THE JOURNAL OF THE COMMITTEE ON MONETARY AND ECONOMIC REFORM

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$3.95 Vol. 29, No. 4 • JULY–AUGUST 2017

CONTENTS

Publications Mail Agreement No. 41796016

A Little Crooked House: Trudeau, Morneau, BMO & KPMG Inc.

By Paul Bentley, CounterPunch, June 6, 2017

There was a crooked man, and he walked
a crooked mile.
He found a crooked sixpence upon
a crooked stile
He bought a crooked cat, which caught
a crooked mouse,
And they all lived together in a little
crooked house.

Canada's Finance Minister Bill Morneau has recently reinvigorated his promise to crack down on tax evasion schemes, but how can we trust him when he is himself named in *The Panama Papers*? This issue, buried in the back-pages of last year's CBC coverage, is not raised by any of the major media outlets in Canada in connection with Morneau's current determination to "lay down the gauntlet" on tax loopholes.

In other countries like Iceland and Pakistan, and perhaps even Britain, government leaders have been forced to resign or subjected to criminal investigations as part of the fall-out of *The Panama Papers*.

If, as the *Toronto Star* claims, the Canada Revenue Agency (CRA) is now under orders from Morneau to pursue Criminal Charges against "tax cheats," shouldn't they be investigating their own boss? Or is this another case of the old political trick of "hiding in plain sight"?

There is no doubt that as Executive Chair of Morneau Shepell, the pension and investments consulting firm he inherited from his father, Morneau was responsible for hiring the legal services of Lennox Corporate Services Ltd., to set up a tax evasion scheme in the Bahamas. According to the ICIJ site this was done in February of 2014, and Morneau did not retire from the firm until October 2015.

The excuses offered for Morneau are that, according the CBC, Morneau "resigned from Morneau Shepell and its Bahamian subsidiary before being sworn in as a minister"; and that, according to the *National Post*, Morneau is subject to a conflict of interest "screen" in regard to his family business.

Wait a minute, won't Morneau still benefit from the proceeds of his crime when he retires from politics? What a great maneuver, go into politics in order to escape responsibility for tax evasion!

Now, if you "follow the money" a little further, you find that Morneau is not alone. Take for example *his* boss, Justin Trudeau's claim to have been "entirely and completely transparent" about his family's finances; that

Continued on page 9

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Economic Reform (ER)
(ISSN 1187–080X) is published bi-monthly by COMER Publications
27 Sherbourne Street North, Suite 1
Toronto, Ontario M4W 2T3 Canada
Tel: 416-924-3964, Fax: 416-466-5827
Email: comerpub@rogers.com
Website: www.comer.org

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***Economic Reform* subscription only:**
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Postmaster, please send address corrections to:
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PRINTING AND DISTRIBUTION
Watt Solutions Inc., London

Printed in Canada on recycled paper.

A REVIEW ESSAY BY HEATHER MENZIES

For Those Who Love This Planet, Challenges and Responses

CCPA Monitor, January-February 2017

A couple of centuries ago (not long, in Earth time), a host of public interest regulations that had kept the fledgling English capitalist economy operating within the carrying capacity of the social and natural environment were repealed – largely due to the lobbying power of the emergent capitalists. The social movement that arose to protest and resist the devastation this unregulated transformation unleashed, Luddism (or the Luddites), came be so demonized that at least one edition of *Webster's Dictionary* defined it as "a misguided attempt to stop progress."

This historical note nicely reviews what people in today's social movements are up against – including at the level of naming reality, directing public policy and shaping public perception. It also reminds us that what we're "for" is not utopia, but a renewal of a vision of humans living in right relations with each other and the planet, a vision that has served countless societies for millennia without bringing the Earth to the point of crisis it is facing today.

Three recent books approach the current crisis – financial, environmental, democratic – from the same public interest perspective. Not all are optimistic. In *Facing the Anthropocene: Fossil Capitalism and the Crisis of the Earth System* (Monthly Review Press, July 2016), Ian Angus suggests corporate conglomeration, militarization and the acceleration associated with "fossil capitalism" all but guarantee we will be engulfed before we can adequately address the climate change challenge.

Joyce Nelson's new book on big finance, *Beyond Banksters: Resisting the New Feudalism* (Watershed Sentinel Books, October 2016), locates a citizen lawsuit to restore the original public interest mandate of the Bank of Canada within the larger context of conglomeration and acceleration in that sector. With adroit interpretive skill, she links recent bank-related developments to a blizzard of "free trade" deals that weaken public interest regulation in a host of areas, like education and public infrastructure, but which also seek to prevent democratic governments from expanding public governance of finance.

The third book reviewed here, *A World to Win: Contemporary Social Movements and Counter-Hegemony* (ARP Books, June 2016), edited by William Carroll and Kanchan Sarker, personalizes the financial and climate crises as being part of the an ongoing colonization and integration of people into the fast, competitive, individualist consumer society that global market capitalism has produced. This important anthology then lays out a range of hopeful, helpful responses to the seemingly ineluctable status quo based on what people are doing in the here and now.

Facing the Anthropocene speaks from the fecund, fairly recent convergence of the social justice and environmental movements. By extending a socialist perspective into an ecosocialist one, Angus makes it easier to see that what has been done to human communities has also been done to nature as a living community, with similar destabilizing effects. He lays out the breakdown in nature's carrying capacity in much the same way that sociologists have described how deepening poverty and polarizing inequality have destroyed the social carrying capacity of many cities and even regions.

Historically, the carbon and nitrogen cycles helped the earth absorb fluctuations in global temperatures. But these restorative systems are breaking down under the combined assaults of human-caused carbon emissions, particulate pollution, ocean acidification, excessive nitrogen and phosphorous runoff, fresh water depletion, deforestation and the rogue effects of plastic wrapping and various nanomaterials.

The term *Anthropocene*, Angus explains, was coined some decades ago to mark the point where human systems started to overwhelm earth's self-regulating systems, ending the relatively peaceful Holocene era and bringing the world to the tipping point of Earth-systems collapse. The key system on the human side, he argues, has been fossil capitalism, the first phase of which was coal-based, followed by oil. Today, there is more money in oil and gas than in any other industry.

The term Anthropocene was coined some decades ago to mark the point where human systems started to overwhelm earth's self-regulating systems.

As one thread in a well-woven tapestry of analysis, Angus points out the close link between fossil fuel and the military and also big government. Winston Churchill, former British prime minister, was the first global leader to see the strategic importance of oil, especially cheap oil from the Middle East, and the advantage of controlling it at the source.

Not only are the world's armies (with the US military at the top) the largest users of petroleum in the world, cheap fuel has also made possible the great acceleration of the market-capital economy following the Second World War. Carbon fuelled the transportation systems that allow more transactions to be turned over faster over farther reaches of the globe, and the whole system depends on this. For capitalism, as an "ism" or ideology, is all about making as much money as fast as possible. Hence the crisis.

