNERSHIPS

Despite their serious shortcomings and negative track record, public-private partnerships (P3s) are increasingly used as an alternative to direct government provision and/or conventional government procurement of services. The investment chapter of the TPP contains provisions that would allow foreign investors to submit an investor–state claim on the grounds that a government has breached "investment authorizations" or "investment agreements." It should be stressed that these provisions enable international investment arbitration tribunals to adjudicate not only breaches of investment treaties, but also disputes regarding the investment agreement itself. This is the case even if the P3 contract obliges the parties to use other forms of dispute resolution.

It is astonishing that Canada would agree to rules that allow the private party in a P3 to disregard contractually agreed upon dispute resolution provisions and bypass the domestic courts in favour of investor–state arbitration under the TPP. Investor–state arbitration is a very lengthy, complex, and costly procedure for resolving disputes. Even more troubling is the fact that arbitration tribunals tend to exhibit a pro-investor bias at the expense of the public and taxpayer interests, and fail to exercise the judicial restraint typically shown by domestic and international courts in similar contexts.

These draconian rules would apply to new P3s at the federal level in Canada. In defining investment agreements, the TPP investment chapter includes typical public-private partnerships such as those between a central government and an investor to "supply services on behalf of the Party for consumption by the general public for: power generation or distribution, water treatment or distribution, telecommunications, or other similar services supplied on behalf of the Party for consumption by the general public." A footnote to this definition explains: "For the avoidance of doubt, this subparagraph does not cover correctional services, healthcare services, education services, childcare services, welfare services or other similar social services."

While this clarification excludes core health care services that might be provided through P3s, it does not clearly exclude services such as maintenance, computer and data management services, administration and other health care support services. Indeed, even if a future P3 contract attempted to exclude such matters as related to health care it would be futile. Since the TPP gives foreign investors the right to bypass the dispute resolution mechanisms specified in the P3 agreement, sensitive decisions about the scope of the loosely worded exclusion for health care services would be made by investor arbitration panels that are beyond the reach of domestic law and the courts.

SCOTT SINCLAIR, CCPA

European Commission signed off on Deutsche Post's acquisition of a significant interest in DHL.

UPS lost both lawsuits, but the company never abandoned its campaign against these kinds of arrangements by national postal entities. In parallel to their legal battles in North America and Europe under existing trade rules, UPS and other private companies aggressively lobbied the U.S. government for new trade rules that would, from their perspective, level the playing field. These efforts saw expression in a number of bilateral trade agreements between the U.S. and other countries that included special provisions related to express delivery services.

For example, the 2003 Chile–U.S. Free Trade Agreement (FTA) required that Chile, but not the U.S., refrain from imposing new restrictions on express delivery services in its territory. The 2004 Australia–U.S. FTA included language designed to restrict the ability of state postal monopolies to compete with private companies in the express delivery market. The U.S. also enacted domestic reforms in 2006 that prohibited "subsidization [by the U.S. Postal Service] of competitive products by market-dominant products."

The TPP replicates and expands upon these targeted provisions, and can rightly be seen as representing the high-water mark for efforts by the express delivery industry to establish international trade rules that serve its objectives. Their crowning achievement is Annex 10-B – Express Delivery Services of the TPP's services chapter (Chapter 10), which directly targets how postal systems are permitted to operate in the express delivery market. As acknowledged by the U.S. Trade Representative (USTR), the annex was included "to address the unique challenges private suppliers face when competing with national postal entities in express delivery," and includes "new commitments that address longstanding issues for U.S. service suppliers."

The TPP annex on express delivery services imposes a wide range of restrictions and rules that challenge arrangements such as those between Canada Post and Purolator, and even how postal services can engage in express delivery directly, such as through Xpresspost. In doing so, the annex raises the real risk that Canada Post's use of express delivery revenues to maintain universal domestic postal services could be subject to more trade challenges.

The express delivery annex contains two key rules that could challenge Canada Post's continued operations in the express delivery sector. The first prohibits a postal service using money generated from monopoly activities (i.e., the delivery of letter mail) to "cross-subsidize" its own or any-

Friends of the Earth protests the TPP in Washington, D.C., December 2013.

one else's express delivery services. The second rule requires that postal monopolies not "abuse [their] monopoly position" in a way that treats foreign companies (like UPS) less favourably than domestic ones (like Purolator) or undermines cross-border trade in services between signatory states. These provisions go well beyond comparable rules in existing trade agreements such as NAFTA or the World Trade Organization's General Agreement on Trade in Services (GATS).

It is hard to predict what these rules will mean for Canada Post's continued work in the express delivery market. For one thing, the prohibition against cross-subsidization is remarkably difficult to apply in practice. The allegation, broadly speaking, is that Canada Post uses revenues from its exclusive privilege letter operations to subsidize express courier services (both Xpresspost and Purolator). Numerous investigations and reviews, including by Canada Post's auditors, consistently found no evidence of direct financial cross-subsidization. However, this does not preclude arguments by unsatisfied companies that cross-subsidization is occurring indirectly.

The TPP may offer a new venue to assert such claims since the express delivery services annex speaks of "subsidies" in general. International trade law also recognizes the concept of an indirect subsidy, which might include the use of mail delivery infrastructure developed over decades to facilitate the processing, tracking and shipment of packages. But evaluating the existence of an indirect subsidy, particularly within a fully integrated corporation like Canada Post, would be extremely difficult conceptually and empirically. Claims that a dominant position is being abused—the second significant rule in the annex—can also be factually complex. Regardless of how difficult it is to work though such arguments, the existence of rules in the TPP directly targeting postal operators constitutes a significant risk that Canada Post's current operations will be scrutinized, criticized and potentially challenged.

FROM THE REPORT, "SIGNED, SEALED AND DELIVERED? THE TPP AND CANADA'S PUBLIC POSTAL MONOPOLY," BY GOLDBLATT PARTNERS LAWYERS DANIEL SHEPPARD AND LOUIS CENTURY.

Ben Lilliston

The TPP, food security and climate change

ON EARTH DAY 2016, the U.S. joined 175 countries in signing the United Nations Paris climate agreement, setting a path forward to reduce global greenhouse gas (GHG) emissions. A few months earlier, the U.S., along with 11 other countries [including Canada], signed the Trans-Pacific Partnership (TPP) trade and investment deal. Remarkably, neither agreement acknowledged the other. The Paris agreement was silent on trade, and the TPP ignored the climate. As countries take action to protect the climate, conflicts between trade rules and climate goals will escalate. The intentional separation of these two global priorities is becoming increasingly untenable.

At the heart of the Paris climate agreement are national-level plans, called Intended Nationally Determined Contributions (INDCs), to reduce GHG emissions. Though these INDCs are voluntary, they are considered a critical first step for an agreement designed to progressively ratchet up national commitments to collectively limit a global temperature rise to 1.5 degrees Celsius above pre-industrial-age levels. Within each INDC are goals, policies and strategies to reduce GHG emissions and adapt to climate change in various sectors.

The goals for trade agreements including the TPP are much different, and often conflict with climate objectives. Trade agreements are first and foremost about expanding trade, often in highly extractive, energy-intensive sectors. They are also about protecting the rights of corporations and financial firms, undermining and lowering regulations intended for the public good, dictating government spending, and strengthening intellectual property rights. In other words, trade agreements set broad-reaching rules for the economy and government policy that often adversely affect the climate.

Nearly 80% of countries' INDCs include policies and actions related to agriculture, according to the Consultative Group on International Agricultural Research (CGIAR). Nearly 120 countries cited agriculture in their mitigation targets, and 126 listed climate adaptation in agriculture as a priority within their INDC. More than 60 countries listed livestock management as a priority for mitigation. Other areas of agriculture prioritized for mitigation included fertilizer management, crop residue and rice paddies. Countries are grappling with the best strategies to both reduce agricultural emissions and adapt their food production to climate change. Yet, the pol-

PABLO TOSCO/OXFAM

icy straightjackets of current trade regimes are major obstacles.

The global food system, including agricultural production and associated land use, is responsible for one-third of global greenhouse gases, according to CGIAR. The UN Food and Agriculture Organization identifies the top sources of agricultural emissions as coming from methane produced by livestock (39% of the sector's GHG emissions, with much of this from large-scale, confined operations) and nitrous oxide from synthetic fertilizers used to grow commodity crops, such as corn and soybeans. A recent analysis by Oxfam found that the global production of five agriculture commodities—rice, corn, soybeans, wheat and palm oil—emit more GHGs than all individual countries except the U.S. and China. Livestock and commodity crop production contribute the bulk of the five billion tonnes of carbon dioxide equivalent gases emitted from the agriculture sector each year.

While agriculture's direct emissions are considerable, so are land use changes like deforestation driven by expanded agricultural production, such as increased soy production in Brazil and the growth of palm oil plantations in the TPP member country Malaysia. The FAO estimates that an additional four billion tonnes of carbon dioxide equivalent are emitted each year due to deforestation associated with expanded agricultural production.

The global food system, including agricultural production and associated land use, is responsible for one-third of global greenhouse gases.

Most of agriculture's global emissions are associated with the growth of an industrial model of agriculture designed to compete in global markets and take advantage of international trade rules put in place over the last several decades. Not surprisingly, global agribusiness companies sit prominently on U.S. trade advisory committees and companies like Cargill and Monsanto are flexing their lobbying muscles in support of new trade deals like the TPP. The forms of industrial agricultural production that suit global agribusiness tend to mirror the FAO's analysis of high GHG emitting practices: synthetic fertilizer–dependent commodity crop production, massive palm oil

Because trade and investment rules have eased restrictions on the movement of capital between countries, land has become an attractive asset for international investors.

plantations and large-scale confined animal feeding operations (CAFOs).

Trade rules governing agriculture have been among the most contentious areas of negotiation in nearly every free trade agreement. These conflicts centre on how much protection and support governments can provide for their own farmers and food systems, without unfairly discriminating against imports from other countries. Trade rules at the WTO, and regional deals like the TPP, also seek to harmonize food safety rules between countries, including rules governing pesticide and veterinary drug residues on food. Trade rules put extensive administrative burdens on food safety policies, demanding they be "least trade restrictive," rather than prioritizing public health and the environmental sustainability of agricultural production as criteria.

The application of intellectual property rights provisions to seeds is another aspect of trade rules particularly relevant to agriculture and the climate. Maintaining genetic diversity in crop and animal production is a critical tool for adapting to climate change, according to a report published last year by the FAO. But the TPP requires all participating countries to sign on to a global seed breeders' rights treaty (known as UPOV 91), which prohibits farmers and breeders from exchanging protected seeds, while empowering global seed companies like Monsanto and Syngenta.

The international battle over plant patenting, pitting the biotech companies versus the rights of farmers, is not a new one. The biotech industry has won a favourable patent regime through the use of free trade agreements, and through the World Trade Organization's TRIPS (Trade Related Aspects of Intellectual Property Rights) Agreement. While the International Treaty on Plant Genetic Resources for Food and Agriculture (adopted in 2001) protects farmers' rights and establishes a system of shared global genetic resources, like most UN treaties it is considered "soft law," superseded by the "hard" law of trade agreements.

Last year, MIT researchers found that strengthening food production at the national level (sourcing less from international markets) will be essential for addressing food security concerns associated with climate change. But agricultural trade rules often limit a country's ability to build strong national and local food systems. WTO rules place restrictions on the extent to which governments can support domestic farmers through certain types of subsidy programs, many of which have been characterized as "trade distorting." The rules also place limits on tariffs importing countries use to slow an influx of cheap imports that undercut their domestic production.

The devastating practice of imports entering a market at below the cost of production is known as dumping. While the WTO has an anti-dumping agreement, and the U.S. International Trade Commission regularly investigates industrial dumping (like Chinese steel dumping), actions on agricultural dumping are extremely rare. Commodity crop (corn, rice, soybean, wheat) dumping by U.S. agribusiness was rampant in the first 10 years of the WTO.

Increased dependence on international markets for agricultural food imports made some countries more vulnerable to global price spikes; we saw this effect most clearly in 2007-08 with a dramatic increase in global hunger. Climate change is expected to disrupt agricultural production, therefore increasing food price volatility in years to come. As a result, agribusiness firms are urgently incorporating climate risks into their business models. For example, Cargill is working to reduce its carbon footprint, while also investing in climate science research and policy development to increase climate resilience in agricultural supply chains.

Among developing countries, food reserve strategies are regaining traction. A centuries-old strategy of putting food (usually storable grains and beans) aside in times of plenty for times of scarcity, food reserves are seen as particularly critical for vulnerable, food import–dependent countries. Yet WTO rules have routinely conflicted with various approaches to food reserves. The most recent skirmish is over India's National Food Security Policy Act. Here, again, the U.S. government has threatened to challenge a locally oriented program designed to benefit local farmers while addressing national food security concerns.

Land use and domestic ownership of land are also heavily influenced by trade and investment rules. Because these rules have eased restrictions on the movement of capital between countries, land has become an attractive asset for international investors. Trade and investment rules are thus increasingly linked to "land grabs"—large-scale land leases or purchases by foreign corporations or governments to gain access to agricultural or forest land, water and other natural resources.

Investment rules require "equal treatment" for huge multinational investors and local investors. And investor-state dispute settlement (ISDS) provisions in agreements like NAFTA and the TPP grant those foreign investors special legal rights. According to researchers from

Tufts University, free trade deals limit the ability of governments to address land grabbing and to implement the Voluntary Guidelines on the Governance of Land Tenure (which set guidelines on appropriate land investment) established by the UN FAO. Many recent land grabs have been driven by a rush to control scarce resources in the wake of the 2007-08 food price crisis and in the face of expected global supply chain disruptions caused by climate change.

As the effects of climate change worsen, climate policy will have to become more aggressive, not only in putting a price on carbon, but also supporting clean energy production, fostering less emitting and more resilient agricultural systems, and further regulating emissions. Policy actions that include sharp increases in costs and market-oriented approaches to pollution can hit poor and rural communities particularly hard. Governments at all levels will need policy flexibility to address these challenges—they can scarcely afford to have their hands tied by outdated trade rules.

Further, trade agreements should no longer be considered in isolation, or given legal priority over other global agreements. Trade policy is too influential, and provides too many obstacles for successful governing on issues like climate change, health, food security and natural resource management—issues that the WTO and other free trade agreements are ill-equipped to handle...