Corporate conglomerization, with the concentration of power it makes possible, adds another dimension to the situation, as it both concentrates and rigidifies vested interest in maintaining the status quo. From a post-war surge of mergers and acquisitions, notably in the petrochemical business and those enabled by government defence contracts during the war and the Marshall Plan after it, conglomerates spread through the corporate sector, engulfing the media, communications and financial industries, while maintaining close links to the state.

Nelson has been tracking the interconnections between money, information and government for decades, as well as the key personalities and institutions (including think-tanks and foundations) involved. Her newest book, *Beyond Banksters*, examines the effects of speed-of-light financial investment and information systems now driving the global economy. Anything slowing or impeding this "high frequency" movement of money from one part of the world to the next, or from one investment "instrument" into to another, is, as Nelson points out, targeted for elimination in "next generation" trade deals.

Public interest regulation and some types of democratic governance are anathema to "free" finance because competitive advantage is increasingly concentrated in this immaterial factor, not just in cheap energy, labour or other material resources. The success of global capitalism lies in its ability to turn almost any activity and any social institution into an investment opportunity. This financialization of everyday life is pushing corporate capitalism into whole new frontiers, bringing its colonizing effects with it.

As with the other acceleration-boosting developments, this expansion of finance began shortly after the Second World War with the direction to governments from the Bank for International Settlements to borrow privately at market interest rates rather than publicly from national banks. Still, the paradigm-shifting changes only occurred under the neoliberal deregulation drive of the 1990s.

The repeal of the US *Glass-Steagall Act* during the Clinton administration collapsed the barrier between commercial and investment banks, opening the way to the high-risk realm of derivatives trading. At the same time, the World Trade Organization (WTO) revised its financial services rules to force all signatory states to dismantle their versions of *Glass-Steagall*, unleashing a torrent of collateralized debt obligations (CDOs) around the world.

When the overextended mortgage and loans bubble collapsed in 2007-08 it caused the instant impoverishment of millions of people around the world and, incidentally, the further enrichment of a few who, rich in financial intelligence, had sold these lucrative investments and left the relatively less informed and less wealthy holding the bag. (A 2016 Oxfam report revealed that 62 billionaires now own as much wealth as half the world's population. At the same time, between 2010 and 2015, some $500 billion shifted from the lower end of the income scale to the highest, with the wealth of the poorest dropping by 41%.) Ten million Americans alone suffered home foreclosures.

The rise of public-private partnerships and flat-out privatization of public infrastructure has also been part of this agenda, greatly extending the scope of corporate moneymaking and reducing the scope of public interest regulation. These are important developments in their own right, with the troubling questions they raise – like how corporate interests seem to acquire these assets at a fraction of what it cost taxpayers to build them, or why, for example, the Ontario government would sell off shares in Hydro One when the utility generates hundreds of millions of dollars in profit a year for the province and its people. Equally disquieting is the loss of public knowledge about and involvement in managing these institutions.

Still, the more troubling aspect arising from Nelson's analysis is how the expansion and acceleration of financialization has concentrated corporate power and intelligence, and shapes public perception of what's normal. It makes the shift from public interest governance to corporate management across a widening range of public institutions and infrastructure systems seem like the normal thing to do, the new reality. And this in turn helps to neutralize public concern over the moves to permanently disable public interest governance through contemporary "free trade" agreements.

Public interest regulation and some types of democratic governance are anathema to "free" finance because competitive advantage is increasingly concentrated in this immaterial factor.

One of the book's strengths is the depth of knowledge and insight that Nelson marshals to describe the Trans-Pacific Partnership (TPP), Canada–EU Comprehensive Economic and Trade Agreement (CETA) and the lesser-known Trade in Services Agreement (TISA). While lowering trade barriers are part of these deals, their larger impact will likely be to tie the hands of government by, for example, preventing a reinstatement of the *Glass-Steagall Act*, permanently legalizing trade in financially risky (even suspect) products, and challenging the legitimacy of public banks along with the public interest mandate of Crown corporations.

Foreign financial services companies will gain new rights in both CETA and the (possibly defunct) TPP to sue governments for taking measures that get in the way of their expansion plans. In 2015, a record 70 such investor-state dispute settlement (ISDS) cases were filed under a number of global investment protection treaties. As of January 2015, there had been 37 known ISDS claims against Canada under NAFTA, with $172 million in settled awards and some $2.6 billion in pending claims. Though this right to sue does not exist in TISA, Nelson quotes a Global Justice Now report that describes that international deal as "a massive, super-privatization deal covering everything from finance to education."

Such is the power of naming reality and managing public perception – the result of canny connections among key people, think-tanks and receptive governments – that regulation is now a dirty word. For many, government has come to imply "interference," not the guiding force of public interest priorities. Worse, the information inequalities and polarization that have accompanied the deepening inequalities of our time are creating additional barriers to asserting the public interest in the public's own voice.

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According to an exposé quoted by Nelson, during Occupy Wall Street the FBI, Department of Homeland Security and New York police came together with key Wall Street firms in the Domestic Security Alliance Council to conduct surveillance on the protesters in Zuccotti Park, with the FBI labelling participants a "terrorist threat." More recently, Canadian security legislation, including Bill C-51, designates certain transportation routes, including energy pipelines, "critical infrastructure," giving legal heft to Natural Resources Minister Jim Carr's menacing recent statements about using the defence and police forces to make sure "people will be kept safe" from opponents to the Kinder Morgan and Energy East pipeline projects.

The scene is being set, in Canada as elsewhere, for a future in which citizens raising public awareness about what Angus describes as an overextended global production, consumption, transportation, information and investment system are labelled not just Luddites but "threats to security." The We who would resist this are therefore in a struggle to think for ourselves, to articulate and sustain action toward an alternative to the catastrophic status quo, and to do this from within what Habermas calls the capitalist "life world" that is continuously reproducing this status quo with us as its contributing agents.

Carroll and Sarker are determinedly hopeful in *A World to Win*, even as they acknowledge, as Carroll does in an introductory chapter, that we are habituated inhabitants of this individualized, commercialized short-attention-span world that we are trying to change.

Carroll draws on great thinkers and theories, and uses words like "hegemony" and "colonization" (plus counter-hegemony and decolonization) to name the challenge facing would-be change-makers in the social and environment movements. He gently warns against short-term, feel-good, pragmatic reforms while acknowledging that the cultural politics of personal, grounded, local and pragmatic action that makes a difference in the here and now is an essential first step in claiming agency and building capacity to take on the larger, longer-term changes that are needed.

The book is an excellent study guide to the many threads of alternative building that are currently at work. David McNally's chapter, "Neoliberalism and its Discontents," combines salient statistics on today's economic divide – e.g., 44% of Ontarians living between Toronto and Hamilton are "precariously" employed in temporary or contract jobs – with reports from the protest zones of elaborate self-governing social infrastructure, such as the medical stations, food centres and child care set up in Cairo's Tahrir Square during Egypt's 2011 uprising.

The rise of public-private partnerships and flat-out privatization of public infrastructure has also been part of this agenda, greatly extending the scope of corporate moneymaking and reducing the scope of public interest regulation.

Laurie Adkin's chapter on political ecology and counter-hegemony takes the analysis to the more systemic level that Carroll argues is essential for sustaining genuine change. Her definition of political ecology is helpful, introducing a "way of thinking" about the world that highlights the "mutually constitutive relationship between human societies and nature." This thinking offers a bridge for solidarity-building between people of settler descent and Indigenous people on their journey to reclaim their traditions, their naming of reality and with it their connection to the land. It's not only a way of *living* the new scientific understanding that "everything is connected," but of acknowledging the consequences of actions on habitat and inhabitants, of having agency within that web of interconnected life. As such, it restores the legitimacy of democratic self-governance in all aspects of public life, including economics, as was the case before the rise of market capitalism.

Many chapters demonstrate the feminist mantra that "the personal is political," often in combination with lessons from the LGBTQ, disability and student politics of more recent decades. As Warren Magnusson writes, "we need to foreground the political if we are to make sense of the world in which we live." This means refusing the neoliberal position that favours "markets" over politics as society's key public decision-maker, with its hidden assumption that "markets" aren't political.

The chapter on fossil fuel divestment, by James Rowe, Jessica Dempsey and Peter Gibbs, illustrates the new hybrid expression of personal politics, as this movement seeks to erode the oil industry's "social licence" to operate, and undermine public consent (and complacency) for the status quo by daring to name reality as its members see it. I think of 350.org co-founder Bill McKibben's clear moral statement, "If it is wrong to wreck the climate, then it is wrong to profit from that wreckage." Moreover, the authors argue that the divestment movement is also a "threshold" to the deeper issues and agenda, such as seeing climate change as a justice issue, as Naomi Klein argued in *This Changes Everything*, and, related to this, re-democratizing capital investment so that it can be once again accountable to the sustainability needs of the social and natural environments.

The theme of capacity building – everything from reclaiming agency and the power of naming, to scaling-up co-operative, collaborative organization and information-sharing networks – runs throughout the book, making it particularly timely after the recent US election. One chapter, on direct action, explores the efficacy of "solidarity networks" to support otherwise isolated temporary workers against exploitative bosses. Self-organized participative initiatives like the Seattle Solidarity Network (SeaSol), the Ontario Coalition Against Poverty and union "flying squads" serve as "real-life training" in thinking strategically and working with others. Besides building individual self-confidence, these groups cultivate "collective capacities" as well.

Michael Bueckert's chapter, "Solidarity with Whom?," takes up the tough question of scaling-up and weaving initial issue-action into a larger and longer-term program of change. Instead of the either/or of horizontal local organizing versus vertical larger-scale objectives, Bueckert suggests a disciplined dialectic. He endorses the "prefigurative" practices of local, direct action out of which new forms of subjectivity emerge.

But he suggests that some generalization can occur and the skills of personal agency can be enhanced through intentional learning in other areas that allow for responsible vertical organization. In other words, rotational leadership and other practices can be employed that develop solidarity among different interests, and allow them to build. The alternative, he says, is wishful idealism and "the tyranny of structurelessness."

This ability to scale-up and sustain actions over the long term is essential to the challenges contemporary social/ political/ environmental movements face today. The task is no less than reasserting the primacy of the public interest and the commons where so many governments and mainstream political parties have abandoned it.

Nelson mentions some of the initiatives to "remunicipalize" water systems, as the evidence now makes it clear that privatization has yielded increased costs, not efficiencies, leaving ideology exposed as the real driving force behind the policy. She also showcases the lawsuit launched in 2011 by an elderly William Krehm, co-founder of the Committee on Monetary and Economic Reform (COMER), to require the Bank of Canada to resume its constitutional duties under the *Bank of Canada Act* to make interest-free loans to the federal, plus provincial and possibly even municipal governments for such things as public infrastructure projects and health care. Few Canadians today seem aware that public financing (not private bank loans) built the Trans-Canada Highway and St. Lawrence Seaway, and funded social programs like old-age pensions and post-secondary education.

Subjects like banking and the public debt tend to be black-box items to most people, and it's probably in the interests of a controlling few to keep it that way. But it's important that civil society take on these larger issues, because the social landscape in which we live has been so financialized. The COMER lawsuit would have a better chance of success if it were taken up by a broad coalition of social movement players.

The information on political ecology in *A World to Win* and ecosocialism in *Facing the Anthropocene* provide helpful theoretical guidance to the larger agenda of revitalizing public interest governance. With their emphasis on self-governance, direct democracy and accountable interrelationships, these books also seem to draw on long-standing legacies associated both with self-governing commons and Aboriginal traditions regulating, for example, the buffalo hunt on the Prairies and the harvesting of red cedar bark and wapato roots on the Pacific Northwest.

Unfortunately, Angus didn't have space to go beyond a few broad generalizations about what "we must" do in his book. Perhaps in a follow-up he might unpack the unique intellectual and even spiritual gift that an ecological perspective has to offer, vested as it is inside the web of lived and living interrelationships of shared habitats. An Earth-based vision can help reverse the remote-control perspective of contemporary globalization and its foundational information and financial systems – as though the view from an orbiting satellite is all that matters.

Our Comment

There is an unprecedented need for all those struggling to deal with the many aspects of the world crisis, to "connect the dots" – define a shared vision and mobilize to realize that vision. That vision will derive from shared values and principles they emanate. On this foundation, we must share information and ideas and, joining forces, build the cooperative effort essential to meaningful change.

And this *is* happening!

Heather Menzies' review essay is a space-shuttle trip through the multiple dimensions of neoliberalism and its consequences.

As she highlights the outstanding achievements of neoliberal politics and exposes the tactics behind them, she clarifies the challenges faced by those "who love this planet," the responses mounted so far, and those that must emerge as the result of our growing awareness and involvement.

Neoliberalism has delivered its intended rewards. They just aren't those rewards that society was led to anticipate!

It can hardly be argued (though some do), that the "driving force" behind policies like deregulation and privatization was an ideology that sprang from a genuine concern for the common good!

Through debt and "free trade" it has emasculated nation states on a global scale, enlisting the compliance of governments through guile, temptation, or force.

It has sacrificed society's real economy to the unbridled pursuit of private profit. It facilitated a startling shift from the use of money to produce goods and services that society needs, to the use of money to make more money.

"The globalisation of production has been swamped by the global trade, in financial derivatives. At the peak of the boom, derivative trading was ten times global GDP, with most transactions having no direct relationship to traded goods. By the end of the twentieth century, currency trading was 95 percent speculative as against 5 percent for actual goods and services (Rowbotham 2000: 181).