The official signing of the Paris climate treaty is an important first step toward a global response to climate change. But no climate deal will work if it is not supported by other policies. A next step must be the rejection of the TPP and any other trade commitments that undermine our ability to address climate change. The TPP and the WTO are outdated trade regimes modelled on 19th century ideas of "big power" treaties and commercial might. The 21st century demands something very different—trade rules that move countries together toward sustainability, starting with the urgent need to curb greenhouse gas emissions and support adaptations to climate change. M

THIS ARTICLE AND SIDEBAR ARE EXCERPTED AND ADAPTED FROM THE REPORT, "THE CLIMATE COST OF FREE TRADE: HOW THE TPP AND TRADE DEALS UNDERMINE THE PARIS CLIMATE AGREEMENT," RELEASED BY THE INSTITUTE FOR AGRICULTURE AND TRADE POLICY IN SEPTEMBER. FOOTNOTES IN THE ORIGINAL HAVE BEEN OMITTED HERE.

PROPOSED REFORMS ON TRADE AND AGRICULTURE

Climate-focused trade reforms can benefit from substantive reform proposals that have emerged from agriculture and food security circles over the last several decades.

PROTECTIONS AGAINST DUMPING

Developing countries continue to push at the WTO for expanded use of what is called a Special Safeguard Mechanism, which would temporarily allow those countries to raise tariffs to block surges in dumped imports that threaten to undercut their farmers and food systems.

FOOD RESERVES

The G-33, a group of net-importing developing countries, has advanced a proposal at the WTO that would allow countries to create and operate food reserves. Other proposed WTO-related reforms focus on eliminating export subsidies (which give big agricultural exporters an advantage), and on reforming food aid programs in ways that will incentivize local food systems.

HUMAN RIGHTS PROTECTIONS

The Paris climate agreement reaffirms human rights commitments in its preamble. There is a large body of work focused on how human rights law should be integrated within trade rules, including substantive reforms to the WTO's Agreement on Agriculture. The UN Special Rapporteur on the Right to Food has outlined principles for conducting a human rights impact assessment that governments should undertake on all current and future trade agreements. For example, the Economic Commission for Africa has authorized a human rights assessment for the proposed Continental Free Trade Agreement for Africa.

PROTECTING FARMERS' RIGHTS

To counteract restrictive patent laws embedded in trade deals, farmers have fought to protect their rights on seeds through the International Treaty on Plant Genetic Resources, which grants farmers the right to save and share seed. In 2012, a high-level panel of experts established under the FAO's Committee on Food Security called for countries to adopt the International Treaty on Plant Genetic Resources for Food and Agriculture and urgently implement provisions on farmers' rights to conserve and curate genetic resources to adapt to climate change. The UN Special Rapporteur on the Right to Food has been particularly critical of trade agreements, like the TPP, that require strong intellectual property protections for global seed companies.

GUARDING AGAINST LAND GRABS

There have been a number of efforts to introduce new global policy guidelines to counteract legal challenges tied to trade and investment rules. The UN Committee on Food Security went through a multi-year process to establish voluntary guidelines on the responsible governance of land tenure. These guidelines for national-level governments help protect the rights of their own people to own land, forests or fisheries in the face of the growing influence of outside foreign investors buying land around the world. The voluntary guidelines are starting to be used by governments in Latin America to manage land acquisitions in order to protect the rights of local people, human rights, food security and the environment.

Meghan Sali

On the TPP impact assessment, the government needs to show its work

ON SEPTEMBER 9, the government released its "Economic Impact of Canada's Potential Participation in the TPP Agreement." To call this document "long-awaited" would be the understatement of the year. Canadian organizations drawing attention to the repercussions of the Trans-Pacific Partnership have been calling on the government to come out with an impact assessment for the better part of a year.

And arrive it finally did, as a nervous media officer's weapon of last resort: the Friday afternoon press release. It's little wonder the government hoped to downplay its significance. Predicting a mere $4.3-billion bump to GDP over the next 25 years, the benefits of the TPP would be, by the government's own estimates, barely noticeable. The costs, on the other hand, would be tremendous.

You'd be forgiven, however, for having a hard time finding those costs accurately represented in this document masquerading as objective analysis. Areas where we're likely to find the greatest cost to Canadians are either downplayed or glossed over entirely. There is zero mention of the intellectual property chapter and its impact on the cost of medicines, despite this issue dominating the conversation among Canadians concerned about the TPP.

What's more, the impact on the digital and innovation economy, an area OpenMedia community members have been raising concern about for over four years, is entirely omitted from the assessment. In fact, the government report admits its forecasting model does not take into account the TPP's sweeping changes to intellectual property rules and that, as a result, "there could be some under- or overestimation of the size of TPP gains for Canada."

Which is why Canadians reading this appraisal won't be faulted for asking themselves, "Where is the rest of it?" Particularly as this is the document we expect to see members of Parliament and proponents of the agreement pointing to as proof positive the TPP is good for Canada.

Consider the assessments performed by other nations that are part of the TPP. For example, a New Zealand government report on the impacts of the agreement estimated the cost of extending copyright terms alone would be $55 million a year. Like New Zealand, Canada is a net importer of copyrighted goods, but our economy is much larger. We can therefore guess the TPP will cost us much more by extending patents on books, film, software, audio and other goods.

And with the government's incomplete impact assessment, it looks like that's what we'll have to keep on doing—guessing.

Parliamentary consultations on the TPP continue (in St. John's as I write this), though the deadline for written submissions from the public was October 31. Both the standing committee on international trade and Global Affairs Canada are seeking input from Canadians to inform their TPP position before a fast-approaching ratification deadline.

Canadians are skeptical at best about the touted "benefits" of the TPP agreement. At a recent day of action on the TPP in Toronto, Tracey Ramsey, MP for Essex (Ontario) and the sole NDP member on the parliamentary trade committee, stated that over 95% of the more than 20,000 responses to the public consultation express opposition to the agreement.

Those Canadians who contributed to the TPP consultation process must now wait for the trade committee to prepare its report, and hope their concerns—and the costs they outlined—outweigh the results of the government's inadequate, last-minute impact assessment. Those who missed the government deadline are welcome to share their views on the TPP through OpenMedia's public consultation tool at LetsTalkTPP.ca. M

4 REASONS TO OPPOSE THE TPP, ACCORDING TO OPENMEDIA

- 20-year extensions for copyright terms that would rob the public domain, cost Canadians millions, and make it harder for artists and creators to make new works.
- Locking Canada into some of the most restrictive digital rights management (DRM) rules in the world, giving us less control over our legally purchased digital devices and criminalizing tinkering and repair.
- Spreading the broken U.S. copyright system that allows for takedowns of content without judicial oversight, opening the door to global Internet censorship-by-copyright.
- Investor–state rules that could see Canada sued for millions or even billions if we choose to update our digital policy and copyright laws to better serve Canadians.

Index

Sizing up the TPP

Compiled by Hadrian Mertins-Kirkwood

According to a recent Global Affairs Canada (GAC) study, the TPP will result in long-term GDP gains for Canada of **$4.3 billion** per year. That sounds like a lot of money! But it actually represents an increase of just **0.127 per cent** to our more than $2-trillion economy.

In comparison, corporate and personal tax cuts initiated under the Harper government cost the federal government more than **$42 billion** per year. And Canada loses **$22–$81 billion** every year to tax evasion and tax havens.

In part due to tax cuts and tax flight, Canadian corporations are currently sitting on cash reserves of more than **$700 billion**. If corporations were to spend just 1% of their war chests it would provide a much bigger economic boost than the TPP—and with none of the downsides described in this issue of the *Monitor*.

Alternatively, the federal government could choose to invest in the economy directly. The plan laid out in the 2016 *Alternative Federal Budget* would see GDP increase by nearly **$50 billion** per year thanks largely to targeted public spending.

A universal child care program is just one progressive public policy option that could have a bigger economic impact than the TPP. Affordable, accessible child care could increase Canada's GDP by as much as **$5 billion**.

SMALL GAINS NOT SHARED EVENLY

We should also consider that the government numbers likely exaggerate the economic gains from ratifying the TPP. One study from the business-friendly C.D. Howe Institute, which uses a similar methodology to GAC's, peg the long-term gains at just **$2.5 billion** per year, or **0.068 per cent** of GDP.

To make matters worse, these studies overlook important variables. For example, they assume that anyone who loses their job due to the TPP will automatically find a new one. But that's not how the real world works.

A study by Tufts University that attempts to correct for deficiencies in the government methodology arrives at very different conclusions. Notably, the authors find the TPP will cause labour's share of income (the gains flowing to workers from economic growth) to decrease by **0.86 per cent**.

In other words, the TPP will put downward pressure on wages and employment. According to the Tufts study, that downward pressure will result in **58,000** net job losses in Canada.

HIDDEN COSTS IGNORED BY ESTIMATES

Not only do the potential economic benefits of the TPP pale in comparison to the social and environmental risks, the agreement poses a threat to the economic wellbeing of workers across the country. Farmers in supply-managed sectors, for example, were promised **$4.3 billion** (there's that number again) over fifteen years to compensate for expected losses from the deal. The TPP's intellectual property chapter is expected to add more than $600 million annually to the cost of medicines. Neither cost was included in GAC's assessment, nor were the costs to government of defending a proliferation of investor–state lawsuits from Japanese, Australian and Malaysian investors.

SOURCES *Economic Impact of Canada's Potential Participation in the Trans-Pacific Partnership Agreement*, Global Affairs Canada, September 2016; David Macdonald, *Corporate Income Taxes, Profit, and Employment Performance of Canada's Largest Companies*, Canadian Centre for Policy Alternatives, April 2011; *Revenue and Distribution Analysis of Federal Tax Changes: 2005-2013*, Office of the Parliamentary Budget Officer, May 2014; Dean Beeby, "Revenue Canada still withholding data on tax havens, budget watchdog says," CBC News, April 4, 2016;"Huge Cost of Tax Evasion Revealed as Campaign to Tackle Tax Havens Launches," Canadians for Tax Fairness, November 2011; "CANSIM Table 378-0121: National Balance Sheet Accounts," Statistics Canada; *Alternative Federal Budget 2016*, Canadian Centre for Policy Alternatives; Kaylie Tiessen, "Universal Affordable Child Care: don't scrap it, improve it," *Behind the Numbers*, September 28, 2015; Dan Ciuriak, Ali Dadkhah and Jingliang Xiao, *Better In than Out? Canada and the Trans-Pacific Partnership*, C.D. Howe Institute, April 2016; Jeronim Capaldo, Alex Izurieta and Jomo Kwame Sundaram, *Trading Down: Unemployment, Inequality and Other Risks of the Trans-Pacific Partnership Agreement*, Global Development and Environment Insitute at Tufts University, January 2016.

Pamela Palmater

TPP dead in the water without First Nation consent

From pipelines to free trade deals, the government must be prepared to consult Indigenous nations or watch megaprojects fail

CANADA HAS promoted the Trans-Pacific Partnership (TPP) as being in the "best interests" of the national economy, promising more jobs and export opportunities while claiming it will also improve social conditions, reduce poverty and include strong environmental protections. An economic impact assessment of the TPP released in September by Global Affairs Canada estimates GDP gains of about $4.3 billion by 2040 if Canada ratifies the deal, and GDP losses of $5.3 billion if it doesn't. Both amounts are essentially rounding errors—the equivalent of a few months' worth of normal economic growth—but that didn't stop TPP supporters using the announcement to urge the Trudeau government to commit, sooner than later, to firmly endorsing the agreement.

Lost in all the hype is the question of whether Canada can *legally* ratify the TPP—even if the Trudeau government decides that's what it would like to do. Had the government asked this question of First Nations in Canada, the answer would likely have been no.

Canada has, once again, wrongly assumed it has the legal and political authority to negotiate a major international free trade agreement that would significantly impact the constitutionally and internationally protected rights of Indigenous peoples and their lands, waters and resources without their consent. Much of Canada has never been ceded or surrendered by Indigenous Nations. Decisions from Canada's Supreme Court confirm that unceded Indigenous lands can be claimed as Aboriginal title, which amounts to the exclusive use, ownership, benefit and control of specific territories by Indigenous Nations.

Aboriginal title rights are protected in Section 35 of Canada's Constitution, making the Indigenous right to make decisions over their lands and resources the highest law in the country. Canada was therefore required to obtain the consent of First Nations before engaging in TPP negotiations. Had this consent been granted, Canada should then have included First Nation representatives in the negotiation process. Neither of these steps happened, which calls into question the legality of any Canadian ratification or implementation of the TPP.

A major part of the problem is that this deal was negotiated in secrecy by the former Conservative government of Stephen Harper. Neither First Nations nor Canadians were asked for their views about Canada joining the TPP or subsequently given a role in the negotiation process. (An online consultation quietly advertised in the *Canada Gazette* in December 2011 was clearly targeted at business groups, as it sought advice only "on the scope of possible free trade negotiations between Canada and Trans-Pacific Partnership (TPP) members," which assumes Canadian entry.)

In fact, the actual text of the agreement was not shared publically until November 2015, after five years of secrecy. Keeping the negotiating details from First Nations violated Canada's constitutional obligations to act honourably and in good faith by sharing all relevant information with a view to obtaining consent prior to making any decisions that might impact rights and title. So, from the very beginning, Canada's participation in the TPP contravened the Constitution. The government's failure to consult and obtain the consent of First Nations at each phase since then has compounded the legal uncertainty of the agreement.

However, the TPP is by no means a done deal. While all 12 participating states signed off on the text of the TPP in February 2016, it still needs to be ratified by at least six countries, representing 85% of the TPP region's economic output, by February 2018 for it to take effect. Each country also has to implement the agreement in its own legislature and there is no guarantee that Canada will end up with the support it needs to make this happen. If the current level of opposition to the TPP by civil society groups and Indigenous peoples is any indication, Prime Minister Trudeau faces an uphill battle.

Even prominent Americans like Bernie Sanders and U.S. presidential candidates Hilary Clinton and Donald Trump have said the TPP is a bad deal and should not be ratified. Canadian civil society groups have raised concerns related to negative impacts on the cost of medicine and health care, the environment, postal and auto workers, and even copyright rules. Still others worry that it will increase corporate powers and erode Canadian sovereignty by allowing transnational corporations to sue countries in private hearings not subject to Canadian laws.