Even then, much of the movement of goods was within transnational companies. Currency trading continues to be big business, estimated at over $5 trillion per day" (*Debt or Democracy*, Mary Mellor, page 161).

Financialization! All bought and paid for through the privatization of the money supply.

Other contributing factors elucidated, whet our motivation for further study and validate the opinion that "the task is no less than reasserting the primacy of the public interest and the commons where so many governments and mainstream political parties have abandoned it":

- media;
- militarization;
- the growing power of human systems that have come to overwhelm earth's self-regulating systems;
- corporate conglomeration through mergers and acquisition, and its attendant concentrated power;
- technology that sharpens the feeding frenzy and "accelerates the high-risk potential of the money system";
- the lack of public knowledge;
- the power to frame policies and laws through political and economic control;
- the diabolical incrimination of dissenters;
- destabilization through foreign investment…

The three books she reviews – up-to-date resources on the "current crisis – financial, environmental, democratic from the same public interest perspective" – present an impressive source of information, ideas and examples that, from her review, promise to contribute much, to both the short-term and long-term perspectives needed both to act now and to strengthen our "building capacity" to take on the larger long-term changes that are needed.

The scope and the rich detail in the essay ought to inspire our motivation!

A realistic appraisal and an encouraging incentive to take up the challenges and "from the same public-interest perspective," make whatever contributions one can to appropriate responses!

Our thanks to Heather Menzies and to the Canadian Centre for Public Policy, for theirs.

Élan

Ontario Ratepayers Should Share in Gains of Hydro One

By Star Editorial Board, July 21, 2017

With the $6.7-billion acquisition of an American utility company Hydro One is growing. Ontario residents facing skyrocketing electricity bills should get some of the benefits.

The big winners in the $6.7 billion acquisition of an American utility company by Hydro One, formerly owned by the Ontario government, are the shareholders of the publicly traded company.

One stock market analyst says Hydro One shares, after falling about 4 percent so far in 2017, should see base growth of 5 percent annually. That, combined with the current dividend payout of about 4 percent annually, would amount to a return of almost 9 percent for investors. The annual dividend was increased in May to 88 cents a share. If acquisitions continue it could go even higher.

Here's the rub: potentially healthy gains in the accounts of Hydro One shareholders would come as people across Ontario continue to express outrage every time they open their electricity bill.

But there's one way to guarantee that Hydro One and other electricity ratepayers in Ontario will enjoy some of the benefits received by the company's shareholders: the provincial government could commit to using hundreds of millions of dollars of dividend revenue earned annually from shares it has to hold onto to offset crippling electricity costs.

The average hydro bill in Ontario has increased almost 72 percent in just over a decade, with some rural property owners struggling to cover increases much larger than that. The average ratepayer in Toronto spends more than twice as much on hydro annually, compared to those in Montreal.

A 25-percent rate cut announced by the Wynne government is a band-aid solution, stretching out interest payments over 30 years to cover the cost of the subsidy, which will eventually burden taxpayers with an additional $25 billion.

Our government still owns 49 percent of Hydro One, even since its roughly $9-billion sell-off of what used to be a public utility. The province's coffers received only about $4 billion of that after the remainder was used to pay down Hydro One's debt – a pretty sweet deal for eventual shareholders on the backs of taxpayers. Legislation guarantees that the province holds at least 40 percent of the shares.

Calling the misguided Hydro One sale a transfer of a public utility over to private hands creates a misperception – any member of the public with about $22 (as of noon Thursday) can purchase a share of the company. But many Ontario ratepayers can't afford to buy enough shares to really benefit from dividend payouts and share growth borne on the backs of ratepayers.

When former TD Bank CEO Ed Clark, who chaired an advisory committee that reported to Premier Kathleen Wynne, urged her government to unlock the value of provincial assets, including Hydro One, surely the benefits were supposed to be enjoyed by ratepayers, not just shareholders.

Our provincial government still controls about 290 million shares of the company. At the current dividend of 88 cents a share, that works out to $255 million a year (the dividend can be reduced or even eliminated). If used to offset the skyrocketing cost of electricity in Ontario, it would ease some of the feeling that hydro ratepayers got fleeced when the government sold a large part of the utility's value to shareholders – in such transactions there are almost always winners and losers.

The government should commit to legislation that can't be easily turned around, so hydro ratepayers can also directly benefit from the sell-off of what used to be a public utility, at a time when electricity costs in the province are so painful.

Our Comment

Big winners of privately owned corporate assets are *supposed* to be their shareholders! A corporation's overriding duty is to rope in as much profit for its shareholders as possible.

"Asset recycling" by governments is a euphemism for privatization. Such an exchange trades commons for ready cash and transfers income from taxpayers to *rentiers* (a class of people whose income is derived from property rent or interest) – short term gain for long term pain!

It also serves to bail governments out of debt that was not necessary in the first place.

Legislation to spare ratepayers such rip-offs exists in the *Bank of Canada Act*. That Bank's proper use would protect public utilities – precluding such shenanigans.

Élan

Reader Comment

As a retired 90-year-old third generation Canadian I protest the fact that Canada is financed by the foreign banking cartel. The Bank of Canada was established to finance the needs of all levels of Canadian govt. And must be returned to its original mandate.

Don Harrison, Ladysmith BC

Dark Money: Epiphany and the Hidden Trillions

A sermon by Rev. Steven Epperson, JUST-news cusj.org, Number 33, Spring 2017

Epiphany Sunday is a big day in the Christian world. Somewhere between a fourth and fifth of the world's population celebrates an essential of their faith: the revelation of the divinity of Jesus as symbolized in narrative and art by the Three Wise Men – who stand in for all the gentile world – venerating this human infant as the unique incarnation of God. In my dictionary, the definition of epiphany that I want to focus on goes like this: "*epiphany – a sudden and important manifestation or realization.*"

I can't let this second Sunday of the New Year go by without acknowledging and sharing with you my big epiphany of 2016. I wish this revelation was good news, but then you all know I'm an incorrigibly serious person. That said, I do believe that knowing the truth can set us free; and hopefully, there will be some light shining forth by the end of these remarks.

The epiphany struck in late August when I read a review article of a book hot off the press entitled *The Panama Papers: Breaking the Story of How the Rich and Powerful Hide their Money*, co-authored by two investigative reporters of the Munich-based *Sud-deutsche Zeitung*. The book tells essentially two stories; the first is how investigative journalists do their work (and that's fascinating enough); but the second story is the explosive information published by these reporters and an international consortium of journalists with whom they worked. Their findings first hit the news internationally last April, but it took me some months to catch up and for its implications to sink into my thick skull once I'd read the book and other material for myself.