With regard to First Nations, the potential impacts are substantial and can't be remedied after the fact (i.e., after ratification). The transfer to third parties of lands, waters, natural resources or any other property interest (timber licences, for example) is a diminution of Aboriginal title and requires consent. The TPP purports

to establish rules related to timber and other products extracted from Indigenous lands in Canada without first obtaining First Nation consent. The TPP fails to include specific provisions related to First Nation decision-making, control or benefit on any and all exports from their lands.

Trading relations with First Nations and negotiated treaties are the founding blocks of the state known as Canada. Even the Supreme Court has noted that trade was a critical aspect of developing and maintaining peace between First Nations and colonial governments. Furthermore, some of the treaty provisions also recognize the authority of First Nations over important economic and governance matters such as control of trade within their sovereign territories. Some treaties, especially those with the Mi'kmaq, specifically protected the right of First Nations to trade to their best advantage; these Aboriginal and treaty rights, agreements and practices now form part of Canada's Constitution.

Canada acted outside of its constitutional authority when it denied First Nations information about, and access to negotiations and decision-making related to, the TPP. The government exacerbated the problem by failing to include provisions in the TPP that recognize First Nation decision-making (and benefit) over trade, while enshrining legal rights to investors that could undermine Indigenous land and food security, and sovereign governance generally.

Some UN experts point out the TPP and similar free trade and investment deals seriously threaten Indigenous land rights and natural resources, while others have denounced the TPP for how it will undermine state sovereignty and fail to protect international human rights. In undermining the capacity of states to protect Indigenous rights from being violated by transnational corporations, they argue, the TPP could lead to gross human rights violations and other significant threats to international peace and security, including negative impacts to food sources, water, health and living conditions. The evidence shows that investor–state dispute settlement cases under existing bilateral investment treaties and free trade agreements can result in severe penalties when states attempt to protect the environment, food or access to medicines.

Tsleil-Waututh leaders sign the Treaty Alliance Against the Tar Sands in Vancouver on September 22, 2016.

ELIZABETH MCSHEFFREY/NATIONAL OBSERVER

Many of these experts have collectively called for the TPP to be amended to include protections for Indigenous and human rights. Here at home, the TPP is also inconsistent with Canada's pledge to fully implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which protects Indigenous lands and enshrines the guarantee to free, informed and prior consent. As a result, the TPP violates the core principles and obligations of international law and Indigenous human rights and should not be ratified.

The interests at stake vis-à-vis First Nations are significant and demand a serious consideration before the TPP gets to the debate stage in Parliament. In fact, the legal deficiencies and potential impacts on First Nation rights are so substantial that Canada should be required to start over. There is no such thing as retroactive consultation and consent. The legal defect is so substantial that, on balance, the TPP can't be saved—at least not in its present form.

While some may think this a drastic measure, one need only refer to the Northern Gateway pipeline controversy as an example of what happens when governments ignore First Nations. The Federal Court of Appeal recently held that if governments are not prepared to engage in proper consultations with First Nations, they should be prepared to watch their project approvals fail—no matter what their stated economic benefit.

If, in the words of the Court, "brief, hurried and inadequate" consultations do not suffice for a pipeline, a complete lack of consultations on an arguably more consequential Pacific free trade zone is unlikely to pass a similar legal test.

On Thursday, September 22, First Nations in Canada and Tribes in the United States signed a historic treaty alliance vowing to stop pipelines on Indigenous lands. First Nations have taken back their power.

It's long past time to start talking to First Nations. The TPP is dead in the water otherwise. M

Melinda St. Louis and Melanie Foley

Fighting corporate trade

A TPP update from the United States

THE CAMPAIGN against the Trans-Pacific Partnership (TPP) in the United States has reached unprecedented proportions. The movement has surpassed its core group of labour unions and activist groups to include members of the general public not traditionally concerned with "trade" issues—because the TPP is not really about trade at all.

That is the key message behind the recent, extraordinary backlash against the status quo, corporate-driven model of trade that the presidential campaign season has unveiled. A "trade" pact negotiated with 500 corporate advisors under extreme secrecy, the TPP has become the primary target of the present day outrage over corporate threats to our democracy.

Both major parties' candidates oppose the deal, as do most House Democrats and a sizeable bloc of House Republicans. More and more representatives who voted for "fast track" authority for the TPP last year are now responding to their constituents' demands and moving to oppose the TPP itself. Democratic vice presidential nominee Senator Tim Kaine is in that camp, changing his stance on the deal due to unacceptable provisions in the final text, such as the undemocratic investor–state dispute settlement (ISDS) system.

ISDS is the corporate power-grab at the heart of the TPP. It empowers multinational corporations to sue our governments before panels of three corporate lawyers. These corporations need only convince the panel that a law or safety regulation in dispute violates their new investor rights. The corporate lawyers can award the corporations unlimited sums of taxpayer money, including for the loss of "expected future profits." These decisions are not subject to appeal.

The ISDS provision in the TPP expands and locks in the ISDS system already in existing trade deals like the North American Free Trade Agreement (NAFTA). Under NAFTA's ISDS system, Canada has been sued over pharmaceutical standards (case pending), toxic substances protections (Canada lost), anti-fracking laws (case pending), fossil fuel extraction permits (Canada lost), and toxic waste disposal requirements (Canada lost) to name just a few.

In the United States, the threat of ISDS became much more real this year. After the historic victory of Indigenous and environmental activists over the construction of the Keystone XL pipeline, TransCanada, the corporation behind Keystone, launched a $15-billion ISDS claim against us. The TPP would also threaten our food safety, jack up medicine prices, and shirk the global community's responsibility to meaningfully address labour standards and human rights.

Despite the array of horrors in the deal and the growing, trans-partisan opposition to it in the United States, the TPP is not yet dead. Disappointingly, President Barack Obama has been promoting the pact with a passion not seen from this administration on any other initiative, including his signature health care reform—twisting arms and calling in favours to get members of Congress to fall in line.

The good news is the pro-TPP forces still do not have the votes they need to pass the House of Representatives. That so many representatives have publicly opposed the TPP despite the dual pressures from the White House and the business lobby is a testament to the voter outrage over this corporate-rigged pact.

Given the unprecedented level of opposition, TPP proponents know that their *only* shot at passing the deal, according to U.S. Vice-President Joe Biden, is by sneaking it through in the "lame-duck" session of Congress—the unique moment in the legislative calendar after the November election, when members who have retired or been voted out of office can still make decisions and are the least accountable to their constituents.

American civil society organizations—labour, environmental, faith, consumer, family farm, youth, LGBT, civil rights, senior citizen, public health and other groups—are taking advantage of this critical time before the election. For instance, a cancer patient, mother and activist was just arrested protesting the TPP at the office of an undecided representative; the video of her calm, concise TPP critique while in handcuffs has been watched by hundreds of thousands of people.

Across the country, musicians and other celebrities have been educating and entertaining the public in a Rock Against the TPP concert tour. The goal of this diverse coalition is to get undecided members of Congress on the record right now, when the political price of failing to oppose the TPP can be fully paid, and to continue to educate the general public about the TPP corporate power-grab. **M**

THE TRANS-PACIFIC PARTNERSHIP AND CANADA

A CITIZEN'S GUIDE

"This powerful collection of essays lays bare what the TPP is really all about: enhancing corporate power. Under the guise of a trade deal, the treaty hands corporations an assortment of tools for striking down domestic laws that protect citizens and the environment. Easy to read and authoritative, this 'citizen's guide' deftly exposes how the TPP would negatively affect our lives–increasing inequality and hampering efforts to deal with global emergencies like climate change."

Linda McQuaig, author and journalist

A NEW BOOK EDITED BY

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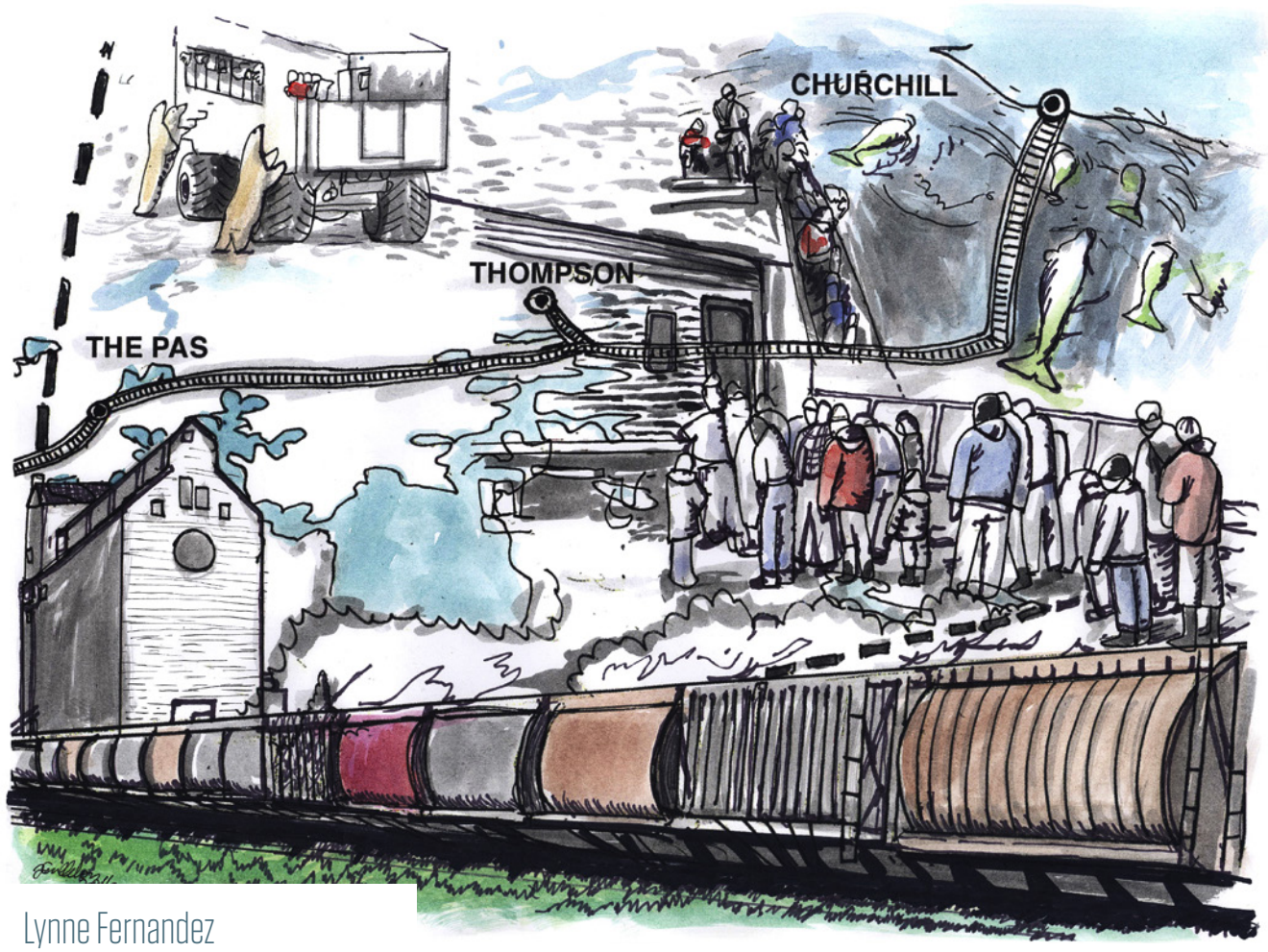


ILLUSTRATION BY JAMES CULLETON

Lynne Fernandez

It's time to give back to Manitoba's north

Corporate welfare is not the right solution to the boom-and-bust cycle. We need to consider what real regional development could look like.

THIS SUMMER HAS not been kind to Manitoba's workers. First Omnitrax announced the closure of the Port of Churchill, putting 65 people out of work. Then it reduced train service to the community from twice a week to once, constricting the lifeline that brings tourists and supplies to the town, and grain and other commodities to the port. That lifeline connects on the other end with The Pas, now facing its own crisis. To date, Omnitrax has refused to show its hand. It's not clear, for example, if the company is holding out because it wants further subsidies or if it would be willing to sell the port and railway. It is likely willing to sell for a hefty price, despite having bought the port in 1997 for only $10.00, and receiving millions in subsidies since then (from both the provincial and federal governments) to keep it running.

As if the Omnitrax affair was not enough, The Pas' largest employer, Tolko Industries, subsequently announced it was shutting down its paper plant in December 2016. Around 330 employees will be out of work in a town of 5,500. This will also impact the 250 mostly contract loggers who provide material to the plant, bumping the number of unemployed closer to 580. With a working population of approximately 3,400, the Tolko layoff will effect close to 10% of the community's workforce. The same proportion of Churchill's workforce will be affected.

The closure of Churchill's port had already reverberated in The Pas where grain is loaded onto the train as it takes the last leg of its trip north. Thirty-five people lost that seasonal work, and dozens more are worried about their jobs. Just four days after Tolko's announcement, word came out the Aseneskak Casino may relocate to a more populous area. The casino, located on Opaskwayak Cree Nation next door to The Pas, employs 147 people. The closure of the Tolko plant (with its attendant loss of de-

mand for timber), reduced rail usage and the casino relocation delivered a triple blow to the local economy.

In absolute numbers, the job losses might not sound high, but in relative terms their effect will be devastating. If Winnipeg were to lose 10% of its jobs in one fell swoop, more than 42,500 people would be without work and, of course, income. When workers and their families are knocked off their feet, the local economy suffers. From stores to car dealerships to travel agents to restaurants to baby sitters, all kinds of businesses and individuals who rely on someone else's income to make their own living will feel the pinch—or in this case the punch.

The boom and bust scenario is common in our economic system. Private corporations that cannot make enough profit have no loyalty to the communities they are based in or to the workers they employ. History is strewn with towns that gave up the ghost when companies moved on. On the other hand, there are examples of governments bailing out companies just to keep people employed: when corporations like Chrysler are declared "too big to fail," it is the taxpayers who foot the bill.

The Manitoba layoffs, while following this trend, are doubly difficult. The "remoteness" of these communities makes the opportunities harder to see for out-of-town business, while the smaller economic base makes it tougher for laid-off workers to find new jobs. People are tempted to leave town, causing real estate prices to go down, which further reduces economic activity in the region. Eventually the tax base erodes, leaving municipalities with less money to provide services.

Tolko pays $836,318 in property taxes to the Town of The Pas. Of this amount, $238,359 is forwarded to the Kelsey School Division and $144,335 is for provincial school taxes. The remaining $453,620 represents roughly 7% of The Pas' total municipal tax revenues. To put Tolko's contribution in perspective, The Pas' fire protection costs are $409,877 per year, and it spends $423,306 a year on garbage collection and landfills. The above figures demonstrate how a downward spiral can start that, if not stemmed, causes permanent damage.

Certainly, The Pas' fortunes have waxed and waned over the past 50 years. The Tolko mill used to be owned by a provincial Crown corporation called Manitoba Forestry Resources Ltd. The province had to take over the mill from scandal-ridden Churchill Forest Industries, a company brought in by former premier Duff Roblin to spur economic development in The Pas. Manitoba Forestry Resources was not able to run the mill without losing money and was eventually sold to Repap Enterprises in 1989, which sold it nine years later to Tolko.

At its height the mill employed over 1,000 workers. A local sawmill (also owned by Tolko), which employed 236 people, supplied the paper operation with sawdust before the company closed it down in 2006. Until Tolko's recent decision to completely leave town, it was hoped the mill had stabilized operations with 330 workers—and millions of dollars in subsidies to weather the softwood lumber dispute with the U.S.—and that it would remain The Pas' largest employer. Those hopes now seem lost.

Tolko claims it is too difficult to transport raw materials to the mill and that its steam generator is too inefficient and expensive, making the company uncompetitive. It is not known if management ever approached the province for help to convert the generator, or if it would be willing to discuss other forms of government assistance at this point.

Should the government intervene in Churchill or The Pas? The quick answer is yes. But there are short- and long-term issues to consider, including how to ensure unemployed workers can access employment insurance, how to connect Canada with its northern communities as the Arctic opens up due to climate change, and the need to reassess regional development plans at the provincial and federal levels.

The Port of Churchill has been essential for Saskatchewan and Manitoba farmers to get grain to port, especially in bumper-crop years like this one. According to the Western Grain Elevators Association, the 2016 Canadian grain harvest could be as high as 74 million tonnes, which would approach the 76.8-million-tonne record set in 2014. Bumper crop expectations have only heightened concerns over the Port of Churchill shutting down. "This is a major blow to us," said Dan Mazier, president of Keystone Agricultural Producers, in July. "We've had so many issues shipping our grain east and west to port, and [the Port of Churchill] was an excellent option. If ever there was a case for government intervention, this is it."

Of course, it must be the right kind of intervention. The catalyst for this crisis was the Harper government shutting down the Canadian Wheat Board (CWB), the port's biggest customer—an example of how bad (and in this case ideologically driven) government policy can cripple an entire region. In the event that this year's shipping potential cannot be salvaged, workers and their families will need help.

Unfortunately, employees at the Port of Churchill work seasonally and many will not have put in enough hours to qualify for employment insurance. Given the wages of 65 people will be lost to the local economy, EI regulations need to be modified so these workers can collect benefits. A special EI zone should be established in the Churchill region so that anyone losing their job has a

A special EI zone should be established in the Churchill region so that anyone losing their job has a better chance of qualifying for support.

better chance of qualifying for support, as a means of softening the blow and keeping the local economy on an even keel.

Luckily, many of The Pas' workers are members of Unifor and covered by a collective agreement that assures them a severance package. Once this runs out, however, those people still looking for work will need quick access to EI. The government should ensure there is enough staff to process claims and answer questions so that families don't face undue hardship and anxiety. Keeping income flowing into households also cushions the blow to the local economy, although disposable incomes will be considerably lower.

Among the longer-term concerns about losing the port is the pressure it will put on Canada's other deep-water ports to take on the grain export burden. The Port of Vancouver, for example, has been operating near capacity for the past several years and is struggling to implement a $300-million expansion plan. But Churchill's port could and arguably should be about more than moving grain.

The Manitoba Chamber of Commerce, for instance, wants a "Northern Commission" to assess the province's transportation infrastructure and its limitations on northern development. "The Commission should document and identify the current facilities, assess additional requirements and propose options for repayment of capital costs," argues the business group. Furthermore, it says, the province should "develop a strategy and mobilize investment in the Port of Churchill as a strategic transportation hub for Northern resupply, Arctic sovereignty, and as an Arctic Gateway to international markets."

Beyond these international trade concerns, the Port of Churchill will become more important as a launching-off point to other northern communities in the Northwest Territories and Nunavut. As the sea ice melts, Churchill could be the gateway to the central and eastern Arctic, and its growing tourism sector requires a reliable means of transportation to deliver people and supplies. Infrastructure is not just about helping private corporations make a profit; it is deeply connected to nation building. As the Arctic takes on more importance nationally and globally, some are suggesting a Federal Port Authority should be established in Churchill, ideally with the collaboration of interested First Nations.

Churchill is but one community in an expansive northern region. As the news from The Pas demonstrates, it is not the only town that vulnerable to the vagaries of corporate activity. After all, if corporations like Tolko (or Vale, which is planning to close its Thompson smelter in 2018) can't make a go of it, some would argue the North is doomed to remain underdeveloped, its people cut off from services—like comprehensive health care and affordable food—that southerners take for granted.

Not everyone takes such a narrow view. The *Winnipeg Free Press*, for example, has called on the province to take action. But when private corporations like Omnitrax and Tolko fail, despite receiving millions of dollars of government money, it becomes very difficult to make a case for further public support. There is a role for government to play in regional development and nation building, but it does not entail throwing public money at private corporations that do not and cannot have a meaningful commitment to the North's people and land.

Billions of dollars of profit have been extracted from the North. This money has enriched people and companies with little or no connection to the region.

Billions of dollars of profit have been extracted from the North. This money has enriched people and companies with little or no connection to the region. Whether they were hydro, mining or logging projects, First Nations have rarely benefitted from southern enterprise. Until recently, these communities were not even consulted when megaprojects were planned and implemented—even when the projects destroyed traditional lands and lives.

According to a forthcoming report by the Thompson Neighbour Renewal Corporation, prior to 1962 in Thompson, "INCO's early hiring regulations displayed overtly discriminatory policies which expressly forbade the hiring of First Nations workers." This happened even though the company's operations were on traditional Indigenous lands.

Thompson has evolved from a one-industry town, born from a provincial government agreement with INCO in 1956, to become a regional hub providing administrative, health-related, educational and shopping services to tens of thousands of people throughout the North, including Churchill (the Omnitrax line goes through Thompson). Today, fully 36% of Thompson's population is Indigenous—the largest concentration of any Canadian city—and local business is slowly starting to reflect that demographic reality. But as the forthcoming Manitoba Research Alliance report by elders Ted Chartrand and Mabel Bignell explains, racism and discrimination are still huge problems.

Fortunately, discriminatory labour practices are on the wane. Les Ellsworth, president of Local 6166 of the United Steelworkers, says he is starting to see far more Indigenous workers at Vale, the result of company efforts, supported by the union, to make the workforce more representative of the community. With Manitoba's Indigenous population growing as it is, these measures cannot be brought in fast enough. It will be doubly frustrating if Vale closes the

ATEC students on a worksite in Nisichawayasihk Cree Nation.

LYNNE FERNANDEZ

smelter, as it is planning to do in 2018, when the industry is finally committing to training and hiring local Indigenous workers.

Manitoba's population is around 17% Indigenous, and the median age in this group is 21 years (versus 39 in the population as a whole). When we talk about the northern economy, we should be putting it in the context of the predominately Indigenous population, keeping in mind it is diverse, young and growing faster than the non-Indigenous population. Because northern Indigenous peoples have not fared well under modern, colonial economic development, they are now turning to their own resources and ideas to chart a new course.

Many of the contractors who provide timber to the Tolko plant are from First Nations. Some own and operate enterprises such as Moose Lake Logging Inc. Grand Chief Sheila North Wilson of the Manitoba Keewatinowi Okimakanak Inc. (MKO) wants local Indigenous enterprise to take over the Tolko mill, and there is a consortium of First Nations interested in running the port at Churchill and taking over the railway. Churchill's population is more than half Indigenous, so First Nation involvement makes a lot of sense.

There are compelling reasons for the province and the federal government to think about how to accommodate these ideas. The key would be to negotiate with First Nations to ensure their concerns, best interests and aspirations are reflected in any development plans.

The population of The Pas is roughly half Indigenous, but many people who work and shop there live on Opaskwayak Cree Nation (OCN) on the opposite side of the Saskatchewan River. With a population of 4,500, OCN is an important economic hub in itself. According to its website:

> OCN is a thriving community, which, since the 1960s, has pursued the road to autonomy through the development of strategies that enhanced its economic base while controlling its own commercial enterprises, education and health services, community works, and finances.

Another First Nation that is leading the way in local economic development is Nisichawayasihk Cree Nation (NCN), also known as Nelson House. Economist John Loxley reports that NCN has benefited from development agreements with Manitoba Hydro and flood compensation funds from the Northern Flood Agreement. It has invested in community-based economic initiatives, some located in the newly formed Urban Reserve in nearby Thompson, where NCN owns and runs the Mystery Lake Hotel.

Now that the Urban Reserve has been officially approved, both NCN and the City of Thompson are optimistic about the opportunities. NCN Chief Marcel Moody told the *Thompson Citizen*: "It's not all about us. We have a vested interest in maintaining the economic viability of Thompson. The more people we can attract to Thompson, the better it is for both NCN and for Thompson." NCN Development Corporation also owns a variety of businesses in Nelson House including a building supplies store, food store, gas station, restaurant and even a radio and TV station.

NCN has used resources from its relationship with Manitoba Hydro to run the Ataoskiwin Training and Em-

ployment Centre (ATEC) Inc. Housed in a new and state-of-the-art building built by the Crown hydro company when work was being done on the Wuskwatim Dam, ATEC provides specialized training to NCN residents, many of whom have dropped out of school and/or never held a job.

The model incorporates features determined to be important for Indigenous jobseekers and employers who wish to hire them. It includes an extensive intake process to determine trainees' education and employment interests, education levels and upgrading needs, as well as other social and cultural needs. One of ATEC's most innovative programs trains NCN youth building much-needed housing for the community while they earn their Red Seal accreditation.

As successful as NCN has been, Loxely notes such examples are few and far between. But he says the NCN experience proves how creative community development projects can flourish with government support. His research highlights how important Manitoba Hydro's role is in northern development: when done properly, government or Crown corporation support can leverage long-term funding for First Nations so they can take control of the local economy.

There is no shortage of similar ideas in Manitoba's North. MKO came up with a 10-point plan for northern economic development that both the federal and provincial governments should be looking at closely. The most important element of the plan is that it is *community driven*. Another is that it turns community challenges, such as the high diabetes rate and lack of affordable energy, into job-creation schemes that will make First Nation communities self-sufficient. Such initiatives, spearheaded by Aki Energy (an Indigenous- owned and run social enterprise), have already taken shape in other First Nations including Garden Hill and Fisher River Cree Nation.

Back in The Pas, Unifor's Paul McKie claims the Tolko mill's steam generator is fuelled by waste oil, which makes it 33% more expensive to run than the competitors' systems. As it turns out, the MKO's economic plan embraces alternative green energy. If the current government were to modernize Manitoba Hydro to include biomass (woodchips) as a means of heating new homes (and converting existing homes to the technology), it would open up new economic opportunities. Where better to source this renewable fuel than in and around The Pas?

European prices for biomass are high enough to support Canadian exports; rail shipments could be loaded onto boats in the Port of Churchill. With government help, Indigenous enterprises might even produce woodchips to replace imported oil for domestic use. This plan would create more jobs, be eligible for emission credits, and possibly be cost competitive. A viable model to subsidize conversion to affordable geothermal while employing local workers already exits with Manitoba Hydro and Fisher River Cree Nation. Such a plan could be tailor-made to fit any number of business plans using biomass.

Alternatively, infrastructure could be converted to meet different needs. Northern First Nations need homes—a high-value development initiative that lends itself to spinoffs in areas like construction materials, training, etc. Loxley has done a great deal of research on the backward and forward linkages that could be built around the creation of basic goods industries that meet the needs of local communities and could culminate into a network of regional development. Over time, such development may even be able to feed into the Port of Churchill and keep the train running more often.

When done properly, government or Crown corporation support can leverage long-term funding for First Nations so they can take control of the local economy.

The province's minister of growth, enterprise and trade, Cliff Cullen, is reported to have visited Churchill recently with a group of business officials, and federal Minister of Innovation Navdeep Singh Bains is also monitoring the situation. It's not clear what sort of strategy, if any, they will be offering the community, but surely it should go beyond pledges that private business from outside the region (nationally or internationally) will eventually come to the rescue.

The experience of MKO's Community Economic Plan tells us social enterprises that are run by the community, and give back to the community, are much more likely to provide the goods and services—and jobs—people in the North actually need. NCN has shown how partnering with Manitoba Hydro can result in creative and holistic development folding in local supplies and job training for northerners. Both the federal and provincial government need to step up to ensure that northerners have the skills they need to enter and stay in the labour market. They can rely on the ATEC model for an example of how to do this.

On a final note, it would be a mistake for southern Manitobans to think that what happens in the North does not affect them. Not only do we rely on northern resources, but there is a constant movement of peoples from northern urban centres and First Nations to southern cities and back again. A stronger North would only benefit the rest of the province and country.

There is no need for an entire region to remain underdeveloped. But northerners themselves need to drive the change. As we enter a new era of truth and reconciliation, that is a message ministers Cullen and Bains need to hear loud and clear. M

A COMPUTER RENDITION OF THE PLANNED SITE C DAM. / GOVERNMENT OF BRITISH COLUMBIA

Gail Davidson and Rohan Shah

No need and no market for Site C

B.C. and feds stacking the deck for private profit

THE SITE C hydroelectric project in northeastern British Columbia is an alarming example of governments acting with impunity to extinguish treaty rights of Indigenous peoples, authorize irreversible environmental damage, cause food and water insecurity, and override democratic processes.