How the Rich and Powerful Hide Their Money

Through 2015 to the beginning of last year, an anonymous source working inside a Panamanian-based law firm called Mossack Fonseca leaked over 11.5 million documents from the firm to the German reporters. Mossack Fonseca has long been under investigation for suspected money laundering; it employs over 600 lawyers, accountants and financial specialists, with subsidiary offices in 42 countries. Over the last thirty years, this one firm specialized in setting up more than 300,000 offshore bank accounts, shell companies and trusts for a super-rich international clientele of thousands, including 450 Canadians. And before I go any further, I need to add that this company is only one of a legion of firms located around the globe specializing in this largely hidden economy – an economy dedicated to concealing the identities of the rich, dedicated to concealing the nature, source and amount of their wealth, and above all dedicated to helping their clients avoid or evade paying taxes.

The trove of documents leaked from Mossack Fonseca was so huge that eventually 400 investigative journalists from over 80 countries, working in 25 languages, representing more than a hundred media outlets, became involved in verifying the accuracy of the information and reliability of sources, contacting those named, analysing the information and its consequences, and then figuring out how to write, coordinate and release their findings publicly for maximum impact. The documents revealed the offshore accounts and the names of those holding them; they included 140 politicians and public officials from Africa to Pakistan, Iceland to Germany, officials in the highest echelons of the Russian, Ukrainian, Saudi, Syrian and Chinese governments, as well as international soccer stars and officials, media celebrities, mining company executives, blood-diamond dictators, drug lords, and financiers for Hezbollah and Al Qaeda – I kid you not.

To be sure, not all of the money, stocks, art, property deeds, villas, jewels, etc., socked away in myriad offshore tax havens is ill-gotten, or illegally cached away. It is not illegal in many cases to have offshore accounts – just ask corporate Canada and the domestic banks that service them. "The finance industry does at least try to make sure its activities are carried out within the letter of the law, and is partly successful in this." But the journalists working to produce *The Panama Papers* "came across [the names of over 3,500] criminals and organizations engaging in offshore activities. The Japanese mafia, the Italian mafia, the Russian mafia, drug cartels, arms smugglers…money laundering rings…as well as corruption cases by the dozen." (*Panama Papers*, p. 305.)

We Pay the Tab for Taxes Not Paid by the Rich

Since the findings of those journalists working on the Mossack Fonseca documents went to press last April, some heads of government and public officials have been forced from office, some police investigations have ensued, and intergovernmental hearings into the whole offshore finance racket have been, are, and will be taking place. All well and good.

But here's the thing: what *The Panama Papers* have disclosed is not just the wrongdoing of organized crime, venal hypocrites in government betraying the public trust, and a global industry of law firms and banking all too willing to service the most outrageous cases – and they are legion. The heart of the matter is this: since the 1920s, and especially in the past thirty years, by means of offshore bank accounts, shell companies and trusts, the international machinery of offshore finance has effectively created an economic system that has removed the rich and the powerful from the messy business of paying taxes. In the words of the *Guardian*'s Luke Harding: *They don't pay taxes anymore, and they haven't paid tax for quite a long time. We pay tax, but they don't pay tax. The burden of taxation has moved inexorably away from multinational companies and rich people to ordinary people.… Basically, we're the dupes in this story. Previously, we thought that the offshore world was a shadowy, but minor, part of the economic system. What we learned from* The Panama Papers *is that it* is *the economic system.*" (Quoted in Alan Rusbridger, "Panama: the Hidden Trillions," *New York Review of Books*, October 27, 2016.)

That was the epiphany; the publication of *The Panama Papers* drew the curtain away – the one concealing a world of secretive tax avoidance and evasion for the world's super-rich on a global scale.

More than 90 Tax Havens for the Wealthy

Mossack Fonseca and the international web of financial services provided to companies and individuals handle trillions of dollars of wealth in their totality. Conservative estimates by one of the few economists who's studied tax havens count $8 trillion of offshore wealth (in places like Luxembourg, Switzerland, the Cayman Islands, the British Virgin Islands, and the state of Dela-

An article by Ellen Brown, "The Panama Papers, Bail-Ins and the Push to Go Cashless," is available in PDF format at www.comer.org.

ware, to name only a few of the more than ninety jurisdictions that offer tax havens), while research by the Tax Justice Network puts the figure at $21 trillion in financial assets hidden from the world's tax authorities. Between these two estimates of $8-21 trillion, the lost tax revenue to governments worldwide runs between $200 billion and $1 trillion *annually*. Tax havens cost US taxpayers as much as $100 billion every year. Canadians hold unrecorded offshore wealth to the tune of $300 billion (US) – that's 10% of total Canadian wealth – which means that $6 billion of taxable revenue is lost to us and our nation every year.

Meanwhile, taxpayers bail out banks too big to fail, suffer through austerity budgets and cuts to social safety nets, and we're left

Austerity has Strangled Britain. Only Labour will Consign It to History

By Joseph Stiglitz, The Guardian, June 7, 2017

Neoliberalism was a creature of the Regan and Thatcher era. Austerity is its death rattle. Before it does any more damage, Britain needs a plan for growth

The choice facing the voters in this election is clear – between more failed austerity or a Labour party advancing an economic agenda that is right for the UK. To understand why Labour is right, we first need to look back to the 1980s.

Under Ronald Reagan in the United States and Margaret Thatcher in the UK, there was a rewriting of the basic rules of capitalism. These two governments changed the rules governing labour bargaining, weakening trade unions; and they weakened anti-trust enforcement, allowing more monopolies to be created. In our economy today we can see industries with one or two or three firms with market power. This gives them the power to raise prices – and as they raise prices, people's incomes fall, in terms of what they can buy.

Changes to how our corporations are governed have allowed chief executives to take a larger and larger fraction of the corporate pie, leaving less and less to be reinvested in the company, and less to pay to workers. Monetary policy has been conducted with a focus on inflation rather than on employment.

Over three decades later, it is clear that the rules were rewritten in ways that slowed our economy. These changes encourage financialisation, with firms chasing only profits; and they promote short-termism, with companies unwilling to invest over the longer term. Both contribute to this slowdown. And as the economy has grown more slowly, it has been divided more unequally.

The set of ideas that came to dominate has been called neoliberalism. By boosting inequality and dependency on finance, the ideas of neoliberalism fed directly into the crash of 2008. The ideas have now been shown to be wrong, to have failed for over a third of a century. It's time about alternatives.

Put simply, there needs to be an appropriate balance between government and market. When an economy is weak, as it has been in recent years, there is a need for governments to invest in people, technology and infrastructure. This not only grows the economy today but also in the future.

Instead, since the crash, many governments have turned to austerity. Across Europe, and in Britain, they have tried frantically to cut their spending, allegedly to repay debts run up as a result of the crisis.

The idea that government debt is a particular burden has a kind of intuitive appeal. The former Conservative chancellor George Osborne would talk about "maxing out the credit card" so governments would have to balance the books, and couldn't borrow. But an economy is different from a family. In an economy, when the government spends more and invests in the economy, that money circulates, and recirculates again and again. So not only does it create jobs once: the investment creates jobs multiple times.