The third dam on the Peace River, Site C will cost taxpayers at least $8.8 billion and produce 5,100 gigawatt hours (GWh) annually when construction is completed in 2024. As early as 1980, BC Hydro applied for an "energy project certificate" for Site C, but the British Columbia Utilities Commission (BCUC), the body charged with overseeing utilities in the province, determined there was insufficient evidence of future demand.

Twenty-four years later, the project has been granted an environmental assessment certificate by the B.C. and federal governments. This is despite the fact BC Hydro, the Crown corporation responsible for developing B.C.'s power infrastructure, has again failed to justify the need for Site C. A joint review panel (JRP) set up to conduct the required environmental assessment concluded in 2014 that "basing a $7.9 billion Project on a 20-year demand forecast without an explicit 20-year scenario of prices is not good practice...the Proponent has not fully demonstrated the need for the Project."

Even so, Dr. Harry Swain, chair of the JRP, recently commented that BC Hydro's forecast has turned out to be completely wrong. Instead of consuming 70 terawatt hours of energy in 2016-17, B.C. is only using 60 terawatt hours despite the province's population growth. In fact, demand for energy in B.C. has flatlined since 2005.

Perhaps more disconcerting is the unparalleled and irremediable damage that Site C will cause to the environment and to rights of members of Treaty 8 Nations. A statement signed by 364 Canadian, American and European academics, addressed to Prime Minister Trudeau, emphasized, "The number and scope of significant adverse environmental effects arising from the Site C Project are...greater than for any project ever assessed under...the Canadian Environmental Assessment Act."

Moreover, in assessing the effects of Site C on Indigenous peoples' land use, the JRP concluded the project will permanently damage Treaty 8 rights to fishing, hunting and trapping practices, the use of lands and resources, and would destroy heritage sites. Treaty 8, signed in 1899 by representatives of Queen Victoria and members of several Indigenous peoples, promised that "the same means of earning a livelihood would continue after the treaty as existed before it" and "only such laws as to hunting and fishing as were in the interest of the Indians and were found necessary in order to protect the fish and... animals would be made."

As such, Site C represents the violation and extinguishment of treaty rights agreed to over 100 years ago and is a betrayal of recent reconciliation promises. As stated by Royal Society of Canada President Maryse Lassonde, "Past projects often neglected or ignored aboriginal peoples and their concerns — with adverse and lingering consequences. Those days are supposed to be over." The federal and provincial governments have nevertheless approved the project, despite evidence the dam will cause incalculable damage just to produce electricity that is not needed. That legal challenges against both governments have all been dismissed is even more troubling.

The numbers do not add up

In an August interview with CBC's *The Current*, Dave Conway, a BC Hydro community relations manager, admitted additional power is not needed: "it's not about today...it's about what the requirement is (sic) 20–40 years out," he said. This fanciful prediction is not only incongruent with B.C.'s stagnant demand, but also seems to be based on doubtful assumptions.

BC Hydro appears to be assuming that population growth necessarily results in an increased demand for energy: "we're building this based on StatsCan's projection of a population growth of more than a million people in the next 20 years," said Conway. Yet B.C.'s population has increased by almost 12% since 2005, when demand stalled. BC Hydro also appears to be counting on "economic development coming from...natural gas and liquid natural gas development." Although the Pacific Northwest project was approved in September, LNG prices have remained low amid a supply glut, so it is unclear whether much economic development will in fact occur.

Not only does Site C purport to solve a problem that does not exist, it is also far from the cheapest option to meet B.C.'s energy needs. BC Hydro's $8.8-billion estimate does not account for the cost of transmission and distribution. When these are included, the price tag to power homes in the Lower Mainland and Vancouver Island — where the province's population growth is likely to occur — rises to $11 billion.

Even without this increase, Site C is far more expensive than energy conservation, alternatives, or repatriating Canada's entitlement to energy under the Columbia River Treaty. The cost per megawatt hour from Site C is currently estimated around $126, with a selling price of $25–$35. Reducing consumption, on the other hand, could provide power at prices ranging from $32–$49. In other words, conservation would provide additional electricity (when and if it is needed) at between 25% and 39% of the cost of Site C power.

In addition, BC Hydro has touted Site C's job-creation numbers, but its own calculations indicate that double the jobs could be created through conservation. Moreover, under the Columbia River Treaty — an agreement whereby B.C. manages the Columbia River to reduce U.S. flooding risk and, in return, is entitled to some of the U.S. power produced (but currently sells it back) — B.C. could obtain the same amount of power that Site C would produce annually at rates ranging from $30 to $50 per MWh. The provincial government, however, has ruled out this option.

Swain said the only realistic option is for B.C. to sell Site C power to the U.S. at market prices ranging from $25 to $35 per MWh. But the present value of such sales over a 20-year period is $1.6 billion, only 18% of the conservative $8.8-billion cost estimate of the project.

In short, a likely consequence of producing this unneeded power (that will cost well above alternatives) is the bankruptcy and privatization of BC Hydro. Given its current $18.1-billion debt load, such a collapse appears increasingly likely. In the interim, ratepayers should not be surprised if prices skyrocket as BC Hydro attempts to dig itself out of a financial black hole.

An unprecedented attack on food and water security

The JRP's finding that Site C will result in permanent and irremediable adverse environmental damage points to two potential consequences: food and water insecurity. The Peace Valley is the only Class 1 agricultural land in the North and arguably B.C.'s last fertile east-west agricultural valley. It has the capacity to grow the same range of crops as the Fraser Valley, but with higher yields due to more daylight. Flooding the valley will irreversibly compromise its capacity to provide food to 1–2 million people — an alarming degree of devastation.

B.C. imports more than half its fruit and vegetables from California and Mexico, regions that due to severe droughts will not be able to continue exporting at current prices. In fact, BC Food Systems Network Co-chair Brent Mansfield has predicted that, between 2014 and 2019, produce prices could increase 25% to 50%. Given that one in 12 Canadian households experienced food insecurity due to lack of money during 2011-12 (it was almost one in four among single-parent households), the impact on family health will undoubtedly worsen.

Secondly, the valley is much closer than California to northern B.C., Yukon and the Northwest Territories, areas that have been struggling under what Indigenous and Northern Affairs Minister Carolyn Bennett has called the "abject failure" of Canada's Nutrition North program. Site C will eliminate a cost-effective source of nutrition for these and other communities.

Signs protesting the Site C dam are plentiful along Highway 29 between Fort St. John and Hudson's Hope.

EMMA GILCHRIST / DESMOG CANADA

Although BC Hydro has insisted that water quality will not worsen, the JRP concluded "[t]here would be a risk of exceedances of drinking water quality guidelines for a number of wells." The City of Fort St. John, whose population is 11.5% Indigenous, obtains its water from a well field 12 kilometres downstream from Site C that could be affected by water quality changes in the Peace River. Additionally, the Alberta government has identified that the dam's flow rate could "cause undue risk to Alberta infrastructure," designed with only the Bennett and Peace Canyon dams in mind. Indeed, communities may be forced to shut down their water intakes. Conveniently, BC Hydro is not liable for any damage or interference it causes to wells as per the Hydro and Power Authority Act 1996.

Moreover, according to Wendy Holm, agrologist and policy economist, "Site C is being built exactly where it should be to deliver continental water sharing plans." The Peace River's Site A, B, C and D dams along the Columbia River were planned at the same time in the 1950s, after the U.S. Army Corps of Engineers, tasked with ensuring America "never runs out of water," set about mapping Canada's water resources. Every engineering plan proposed shows only two routes to divert coastal runoff water from the north into rivers in the south: the Columbia River (to bring it west of the Rockies) and the Peace River (to bring it east of the Rockies).

Site C is the last dam in the system. If BC Hydro is privatized, and U.S. investors are involved, full NAFTA water rights will apply, including Chapter 11 investor rights to sue the government of Canada for losses sustained if NAFTA rights are not upheld.

Regulations stacked in favour of Site C

The provincial Clean Energy Act 2010 (CEA) and the federal Canadian Environmental Assessment Act 2012 (CEAA), both enacted by undemocratic means for questionable purposes, "stacked the deck" in favour of Site C by making it easier for governments to ignore evidence, bypass public consultation and restrict environmental and needs assessment.

The CEA exempts BC Hydro from having to obtain from BCUC — the same body that rejected Site C in 1980 — a "certificate of public convenience and necessity," without which the project could not proceed, opening the door to provincial authorities making decisions against the public interest and relatively immune from review. As Blair Lekstrom later conceded, the CEA enabled B.C. to "streamline" approval of Site C.

For its part, the CEAA was introduced by the Harper government via the 425-page omnibus Bill C-38, which precluded consultation with First Nations and prevented responsible voting. The bill included provisions that weakened environmental assessment, reduced fish habitat protection and increased the cabinet's ability to make arbitrary decisions.

Most importantly, the new CEAA reversed the presumption of application of the federal environmental assessment process: while the 1992 version of the act required such an assessment, now only those projects specifically designated by the gover-

Site C represents the violation and extinguishment of treaty rights agreed to over 100 years ago and is a betrayal of recent reconciliation promises.

nor-in-council (GIC) need to be reviewed. Unlike its predecessor, the CEAA gives the minister of environment unilateral power to change the types of projects that are subject to review. If a designated project is deemed likely to cause significant adverse environmental effects, as in the case of Site C, the matter must be referred to the GIC to determine if such effects are "justified in the circumstances."

However, the CEAA does not furnish explicit criteria to be taken into account. There is no requirement, for example, for the GIC to consider reports drafted by a review panel, and directly respond to the concerns raised, when determining whether such a project is justified and should proceed. This permits decisions to be made that are at odds with scientific evidence, expert recommendations and the public interest. As distinguished academic Robert Gibson has stated, "The new law gets its streamlining chiefly by undermining effectiveness."

As if these statutory changes did not bestow a sufficient advantage for Site C approval, in May 2014 the Liberal cabinet appointed Jessica McDonald, one-time deputy minister to former premier Gordon Campbell, as president and CEO of BC Hydro, even though she had no experience in the energy sector.

The failed legal challenges

It is perhaps not surprising, then, that the lawsuits seeking judicial intervention to stop Site C have all failed so far. Firstly, there was significant inequality between the parties to these suits. On the one hand, Site C proponents (BC Hydro, provincial and federal attorneys general and ministers) were lavishly funded from the public purse, arguably while promoting private interests. On the other hand, opponents advocating for the public interest essentially passed the hat to raise funds. Secondly, each of the four judicial reviews heard so far has focused on a narrow aspect of the law in isolation from examining the issue of justification for Site C and the failure of the assessment and approval processes to honour Treaty 8 rights, protect the environment and ensure evidence-based decisions in the public interest.

In *Peace Valley Landowner Association v. British Columbia (Environment)*, an association of affected land-owners in the Peace Valley region (PVLA) challenged the provincial minister of environment's decision to issue an environmental assessment certificate on the grounds that the minister did not take into account the JRP's "Economic Recommendations" and did not provide reasons for approving the project. Based on the conclusion that there was no need for Site C, the JRP recommended referral to BCUC for detailed examination of and public comments on "costs…and revenue requirements," "a reasonable long-term pricing scenario for electricity and its substitutes," and "load forecast and demand side management plan details." The Court dismissed PVLA's application, ruling it was not necessary for the minister to give reasons for issuing the certificate and that the recommendations relied on were "not specific to the Project" and "outside the scope of the [JRP's] mandate."

It is difficult to see how recommendations that the project's costs, pricing and demand forecast should be subjected to rigorous scrutiny could be legitimately ignored by the minister, especially given the JRP's conclusion that "[j]ustification [for Site C] must rest on an unambiguous need for the power, and analyses showing its financial costs being sufficiently attractive as to make tolerable the bearing of substantial…costs." As such, the decision effectively endorsed the province's use of the B.C. statutory framework to avoid examination by BCUC and the public. The B.C. Court of Appeal dismissed the subsequent appeal, ruling that while the recommendations were not outside the JRP's remit, they did not satisfy the precise definition of "recommendations." In essence, the appeal was defeated on a mere technicality.

The ruling by the Federal Court in another application by the PVLA was similarly problematic. The PVLA sought judicial review of the GIC's decision to accept the significant adverse environmental effects of Site C as "justified in the circumstances." Although the GIC refused to produce the record of information before it when making its decision, the Court gave it the benefit of the doubt by inferring from the vaguely worded order-in-council and accompanying press release that all relevant economic considerations had been adequately considered. Given the uncontroversial evidence there was no need for, and enormous consequential damage from, Site C, the Court's ruling — "[t]here is no basis to find that the GIC's justification decision was either taken without regard for the purpose of the CEAA 2012, or that economic considerations were not taken into account, or that the decision was not reasonable" — is difficult to reconcile with the facts.

In *Prophet River First Nation v. Canada (Attorney General)*, Prophet River First Nation and Moberly River First Nations of Treaty 8 sought judicial review of the GIC's decision to approve Site C without first considering whether it infringed rights guaranteed by Treaty 8. Dismissing the claim, the Federal Court ruled that although it was necessary for the GIC to *consider* the negative impacts of Site C on Treaty 8 rights, whether these impacts would actually infringe treaty rights was not a matter the GIC had to consider or an appropriate issue for the Court to consider on a judicial review. The ruling inevitably delays

determination of this constitutional issue while environmental destruction continues. In *Prophet River First Nation v. British Columbia (Environment)*, the B.C. Supreme Court dismissed the application to quash provincial approval on grounds that the ministers failed to consider whether the project would violate Treaty 8 rights and whether the federal government had discharged its duty to consult with Treaty 8 members.

In effect, these decisions support B.C. Premier Christy Clark's goal that Site C should reach "the point of no return" before the provincial elections in May 2017. In fact, BC Hydro has predicted that construction contracts worth no less than $4 billion will have been signed by then.

According to provincial rules, contracts for the purchase of materials and service or construction must be tendered publicly if they are valued at more than $25,000 or $100,000, respectively. However, it has been revealed that BC Hydro relied on the exemptions of "critical expertise," "extension due to increased scope," and "time constraints" to award 27 contracts, worth between $30,373 and $900,000, outside of open tendering. Not only does such non-competitive tendering risk undermining public trust in BC Hydro, it will almost certainly further inflate Site C's costs — especially when there is a history of directly-awarded contracts ballooning in value between their announcement and final delivery of services.