The result of that is that the economy grows by a multiple of the initial spending, and public finances turn out to be stronger: as the economy grows, fiscal revenues increase, and demands or the government to pay unemployment benefits, or fund social programmes to help the poor and needy, go down. As tax revenues go up as a result of growth, and as these expenditures decrease, the government's fiscal position strengthens.

Austerity has the opposite impact. The evidence on this point is very clear. Austerity has not only damaged the European economies, including the UK, but actually threatens future growth. For instance, when you have young people not learning, or in jobs inappropriate to their skills, they're not increasing their human capital in the way they could be. Without that human capital, future economic growth will be lower than it could have been. It is remarkable that there are still governments, including here in the UK, that still believe in austerity.

There is a need for a break with the past. With neoliberalism discredited and austerity failed, we need to rewrite the rules that focus on long-term economic growth, and the only kind of sustainable prosperity is shared prosperity.

Even if you have to borrow, if the value of your investments – in people, in technology, in infrastructure – increases, then the economy is in a stronger position for the future. Focusing only on the debt side of the balance sheet misses this, and damages the economy.

There's a long list of investments that governments could and should be making. There is strengthening infrastructure, such as transport and communications; there is investment in education; there is investment in families, particularly putting measures in place that free women from having to make the choice between raising a family and work. If that is done, it increases the labour supply. And that is not only better for society – it's better for the economy.

In this election, it is Labour that is advocating the kind of economic plan that is right for the UK. I've been impressed with how the party proposes to finance its plans: it's not on the basis of "magic money," but on carefully thought-out proposals based on taxing those at the top and ensuring that corporations pay what they should The evidence shows that these actions will not slow down growth but will help strengthen the UK economy.

Our Comment

Fiscal policy – taxing and spending – cannot alone redress the catastrophic consequences of decades of neoliberalism.

In *The Price of Inequality*, Stiglitz says, "Few matters are of greater concern to citizens than the performance of the economy and *monetary policy* [the creation and distribution of money] is a central determinant of that performance."

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dealing with the consequences of inadequately funded healthcare, infrastructure, alternative energy, courts and legal systems, workplace safety, housing and education – because we are told by global elites that "we" cannot afford to pay for them.

Here I agree with Canada's Mark Carney, the current Governor of the Bank of England, who said in a public lecture last month: "We meet today during the first lost decade since the 1860s.… Citizens in advanced economies are facing heightened uncertainty, lamenting a loss of control and losing trust in the system.… Economists must clearly acknowledge the challenges we face" including "low [and stagnating] wages, insecure employment, stateless corporations and striking…staggering wealth inequalities." Voters, he said, deserve a more honest appraisal from economists when it comes to the real impacts of these challenges. "Taxpayers and citizens have paid a heavy price…" (see Mark Carney, "The Spectre of Monetarism," Roscoe Lecture, Liverpool John Moores University, 5 December 2016, www.bankofengland.co.uk/publications/Documents/speeches/2016/speech946.pdf).

Tax Havens Contribute to Wealth Inequality

And speaking of staggering wealth inequalities, when we combine the findings of *The Panama Papers* and those of the mainstream economist Gabriel Zucman in his recent book *The Hidden Wealth of Nations: The Scourge of Tax Havens*, we're left with an entirely new perspective on one of the greatest questions of the age: why has income distribution in the more developed economies become increasingly unequal in step with the advance of globalization? It's not just the revolution in information technology, the decline of manufacturing and the rise of low-paid services industries. We now have compelling evidence that the trillions of offshore wealth beyond the reach of taxing authorities in the past 30 years has wholly subverted what could have been the equalizing effects of taxation.

After reading *The Panama Papers*, which he calls the most important book of the decade, the political scientist Edward Luttwak says this: "when the less affluent must pay their payroll taxes and income taxes in full, while the more affluent with offshore companies do not pay their own taxes, the total effect of the taxation system," combined with "sales and value added taxes…is strongly regressive. Once we recognize the sheer magnitude of offshored income flows, and once we take into account the regressive effects of…taxation systems, the phenomenon of rising inequality in affluent societies may not need much more additional explaining…" (Edward N. Luttwak, "Hidden Costs, *The Panama Papers* – a radically new explanation of rising inequality," *Times Literary Supplement*, August 19 and 26, 2016).

Here's the question the two lead authors of *The Panama Papers* pose its readers: "Why should the 99% accept that their governments now have no more than a theoretical influence on the super-rich 1%

Crooked House *from page 1*

is the millions of dollars he inherited from his father (am I beginning to sense a pattern here?). Yes, he openly said that he placed his money in a "blind" trust with BMO private banking, and yes BMO is professionally audited by one of the Big Four international accounting firms – KPMG, so you will never find Trudeau's name in *The Panama Papers*, right?

Not so fast, what about the fact that KPMG is named in *The Panama Papers*? So, it happens, is BMO Nesbitt Burns, part of the complex private banking system where Trudeau has parked his money! And what about the fact that KPMG is BMO's auditor? And that BMO is the largest contributor to the Trudeau Foundation of the major Canadian Banks, etc.…and oh, and by the way, KPMG also happen to be the auditors for Morneau Shepell.

The plot thickens when we consider that KPMG is likely also cooking the Liberal Party's books. *Democracy Watch*, has recently accused Trudeau of a conflict of interest by hiring KPMG executive John Herhalt to manage the Liberal Party's finances.

The problem with KPMG is not just that it is named in *The Panama Papers*, nor that KPMG has a long history of the fraudulent misrepresentation of its client's books. For example, KPMG is under investigation by US Senators Warren and Markey of Massachusetts for its part in facilitating the fraudulent representation of Wells Fargo accounts during the 2008 financial crisis.

The problem with KPMG is that it is *currently* under investigation by the CRA for its tax evasion projects on the Isle of Man. This past week NDP leader Thomas Mulcair asked the following Question in the House of Commons:

"Five weeks after KPMG was ordered to maintain all records during an ongoing investigation, a group of offshore shell companies set up by KPMG went ahead and shredded documents related to that probe. This is the very definition of obstruction of justice.

Then the Liberals blocked the investigation into KPMG.

I am curious. Is there any other way the Liberal front bench can twist obstruction of justice and sweetheart deals for crooked billionaires into support for the middle class?"

Well, there may be one. When the little crooked Trudeau-Morneau household runs into trouble with the law in Canada, it can always turn to its so-called opponents, the Conservative Party and former Prime Minister Brian Mulroney, to set-up meetings with giant US firms "Blackstone," and its spin-off "Blackrock" – the largest private equity and assets management firms in the world – to raise some cash.

Mulroney happens to be on the Board of Blackstone, and his daughter Caroline, who just announced her interest in a "political career," is married to Andrew Lapham, executive advisor to Blackstone based in Toronto. It was through Mulroney that Trudeau arranged for Stephen Schwarzman, Blackstone's CEO, to advise the Liberal cabinet on relations with the new Trump administration.

No doubt Blackstone's connections with the Liberal Party will be of use when it comes to the pursuit of Canadian investment opportunities such as its current interest in the purchase of beleaguered mortgage lending firm Home Capital.

Not to be outdone, Blackrock's global head of active equities, Mark Wiseman, has wormed his way onto Morneau's economic growth advisory council. In this capacity he organized Blackrock's recent investor summit held in Toronto, to which Trudeau made his pitch for "leveraging private capital" in the form of a new Canadian public-private infrastructure bank.

Of course, Blackstone and Blackrock are also named in *The Panama Papers*.

Sadly, Canadians may never see any benefits from the circulation of all this international finance capital if it is ultimately destined for off shore tax havens. I guess this is what Marx meant when he said that "the executive of the modern state is but a committee for the management of the affairs of the bourgeoisie."

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Our Comment. Why! It's almost enough to bring on a – a *conspiracy theory! Élan* of society? An employee looking at her payslip sees what the state has taken from her and is powerless to do anything about it. But someone who has dividends paid to a shell company in the British Virgin Islands can decide for himself whether or not to declare those earnings in the country in which he lives, whose amenities and protection he enjoys. The feeling that, in the world of finance, 'the people at the top' can do whatever they want is more than just a feeling. It's the reality."

Neo-feudal Concentration of Wealth

The Danish sociologist Brooke Harrington, who trained for two years as an asset manager and immersed herself in this world to understand how it works, "warns of a 'neo-feudal concentration of wealth.' The members of the international financial elite," she says, "are effectively constructing their own legal system.… A small group of people are not only hiding their money and avoiding taxes, they are also evading the law" (see *Panama Papers*, 304).

Why am I bringing all this up in a worship service and making it the subject of a sermon on a Sunday morning? As Unitarians, we claim that our lives are informed and guided by a set of values – of ideals and practices that include justice, equity, the search for truth and the use of the democratic process in our congregations and in society at large. What *The Panama Papers* and other studies on tax havens have disclosed, and what even the Governor of the Bank of England said just last month, is that all of these values are being severely tested and are under grave threat. As one political economist put it two years ago: "[M]odern democracies are based on a fundamental social contract: everybody has to pay taxes on a fair and transparent basis, so as to finance access to…public goods and services. Of course, there is ample room for disagreement about what 'fair' and 'transparent' taxation means. But if…the wealthiest individuals and…the largest corporations use tax havens and fiscal dissimulation in such a way that they avoid paying taxes almost entirely, then it is our basic social contract that is at stake. If middle-class taxpayers feel that they are paying higher effective tax rates than those at the top of the pyramid, if small and medium-size businesses feel that they are paying more than our largest companies, then there is a serious risk that the very notion of *fiscal consent* – which is at the core of modern democracies – will fall apart altogether. And if a rising fraction of the population, at the bottom and in the middle of the pyramid, feels that the system is not working for them, and that they are not being well treated by the global economy or by their government[s], then they might reject the very notion of interclass solidarity and of a fair fiscal and financial state. Some might even become tempted by nationalist solutions, ethnic divisions, and the politics of hatred" (Thomas Picketty, in Zucman, *The Hidden Wealth of Nations…,* vii, viii).

And as if I even need to say it: those temptations are alive and on the march across Europe and south of our border and elsewhere.

At the beginning of these remarks I said something about light shining forth as we approach the close of my words today. It starts with a hard truth, and facing some concealed facts face-to-face: *we pay taxes, they don't*; and the consequences to democracy, justice and equity are, quite frankly, terrifying. And those consequences are hitting us now and will hit our kids, grandkids and future generations especially hard if something isn't done.

I know it came as a shocking letdown for Dorothy and her crew when Toto pulled that curtain aside and revealed the quite ordinary man hiding behind the curtain manipulating the dials, images and messaging of the great and terrifying Oz. But the deflation of that epiphany was a necessary condition for getting Dorothy back to Kansas, the Tin Man his heart, the Lion his courage and the Scarecrow his brains. And it's heart, courage and brains we need now.

What We Need to Do

The good news is that now that we're coming to understand the enormity of the problem of tax havens and off-shore wealth more clearly, there are steps to be taken to begin to solve it. And here I'm relying on solutions proposed by economists, the Governor of the Bank of England, Mark Carney, and the lead journalists of *The Panama Papers.*

Step one: create an "effective system for the automatic global exchange of information about bank accounts." However, this "kind of exchange of information is still useless…if an account is held by an anonymous shell company." Which leads to:

Step two: create "a globally transparent register of all companies that would list the real owners of companies and foundations." The register would simply record the names of the owners, their date of birth, a business address and the number of shares they hold.

This information would enable "national tax administrations to fight tax evasion and to levy taxes on capital-income flows and wealth stocks." Participation would "entail rights and duties," it would ensure "property rights and financial transactions; but in exchange, it requires a commitment to transmit information necessary to identify the *actual* owners of all assets." (See Zucman, x-xii, 75-101, *Panama Papers,* 305-13.)

If economists, Mark Carney, and the authors of *The Panama Papers* are right – then that's it – there are two simple steps with far-reaching consequences that governments can take to end the scourge of untaxed wealth and masters of the universe. At least, it's a place to start.

Tax havens, off-shore wealth and lost tax revenues thrive on secrecy, inattention and lack of political will. It's time to say *enough!*

And there's something *we* can do about it – there really is. We can write a short letter to the Minister of Finance and our own Member of Parliament, calling on our government to lead in advocating for the international community to take these two steps. [A template letter is provided below]. I have also provided the address of the Minster of Finance. Letters written to MPs in Ottawa don't even require a postage stamp; it's free.

In closing, I simply want to say: this is not a political sermon. Writing a letter on ending the scourge of tax havens is not politics, plain and simple. This is *making real* our Unitarian values and beliefs in truth, justice, equity and the democratic process, and *then* putting them into action. May this be the legacy of our Epiphany Sunday and a meaningful way to begin the New Year. Amen.

The Reverend Steven Epperson is the Minister at the Unitarian Church of Vancouver. This sermon was dated January 8, 2017.

Our Comment

This sharing of Reverend Epperson's "big epiphany of 2016," is both informative and instructive. It illustrates two outstanding features of politicization: the need to be somehow touched by the implications of policy, and the recognition of connectedness.

Learning, through *The Panama Papers*, about the "economic system that has removed the rich and the powerful from the messy business of paying taxes," generated for him a sudden insight into rising inequality and its far-reaching consequences.

It stimulated the indignation necessary to prompt the political will to *act.*

The comment that his sermon is not a "political sermon" identifies a key factor in the ongoing struggle for meaningful change: the need to look beyond our differences to the unifying values and beliefs that underlie our particular concerns.

Together, we need to "[make] real" those shared values and beliefs and then "[put] them into action."

Élan

This Lawyer Gave the Liberals More Than $1,800 — Then He Became a Judge

By Alex Ballingall, Ottawa Bureau, Toronto Star, August 1, 2017

Andrew Sanfilippo, appointed to the Superior Court this month, bought a ticket to a Liberal fundraising dinner last year.