Finally, BC Hydro launched two lawsuits to halt public displays of opposition to Site C and potentially impose crippling damages on protesters: the first against members of Treaty 8 Nations and other Peace Valley residents camped at Site C, and the second against people camped in front of BC Hydro's Vancouver office.

In the first case, without reference to the defendants' internationally protected rights to engage in peaceful protest or consideration of the interests that the protesters were seeking to protect, the B.C. Supreme Court granted an injunction, stating "Hydro is seeking to address wrongful behaviour to allow it to exercise its civil right (and obligation) to carry out the construction of the Site C dam." The second suit was settled by protesters unable to fund a defence. Disquietingly, when all other means of holding governments to account have failed, even peaceful protest has been restricted.

What does the future hold?

Given the apparent futility of challenging Site C through the courts, it remains unclear how to halt this unjustified project, the violation of Treaty 8 rights and its permanent environmental, social, cultural and economic damage. Two possibilities, however, are beginning to emerge.

The first is to bring suit against the provincial government for infractions of laws relating to Site C's construction. A small victory may already be on the horizon in this regard. In July, the environmental group Sierra Club Canada filed a petition for judicial review of the decision of the provincial minister of forests, lands, and natural resource operations to exempt BC Hydro from prosecution for offences under the Wildlife Act 1996. In essence, BC Hydro was granted an "authorization" to conduct amphibian salvage before being assigned a permit — the only lawful means of undertaking wildlife operations.

Not only is such "authorization" beyond the minister's authority, it appears officials knew this and issued one anyway in an apparent attempt to shield BC Hydro from prosecution (by enabling it to claim that it did not know that its activities were illegal). A judicial review is also just beginning of the Fisheries and Oceans permit authorizing BC Hydro to carry out activities that will cause the extirpation of fish, the permanent destruction of fish habitat, and the ruination of Aboriginal and other fisheries in contravention of the Fisheries Act 1985.

Furthermore, B.C.'s auditor general, Carol Bellringer, is currently looking into BC Hydro's policies and practices and said she would be releasing details of an upcoming Site C report in the coming weeks. The accounting practices at BC Hydro, as well as an examination of BCUC, are also part of the auditor general's current performance audit coverage plan. We can only hope this investigation, and the pending court challenges, will shed light on the opaque ministerial decision-making leading to Site C's approval, BC Hydro's underhanded contract tendering process, and the means by which it attempts to justify an unneeded and calamitous project.

In the interim, opposition to Site C continues to mount. Grand Chief Stewart Phillip, president of the Union of BC Indian Chiefs, recently expressed outrage at the "underhanded" approval of the Fisheries Act permits "in the face of enormous opposition here in the province of British Columbia from both Treaty 8 people, indigenous people, as well as the general public." The Union of BC Municipalities passed a resolution in September calling for the immediate suspension of all work on Site C, a review of the project by BCUC, and a public hearing and consultation process. If such efforts stop Site C, they may also help initiate meaningful reconciliation with First Nations that has so far been wanting from the Trudeau government. M

Not only does Site C purport to solve a problem that does not exist, it is also far from the cheapest option to meet B.C.'s energy needs.

Asad Ismi

Canada's "looting of Honduras"

"THE CANADIAN GOVERNMENT needs to act in a responsible manner and should stop giving legitimacy to the Honduran regime which has criminalized and killed many people in my country and has created a grave situation there. The Canadian government should remove all their companies, investments and financing from Honduras."

This was the plea of Berta Zúñiga Cáceres when I interviewed her at the World Social Forum in Montreal this summer. Zúñiga is the daughter of renowned Indigenous Honduran environmentalist Berta Cáceres, who was murdered this March by assassins linked to the Honduran military. Berta was targeted for her prominent role in the Lenca nation's opposition to the construction of the Agua Zarca dam on its territory in the area of Rio Blanco.

Desarrollos Energéticos SA (DESA), a Honduran company with Dutch financing, wants to expropriate Lenca land for a dam on the Gualcarque River that will deeply affect farmland on which the community's livelihood depends. Opponents to the project and others like it in Honduras—the post-2009 coup regime has signed 40 private hydroelectric agreements without consulting affected communities—are routinely threatened, their actions criminalized. When this fails, those who speak out can end up tortured, disappeared or killed.

As Zúñiga emphasized in our conversation, Canada, as one of the first countries to endorse the right-wing government installed after the 2009 military coup in Honduras, "legitimized all the deaths and all the killings that were done in the name of this coup." They include that of her mother, Berta, and the more than 100 environmentalists killed between 2010 and 2014, as counted by British NGO Global Witness. Before she was killed, Berta Cáceres was also helping organize Lenca opposition to a dam on the Canjel River that is being built by Hydrosys, a Canadian company.

"Yes, absolutely, the Canadian government is complicit in Berta Cáceres' murder," says Karen Spring, the Honduras-based co-ordinator of the Honduras Solidarity Network. Shortly after backing the coup, the Conservative government signed a Canada-Honduras Free Trade Agreement (in 2011), "ignoring the well-documented human rights violations being committed against Honduran environmentalists, journalists, Indigenous leaders, and peasant farmers," she says.

"The free trade agreement (FTA) has facilitated and legitimized the continued repression as well as the looting of Honduras by Canadian companies, particularly in the textile, mining and hydroelectrical sectors. Canada assisted in improving Honduras' image internationally and gave the impression to other foreign governments that post-coup Honduras is a country to invest in."

The Canadian government provides other support to the Honduran government, including security training. As reported previously in the *Monitor*, the Harper government even helped write a new Honduran mining law (as it has done in other countries). These actions, according to Spring, "sent a message loud and clear to the Honduran population: Canada supports and endorses widespread human rights violations, the military coup, impunity, and corruption."

Honduran radio journalist Félix Antonio Molina agrees that both the Canadian and Honduran governments are complicit in Berta Cáceres's murder. Molina, a prominent critic of his government, fled Honduras in May after two attempts were made on his life in one day. Since the coup, 59 journalists have been murdered in Honduras, according to TeleSUR, making the country the second most dangerous place to be a reporter in Latin America after Mexico.

"The Canada-Honduras FTA helped normalize the plunder of Indigenous lands and financed the repression of the national resistance against the coup," says Molina, adding it "also gave political legitimacy to a regime that had little support in Honduran society, a regime that was economically weak, and completely militarized."

Canadian direct investment in Honduras intensified after Hurricane Mitch in 1998, according to an article by Sabrina Escalera-Flexhaug for the Council on Hemispheric Affairs, when aid money was tied to the introduction of Canadian firms to the country. But mining concessions were threatened by the election, in 2006, of left-wing president Manuel Zelaya, who was proposing reforms to land use and mining policy before the coup that deposed him.

"Canadian mining in Honduras has a long history of committing not only severe environmental crimes but also crimes against humanity," Zúñiga told me at the World Social Forum, accusing Goldcorp of having "destroyed the Siria Valley" with toxic pollution and "spreading lots of cancer amongst the people there with their operations."

Spring, who has written a report on Canadian mining in Honduras, explains that Goldcorp began operations in the Siria Valley in 1999 but closed its San Martin mine there in 2008 after an eight-year fight by the community against environmental contamination, repression and the criminalization of local leaders. "Today, the population of Siria Valley and a large majority of Goldcorp's former employees are suffering ongoing health problems including hair loss, skin rashes and rare cancers caused by the environmental contamination left behind by the mine," she says.

Another Canadian firm, Aura Minerals, which operates in western Honduras, is currently attempting to dig up and displace a 200-year old cemetery to expand its open-pit gold mining operation, despite widespread community resistance.

Besides mining, Canadian government fact sheets on Honduras note "prominent" investments in the country's garment manufacturing sector. Montreal-based Gildan Activewear, for example, chose Honduras as its main base of operations in 1997 and is today the country's largest private sector employer with about 26,000 workers. Honduras is the fifth largest exporter of textiles to the U.S., and Gildan increased exports to Canada after tariffs were eliminated by the Canada-Honduras FTA.

Spring describes Gildan as "one of the biggest violators of labour rights in the maquiladora sector," with hundreds of mostly women workers subject to extremely high production quotas and suffering from "serious musculo-skeletal disorders like tendinitis and carpel tunnel from the repetitive movements on the assembly lines." Gildan has also been accused of firing workers who tried to unionize, all allegations the company denies.

According to Canada's trade commissioner for Honduras, speaking in 2014, investment opportunities are opening up in the country for infrastructure, such as renewable energy (presumably hydro). Questionable land sales have also attracted investors in the tourism industry.

Randy Roy Jorgensen, a Canadian known as the "porn king" (for becoming wealthy through a chain of pornographic video stores), is building several tourism projects in Honduras on Indigenous Garifuna territory in the Bay of Trujillo. Gated communities, an oceanfront commercial center and a dock for cruise ships are all part of Jorgensen's plan, staunchly opposed by OFRANEH, the Fraternal Black Organization of Honduras, which has sued to stop it from happening.

Molina is convinced Jorgensen has evaded justice so far because "his influence with ex-Honduran President Porfirio Lobo Sosa and the current president Juan Orlando Hernández provide him with impunity."

Berta Zúñiga Cáceres, 25, stands next to a WSF memorial to her mother, who was assassinated earlier this year for opposing hydroelectric dams in Honduras.

KRISTIN SCHWARTZ

Trade Minister Chrystia Freeland supported the FTA as opposition trade critic in 2014, but with caution.

"In implementing this trade deal, we have to be very aware of what is going on in Honduras and to the possibility that by having a trade deal with this country and having our companies engaged with it we could be complicit in political, environmental and labour violations," she said in the House of Commons. "We do not just sign a deal and walk away; we have to watch closely and be absolutely certain that we and Canada are behaving well." (Freeland's office had not replied to my requests for comment before the *Monitor* went to print.)

On June 2, the 25-year-old Berta Zúñiga Cáceres spoke by videoconference to a parliamentary subcommittee on human rights during a special session on Honduras. She made it clear the Canadian government's role in Honduras, and Canadian investment there, were "part of the problem we have in our country." She told MPs about the pattern of repression against Hondurans who speak up for human rights and against environmental impacts, especially those linked to the mining industry.

Zúñiga called the Canada-Honduras FTA "illegitimate, because it was signed by the post-coup government that was not democratically elected," and said the new national mining code the Canadian government helped create, "legitimizes mining extraction in Honduras, and is at the root of all of the problems we are having." She asked the Canadian government to investigate the actions of Canadian businesses in Honduras, its own participation in the coup and the impacts of the free trade agreement on human rights.

"The Lenca people have resisted colonialism for 500 years," Zúñiga told me in August. "And now the genocide of my people started by the Spanish invaders continues through neocolonialism, with companies taking all the territories and resources, stealing the rivers, the water, the Earth. Thirty-five per cent of Honduras has been given as concessions to private companies. Our resistance is about confronting raw capitalism, the monster that is trying to dominate us through militarization and assassination."

In spite of the many attacks on her people, Zúñiga said "we still retain our own way of life, which is to live in harmony with nature and with other humans. We are battling to preserve this." M

The good news page

Compiled by Elaine Hughes

Regenerate

What's old is new again in Sweden and Minnesota. The Swedish government is proposing tax breaks for people who choose to repair broken appliances (such as fridges, ovens, dishwashers and washing machines) rather than buying new models. Per Bolund, the Green Party minister of financial markets and consumer affairs, estimates cutting the value-added tax for repairs will spur the creation of a new home-repairs service industry, providing much-needed jobs for new immigrants who lack formal education. Across the pond, over the last 20 years, the Fond du Lac Band of Lake Superior Chippewa has been slowly restoring wild rice (*manoomin* in Ojibwe) along the St. Louis River estuary into Lake Superior at Duluth, sustaining up to 3,000 acres of the crop. A partnership of agencies plans to restore up to 250 more acres of wild rice over the next 5–10 years. "This was sort of a perfect place, a Mecca of sorts is what my uncle called it," says Thomas Howes, the band's natural resources director. "Everything that one needed for a good life was provided by the environment here." St. Louis Rams centre Jason Brown is also going back to the land. He taught himself to till his 1,000 acres in Louisburg, North Carolina by watching YouTube videos. Brown donates the first fruits of his labour each season to pantries feeding the less fortunate. / Guardian U.K. / Minnesota Public Radio / Good News Network

Repurpose

The nonprofit Trust for Public Land has donated 400 acres of land to Yosemite National Park, allowing it to expand for the first time in 70 years. "Donating the largest addition since 1949 to one of the world's most famous parks is a great way to celebrate the 100th birthday of our National Park Service—and honour John Muir's original vision for the park," said trust president Will Rogers. While Yosemite grows for wildlife, Paris is realizing the benefits of shrinking space for cars. Mayor Anne Hidalgo initiated the city's first Car-Free Day on September 25 last year, when about 650km of roads were shut down to traffic. Airparif, an independent air pollution monitor, said nitrogen dioxide levels dropped 40% and, according to Bruitparif, sound levels were halved in the city centre. "It's one day without cars, it's symbolic, but at the same time it allows us to imagine what the city of tomorrow could be, or at least a city where you get around differently," said Deputy Mayor Christophe Najdovski during this year's Car-Free Day. Mayor Hidalgo has also supported a "Paris Breathes" day that clears traffic from eight lanes of the Champs-Élysées once a month. The plastic of Paris will not get off so easy. After banning plastic bags in July, France announced in September it will ban all plastic cups, plates and cutlery by the year 2020. Over objections from the packaging industry, disposable dishes will have to be made from compostable, biologically sourced materials. Of course, plastic has its uses, too. After nearly dying in a Karachi, Pakistan hospital 22 years ago, Nargis Latif created the Gul Bahao (flow the flowers) project, which takes the city's daily accumulation of 12,000 tonnes of rubbish to make plastic bricks for shelters (including a movable shelter for victims of the 2005 earthquake, and during floods and droughts since then), reservoirs and mobile toilets. "It's an environmentalist's dream," she says. "The world will be clean of pollution and plastic bags because we're putting them to good use." Reuters / Guardian U.K. / Associated Press / Al Jazeera

Recreate

Scientists at Australian National University (ANU) have set a world record with their solar thermal dish capable of converting 97% of sunlight into steam, beating commercial systems by 7%. "This new design could result in a 10% reduction in the cost of solar thermal electricity," said John Pye of the ANU Research School of Engineering. It won't help, but nor will it hinder, the maiden voyage this February of the $4-million Energy Observer, a multi-hulled, trophy-winning catamaran that hopes to be the first boat to circumnavigate the planet powered only by solar, wind and self-generated (from desalination) hydrogen. Over an estimated six years, the Energy Observer will stop in 50 countries and 101 ports as a floating exhibition and clean energy laboratory. "The aim is actually to achieve energy self-sufficiency," said Victorien Erussard of France, who is behind the project. "This self-sufficiency can be transferred to land applications such as buildings, schools, hotels and so on." Energy Observer will surely travel to the Pacific Islands, where the Women's Barefoot Solar Engineering initiative, run out of Barefoot College, is training women to install solar panels and become solar trainers, in the process delivering renewable energy to 2,800 households in Fiji, Vanuatu, Samoa, Tonga, Kiribati, Tuvalu, Nuie, Solomon Islands, Cook Islands, Micronesia, Marshall Islands, Palau, and Papua New Guinea. "We have a responsibility to value and honour the skills, wisdom and knowledge of those not formally educated, the marginalized, discounted and those so often undervalued and under utilized." says Meagan Fallone, CEO of Barefoot College. / Business Insider / Barefoot College

Military responds to mining protest in Peru

THOMAS QUIRYNEN AND MARIJKE DELEU, CATAPA

A review essay by Jen Moore

More than a few bad apples

"Militarized neoliberalism" and the Canadian state in Latin America

THE BLOOD OF EXTRACTION: CANADIAN IMPERIALISM IN LATIN AMERICA

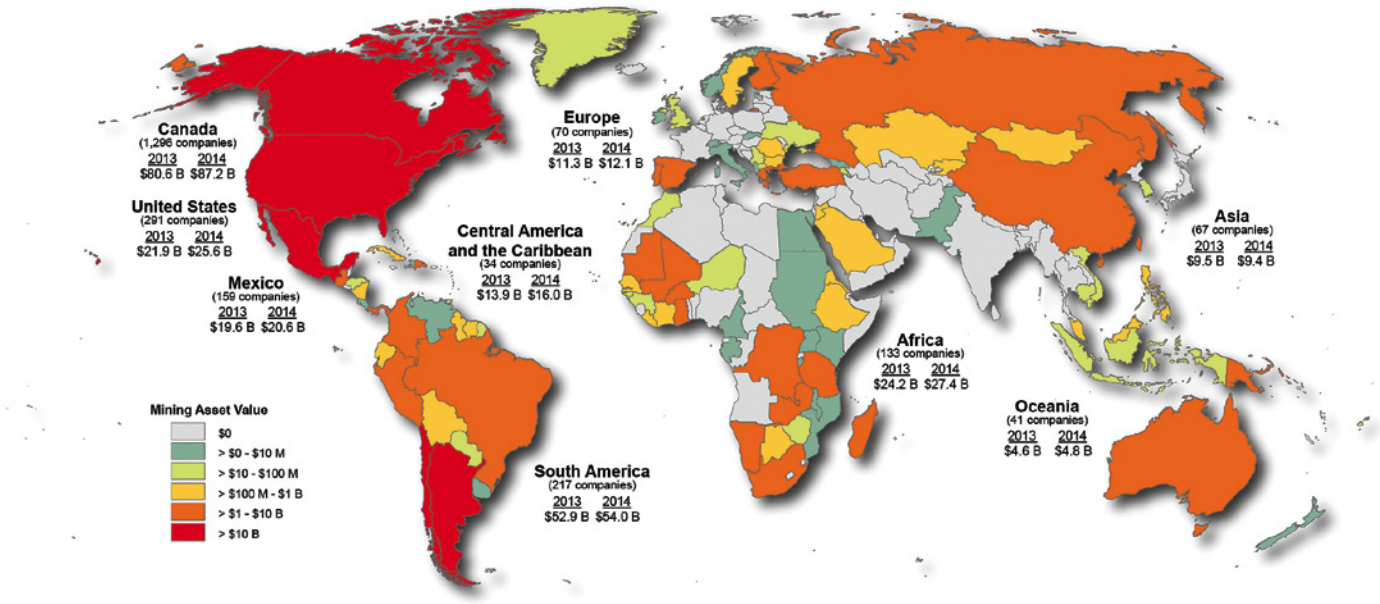
TODD GORDON AND JEFFERY R. WEBBER

Fernwood Publishing, November 2016

STORIES OF BLOODY, degrading violence associated with Canadian mining operations abroad sporadically land on Canadian news pages. HudBay Minerals, Goldcorp, Barrick Gold, Nevsun and Tahoe Resources are some of the bigger corporate names associated with this activity. Sometimes our attention is held for a moment, sometimes at a stretch. It usually depends on what solidarity networks and under-resourced support groups can sustain in their attempts to raise the issues and amplify the voices of those affected by one of Canada's most globalized industries. But even they only tell us part of the story, as Todd Gordon and Jeffery Webber make painfully clear in their new book, *The Blood of Extraction: Canadian Imperialism in Latin America*.

"Rather than a series of isolated incidents carried out by a few bad apples," they write, "the extraordinary violence and social injustice accompanying the activities of Canadian capital in Latin America are systemic features of Canadian imperialism in the twenty-first century." While not completely focused on mining, *The Blood of Extraction* examines a considerable range of mining conflicts in Central America and the northern Andes. Together with a careful review of government documents obtained under access to information requests, Gorden and Webber manage to provide a clear account of Canadian foreign policy at work to "ensure the expansion and protection of Canadian capital at the expense of local populations."

Fortunately, the book is careful, as it must be in a region rich with creative community resistance and social movement organizing, not to present people as mere victims. Rather, by providing important context to the political economy in each country studied, and illustrating the truly vigorous social organization that this destructive development model has awoken, the authors are able to demonstrate the "dialectic of expansion and resistance." With care, they also show how Canadian tactics become differentiated to capitalize on relations with governing regimes considered friendly to Canadian interests or to try to contain changes taking place in countries where the model of "militarized neoliberalism" is in dispute.



Canadian mining investment abroad
NRCAN

The spectacular expansion of "Canadian interests" in Latin America

We are frequently told Canadian mining investment is necessary to improve living standards in other countries. Gordon and Webber take a moment to spell out *which* "Canadian interests" are really at stake in Latin America—the principal region for Canadian direct investment abroad (CDIA) in the mining sector—and what it has looked like for at least two decades: "liberalization of capital flows, the rewriting of natural resource and financial sector rules, the privatization of public assets, and so on."

Cumulative CDIA in the region jumped from $2.58 billion in stock in 1990 to $59.4 billion in 2013. These numbers are considerably underestimated, the authors note, since they do not include Canadian capital routed through tax havens. In comparison, U.S. direct investment in the region increased proportionately about a quarter as much over the same period. Despite having an economy one-tenth the size of the U.S., Canadian investment in Latin America and the Caribbean is about a quarter the value of U.S. investment, and most of it is in mining and banking.

To cite a few of the statistics from Gordon and Webber's book, Latin America and the Caribbean now account for over half of Canadian mining assets abroad (worth $72.4 billion in 2014). Whereas Canadian companies operated two mines in the region in 1990, as of 2012 there were 80, with 48 more in stages of advanced development. In 2014, *Northern Miner* claimed that 62% of all producing mines in the region were owned by a company headquartered in Canada. This does not take into consideration that 90% of the mining companies listed on Canadian stock exchanges do not actually operate any mine, but rather focus their efforts on speculating on possible mineral finds. This means that, even if a mine is eventually controlled by another source of private capital, Canadian companies are very frequently the first face a community will see in the early stages of a mining project.

The results have been phenomenal "super-profits" for private companies like Barrick Gold, Goldcorp and Yamana, who netted a combined $2.8-billion windfall in 2012 from their operating mines, according to the authors. (Canadian mining companies earned a total of $19.3 billion that year.) Between 1998 and 2013, the authors calculate that these three companies averaged a 45% rate of profit on their operating mines when the Canadian economy's average rate of profit was 11.8%.

Compare this to Canada's miserly Latin American development aid expenditures of $187.7 million in in 2012—a good portion of this destined for training, infrastructure and legislative reform programs intended to support the Canadian mining sector. Or consider that the same year $2.8 billion was taken out of Latin America by three Canadian mining firms, remittances back to the region from migrants living in Canada totalled only $798 million (much more than Canadian aid).

Without spelling out the long-term social and environmental costs of these operations—costs that are externalized onto affected communities—or going into the problematic ways that private investment and Canadian aid can be used to condition local support for a mine project, Gordon and Webber posit that "super-profits" may be precisely the "Canadian interests" the government's foreign policy apparatus is set up to defend—not authentic community development, lasting quality jobs or a reliable macroeconomic model.

State support for "militarized neoliberalism"

The argument that the role of the Canadian state is "to create the best

possible conditions for the accumulation of profit" is central to Gordon and Webber's book. From the Prime Minister's Office (PMO) down, Canadian agencies and foreign policy have been harnessed to justify "Canadian plunder of the wealth and resources of poorer and weaker countries." Furthermore, they write, Canada has actively supported the advancement of "militarized neoliberalism" in the region, as country after country has returned to extractive industry, and export-driven and commodity-fuelled economic growth, which comes with high costs for affected-communities and other macroeconomic risks:

> The extractive model of capitalism maturing in the Latin American context today does not only involve the imposition of a logic of accumulation by dispossession, pollution of the environment, reassertion of power of the region by multinational capital, and new forms of dependency. It also, necessarily and systematically involved what we call militarized neoliberalism: violence, fraud, corruption, and authoritarian practices on the part of militaries and security forces. In Latin America, this has involved murder, death threats, assaults and arbitrary detention against opponents of resource extraction.

The rapid and widespread granting of mining concessions across large swaths of territory (20% of landmass in some countries), regardless of who lives there or how they might value different lands, water or territory, has provoked hundreds of conflicts and powerful resistance from the community level upward. In reaction, and in order to guarantee foreign investment, in many parts of the region states have intensified the demonization and criminalization of land- and environment-defenders, while state armed forces have increased their powers, and para-state armed forces expanded their territorial control.

Far from being a countervailing force to this trend, the Canadian state has focused its aid, trade and diplomacy on those countries most aligned with its economic interests. It is not unusual to see public gestures of friendship or allegiance toward governments "that share [Canada's] flexible attitude towards the protection of human rights," such as Mexico, post-coup Honduras, Guatemala and Colombia. Meanwhile, Canada has used diverse tactics (in Venezuela and Ecuador, for example) to contain resistance and influence even modest reforms.

Canada's 'whole-of-government' approach in Honduras

One of the more detailed examples in *Blood of Extraction* of Canadian imperialism in Central America covers Canada's role in Honduras following the military-backed coup in June 2009. Documents obtained from access to information requests provide new revelations and new clarity into how Canadian authorities tried to take advantage of the political opportunities afforded by the coup to push forward measures that favour big business. Once again, though other economic sectors are discussed, mining takes centre stage.

After the terrible experience of affected communities with Goldcorp's San Martin mine (from the year 2000 onward), Hondurans successfully put a moratorium on all new mining permits pending legal reforms promised by former president José Manuel Zelaya. On the eve of the 2009 coup, a legislative proposal was awaiting debate that would have banned open-pit mining and the use of certain toxic substances in mineral processing, while also making community consent binding on whether or not mining could take place at all. The debate never happened.

Instead, shortly after the coup, and once a president more friendly to "Canadian interests" was in place following a questionable election, the Canadian lobby for a new mining law went into high gear. A key goal for the Canadian government, according to an embassy memo, was "[to facilitate] private sector discussions with the new government in order to promote a comprehensive mining code to give clarity and certainty to our investments." Another embassy record said that mining executives were happy to assist with the writing of a new mining law that would be "comparable to what is working in other jurisdictions" and developed with a resource person with whom their "ideologies aligned."

In a highly authoritarian and repressive context, and under the deceptive banner of corporate social responsibility, the Canadian Embassy—with support from Canadian ministerial visits, a Honduran delegation to the annual meeting of the Prospectors & Developers Association of Canada (PDAC), and overseas development aid to pay for technical support—managed to get the desired law passed in early 2013, lifting the moratorium. Then, in June 2014, with full support from Liberals and Conservatives in the House of Commons and the Senate, Canada ratified a free trade agreement with Honduras, effectively declaring that "Honduras, despite its political problems, is a legitimate destination for foreign capital," write Gordon and Webber.

Contrary to the prevailing theory in Canada that sustaining and increasing economic and political engagement with such a country will lead to improved human rights, the social and economic indicators in Honduras have gotten worse. Since 2010, the authors note, Honduras has the worst income distribution of any country in Latin America (it is the most unequal region in the world). Poverty and extreme poverty rates are up by 13.2% and 26.3%, respectively, after having fallen under Zelaya by 7.7% and 20.9%. Compounding this, Honduras is now the deadliest place to fight for Indigenous autonomy, land, the environment, the rule of law, or just about any other social good.

A strategy of containment in Correa's Ecuador

In contrast to how Canada has more strongly aligned itself with Latin American regimes openly supportive of militarized neoliberalism, the

experience in Ecuador under the administration of President Rafael Correa illustrates how Canada considers "any government that does not conform to the norms of neoliberal policy, and which stretches, however modestly, the narrow structures of liberal democracy...a threat to democracy as such."

In the chapter on Ecuador, Gordon and Webber provide a detailed account of Canada's "whole-of-government" approach to containing modest reforms advanced by Correa and undermining the opposition of affected communities and social movements to opening the country to large-scale mining. A critical moment in this process occurred in mid-2008, when a constitutional-level decree was issued in response to local and national mobilizations against mining. The Mining Mandate would have extinguished most or all of the mining concessions that had been granted in the country without prior consultation with affected communities, or that overlapped with water supplies or protected areas, among other criteria. It also set in place a short timeline for the development of a new mining law.

The Canadian embassy immediately went to work. Meetings between Canadian industry and Ecuadorian officials, including the president, were set up to ensure a privileged seat at talks over the new mining law. Gordon and Webber's review of documents obtained under access to information requests further reveals that the embassy even helped organize pro-mining demonstrations together with industry and the Ecuadorian government. Embassy records describe their intention "to create sympathy and support from the people" as part of a "a pro-image campaign," which included "an aggressive advertisement campaign, in favour of the development of mining in Ecuador." Meanwhile, behind closed doors, industry threatened to bring international arbitration against Ecuador under a Canada–Ecuador investor protection agreement (which a couple of investors eventually did).

Ultimately, the authors conclude, Canadian diplomacy "played no small part" in ensuring that the Mining Mandate was never applied to most Canadian-owned projects, and that a relatively acceptable new mining law was passed in early 2009. While embassy documents show the Canadian government considered the law useful enough to "open the sector to commercial mining," it was still not business-friendly enough, particularly because of the higher rents the state hoped to reap from the sector. As a result, the embassy kept up the pressure, including using the threat of withholding badly needed funds for infrastructure projects until mining company concerns were addressed and dialogue opened up with all Canadian companies.

Not discussed in *The Blood of Extraction*, we also know the pressure from Canadian industry continued for many more years, eventually achieving reforms, in 2013, that weakened environmental requirements and the tax and royalty regime in Ecuador. Meanwhile, as the door opened to the mining industry, mining-affected communities and supporting organizations were feeling the walls of political and social organizing space cave in, as they faced persistent legal persecution and demonization from the state itself, while the serious negative impacts of the country's first open-pit copper mine started to be felt.

Canada's "cruel hypocrisy"

The Blood of Extraction is a helpful portrait of "the drivers behind Canadian foreign policy." Gordon and Webber lay bear "a systematic, predictable, and repeated pattern of behaviour on the part of Canadian capital and the Canadian state in the region," along with its systemic and almost predictable harms to the lives, wellbeing and desired futures of Indigenous peoples, communities and even whole populations. They call it Canada's "cruel hypocrisy."

The problem is not Goldcorp or HudBay Minerals, Tahoe Resources or Nevsun. These companies are all symptoms of a system on overdrive, fuelling the overexploitation of land, communities, workers and nature to fill the pockets of a small transnational elite based principally in the Global North. If we cannot see how deeply enmeshed Canadian capital is with the Canadian state—how "Canadian interests" are considered met when Canadian-based companies are making super-profits, even through violent destruction—we cannot get a sense of how thoroughly things need to change. **M**

Reviewed by Frank Bayerl

WHO RULES THE WORLD?

NOAM CHOMSKY

Metropolitan Books (May 2016), 307 pages, $39.00

ALTHOUGH NOT BILLED as such, *Who Rules the World* is a compilation of previously published essays and articles on a wide variety of topics. Noam Chomsky travels virtually all of global politics here, but with special emphasis on the Middle East, terrorism, neoliberalism, corporate control over supposedly democratic institutions, and the role and position of the United States as a world power.

He devotes special attention to the question whether the United States is in decline. U.S. power reached its apex at the end of the Second World War, he argues, but he is dubious about the idea that power will soon shift to China or India, concluding: "in the foreseeable future there is no competitor for global hegemonic power. Despite the piteous laments, the United States remains the world's dominant power by a large margin, with no competitor in sight, and not only in the military dimension, in which of course, the United States reigns supreme."

The preservation of civil liberties in an age of terrorist attacks is the subject of an interesting treatment of Magna Carta and the related, but much less well known, Charter of the Forest, which was concerned with protecting common resources from monopolization by the elite (privatization in today's terms). Chomsky cites President Obama's heavy reliance on drone attacks and "executive assassi-

Chomsky speaking at Occupy Wall Street in 2011.
ADAM RUSK

nation" as egregious assaults on the due process and habeas corpus guarantees arising from Magna Carta.

One of the book's best, if not most topical, chapters is devoted to the Cuban missile crisis of 1962. Chomsky's masterful recounting of this most dangerous moment of the Cold War, replete with lesser-known backstory, undermines the usual narrative of unprovoked Russian aggression skilfully countered by John F. Kennedy. In late 1961, for example, the CIA launched Operation Mongoose, a program of paramilitary operations, economic warfare and sabotage directed at toppling the Castro regime.

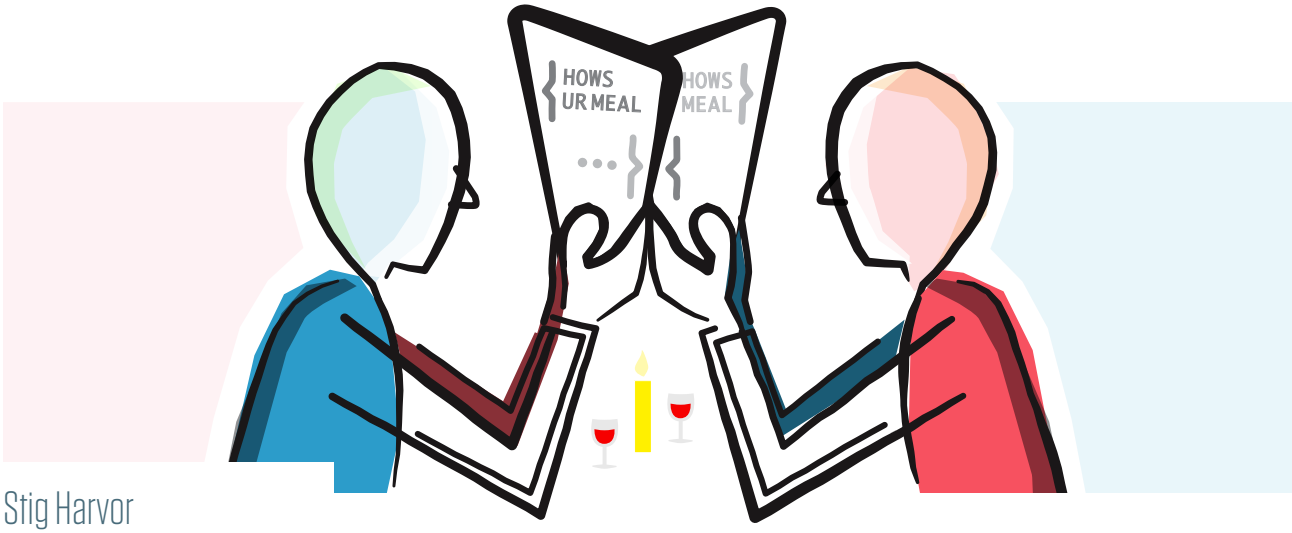
The Russian installation of missiles in Cuba was a logical response to threats from the United States—including a planned military intervention in 1962—and not an unjustified provocation, as portrayed then and generally today. A straight line can be traced from the U.S.-backed overthrow of the elected government of Guatemala in 1954 and the CIA-supported coup against Allende in Chile in 1973, not to mention the 1963 military coup in Brazil that led to years of terror and torture. The American ambassador to Brazil at the time cabled home that the coup should "create a greatly improved climate for private investments."

After consideration of how the European Union is compromised by its own adherence to austerity and neoliberalism (leading to Brexit), Chomsky looks at power dynamics in three regions: East Asia, Eastern Europe and the Islamic world. China's flexing of its military muscles—by building artificial islands in the Pacific and pressing territorial claims to distant sea zones—poses a potential threat to American, Japanese, Vietnamese and Philippine zones of influence, but can be seen as an attempt to protect its sea lanes and build a trading empire, Chomsky argues. The new Asian Infrastructure Investment Bank, opposed by the U.S. but joined by Australia and Britain, is another brick in this new Silk Road.

In Eastern Europe, Chomsky sees the western response to Russia's collapse as "triumphalist" and points out that NATO expansion eastward began immediately after the end of the Cold War, despite verbal assurances given to Mikhail Gorbachev that this would not happen. Given NATO's plans to eventually offer membership to Ukraine and Georgia, Russian President Vladimir Putin's actions in Ukraine, while not justifiable, are treated as more a reaction to provocation.

Finally, with regard to the Islamic world, virtually everyone will now agree with Chomsky about the tragic error of western intervention in Iraq. And it is becoming increasingly clear that Gadhafi's fall in Libya created a dangerous power vacuum, which allowed Islamic State fighters to spread out over large areas of West Africa. The author has surprisingly little to say about Syria, except that there were opportunities for diplomatic settlement that were ignored.

Who Rules the World is an uneven effort that contains some valuable insights but also a degree of repetition that more careful editing would have avoided. While Chomsky's views on most of the topics covered may be well known, readers unfamiliar with his previous books will find in it powerfully expressed and passionately held convictions about the global situation and what can be done to improve it. M



Stig Harvor

Am I out of touch with the world, or is the world out of touch with me?

I AM AN 87-YEAR-OLD retired architect. I was born in the historical period known as B.C., Before Computers. These incredible machines have transformed the world. They have enriched and bedeviled our lives with their innumerable, bewildering and ever quickly growing digital offspring. Small wonder my generation can feel lost.

When I first became aware of the rudimentary existence of computers, I resisted their use in my professional life. I felt my brain was a superior computer. My human brain had personal memory and was full of my experience of real life and work. It could produce better, more balanced solutions to challenges I faced. Computers could only work with what was fed into their mechanical brain, both in programming and data.

These days, computerized technological development is racing ahead and leaving me way behind. I cannot keep up with learning about and using these new, bewildering technical devices that are multiplying more quickly than advertising on radio and television.

Even the names, terminology and acronyms of these innumerable devices are mysterious: iPad, iPhone, smartphone, DSC, DVC, PND, PDA, and on and on endlessly. Among their features are touchtone interfaces, cameras, apps (I learned that means applications, not appendices), Wi-Fi, Bluetooth, NFC, GPS.

What do all these terms mean? Instructions for their use are full of incomprehensible jargon. It is like learning a foreign language without a dictionary.

After much effort, I may finally learn the rules of how to use at least some of the devices. Then frequent updates (improvements of what and why?) force me to learn new or revised rules. An agonizing relearning process starts anew.

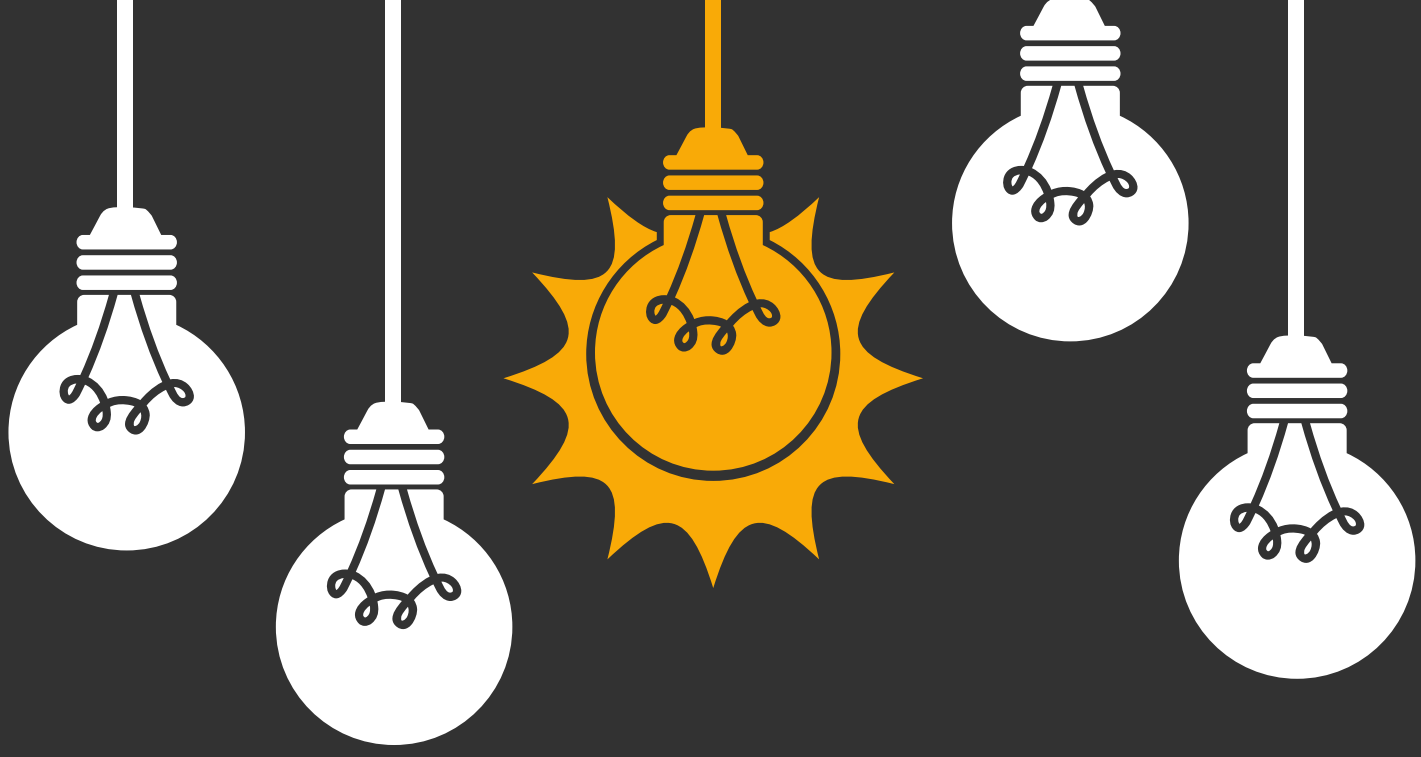
In our already occupied lives our brain and time become overloaded by computers and their offspring. We fail to connect the dots to a wider view of what is happening around us and what has happened before. We withdraw into our private lives. Even there, we are limited to 140 characters on Twitter. This has given rise to abbreviated spelling and a new incomprehensible jargon of acronyms. Where is the dictionary?

Computerized technology affects our behaviour. It has a hypnotic effect on us. Social texting becomes a substitute for direct, personal contact. Two persons at a table in a restaurant will be on their handheld devices rather than talking to each other. And how do they manage those minuscule texting buttons?

People will cross streets immersed in their devices. On sidewalks they bump into others by not looking up. The design of their immediate physical environment is no longer of any consequence. Forget about city planning and urban design, any nondescript environment will do. They are in their own electronic world. As an architect aware of the real world around me, this concerns me.

The speed of computers has introduced new stresses in our working lives. They instantly deliver communication like emails at any time of day or night. While handy, it often creates expectations of quick responses. There is precious little time for careful and considered thought. Deadlines are tight. Work speeds up.

To top it off, employees are expected to be reachable whether or not they are at work, even on weekends. In our already work-addicted environment, we are becoming slaves of our mechanical computing devices. We end up living to work, not working to live. Computers rule our lives. M



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