Ottawa – A Toronto lawyer who was recently appointed a Superior Court judge donated more than $1,800 to the governing federal Liberal party in the months before he was named to the bench, a string of giving that included the purchase of a ticket to fundraising dinner.

Between March 2016 and March 2017, Andrew Sanfilippo gave $1,878.87 to the Liberal party. The founding partner at the downtown law firm O'Donnell, Robertson & Sanfilippo became a judge in late June and the government announced his appointment July 18.

According to online records from Elections Canada that go back to 2006, Sanfilippo's first political contribution was $478.87 on March 31, 2016. He acknowledged in a statement through a Superior Court spokesperson that this was for a Liberal fundraising dinner – the same price as tickets for a dinner with Justice Minister Jody Wilson-Raybould that was hosted by the Torys LLP law firm on April 7, 2016.

The fundraiser drew controversy at the time, with Conservative MPs decrying how the minister was soliciting partisan money from stakeholders in her portfolio. Ottawa's ethics commissioner Mary Dawson highlighted the event in her 2016 annual report and determined that while it raised "questions about the appropriateness of the way the fundraisers were organized," it did not break Parliament's ethics rules.

It is not unusual for judicial appointees to have made political donations, nor does it break any rules.

In his statement through the court spokesperson, Sanfilippo stated that he did not actually attend the fundraising dinner, and that he bought the ticket after being solicited by a legal colleague.

"He has never met, spoken to, or communicated with Minister Jody Wilson-Raybould and believes that he has never attended any Liberal fundraising event," the statement said.

Sanfilippo went on to donate $299 to the party on December 5, 2016 and then $701 on December 30 – meaning he gave the party $1,478.87 in 2016. He also gave $400 in March of this year.

Individuals cannot donate more than $1,550 to a political party each year, according to federal law.

David Taylor, a spokesperson for Wilson-Raybould, said in an emailed statement that Sanfilippo was appointed on the recommendation of the government's judicial advisory committee in the Greater Toronto Area, as well as after consulting the Chief Justices of Ontario and the Ontario Superior Court.

"At no point during the judicial appointment process was Justice Sanfilippo's political donation history considered," Taylor wrote. "His merit was assessed based on the strength of his judicial application, the totality of his career and expertise."

Judges are technically appointed by the governor general, who acts on the advice of cabinet and the justice minister, according to the department's website. The government overhauled its judicial appointment process last October, explaining at the time that they would make the regional committees that consider applications for appointments more diverse and independent.

Using the Elections Canada online database of contributions, the Star found that 13 people with names and locations matching those of new judges appointed this year by Ottawa have donated money to political parties since 2006. Of these, two involved contributions to the Conservatives, and the rest were to the Liberal party.

The government has appointed 58 judges this year.

Richard Devlin, a professor of law at Dalhousie University and co-author of the recent book *Regulating Judges*, said that the government should consider a "cooling off period" so that people applying for political appointments would have to refrain from making partisan donations for a certain period before they can be selected.

"You don't want to say people can't be politically active, but there is certainly the optics (problem) of large cash donations prior to one's appointment," he said.

Rocco Galati, a Toronto lawyer who led the 2013 challenge that rejected one of Stephen Harper's Supreme Court appointments, said he believes politics has been part of the judicial appointment process for years.

He pointed to an example unearthed by the left-leaning Broadbent Institute in 2015 that raised concerns about judicial appointments by then-justice minister Peter MacKay for people with whom he had partisan or personal ties.

"The whole system should be raising your eyebrows right to the back of your head," Galati said.

Malcolm Mercer, an adjunct professor who teaches judicial ethics at Osgoode Hall law school, said he doubts public confidence is affected by the few lawyers who make donations and are appointed as judges.

"We should be encouraging participation in our democratic process rather than seeing political involvement as a bad thing," he said. "It is more important to focus on appointing talented judges with diverse perspectives."

The Liberal party's cash-for-access fundraising practices came under intense scrutiny last year, when opposition critics assailed the government for its practice of holding private events where Prime Minister Justin Trudeau and members of his cabinet would meet donors who paid sometimes hundreds of dollars to attend.

In April, the Liberal party started publicly announcing these events in advance and has also started posting guest lists online. Party spokesperson Braeden Caley said in an emailed statement that the other major parties in Ottawa haven't followed suit.

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Our Comment. Perhaps we should take a democratic, keener interest in the "diverse perspectives and the talent" demonstrated by judges appointed to the Superior Court.

Élan

Venezuela: Target of Economic Warfare

By Joyce Nelson, Watershed Sentinel, August 3, 2017

Most people are horrified to watch Venezuela seemingly on the verge of outright civil war, or worse, an invasion by US military forces. The death toll continues to rise in the violent street protests led by the right-wing opposition, following the July 30 vote on a Constituent Assembly to rewrite the constitution. US President Donald Trump had threatened to take further, unspecified "economic actions" if Venezuelan President Nicolas Maduro went ahead with the vote, and Trump added that the US would not stand idly by "as Venezuela crumbles."

The Canadian Peace Congress issued a statement (July 29) that said, "If the attempt at internal counter-revolution fails, plans are being put in place for direct military intervention by the United States, possibly under the cover of the Organization of American States (OAS)."

Maduro had hoped that the July 30 vote would help to bring dialogue and peace to the country, which has been wracked by violence for more than four months.

According to sociologist Maria Paez Victor, the opposition had been demanding that the Maduro government negotiate with them, so early in 2017 "a Peace and Dialogue Table was set up, facilitated by 2 former presidents of Latin America and one of Spain. They then refused to negotiate, demanding the presence of the Vatican. When the Nuncio arrived, they still refused to dialogue. Pope Francis himself stated the dialogue failed because the opposition would not participate. President Maduro then concluded that if the opposition would not negotiate with the government, they would have to negotiate directly with the people – and called for a Constitutional Assembly to amend the constitution."

Maduro's call triggered months of violence in the streets, with more than 100 people killed in the lead-up to the July 30 vote.

In advance of that vote, Raul Burbano, Program Director of the Canadian NGO Common Frontiers, told me by email, "The people of Venezuela will elect 540 constituents who will decide what changes to make to the constitution. These constituents will be elected via sector – i.e., workers, students, peasants, business folks, etc. and also territorially," thereby broadening the members beyond the elite politicians. Burbano added that the Maduro government would likely want to see constitutional changes such as making the state "less bureaucratic" and "enshrining in the constitution the social programs" created over the past years.

Venezuelan electoral authorities announced a voter turnout of 41.53 percent, or more than 8 million people on July 30. The opposition claimed fewer than half that figure turned out, and say that the Maduro government is becoming "dictatorial" and "consolidating power" through the Constituent Assembly.

Economic Warfare

One reason Maduro is so despised by the opposition is that he refuses to follow the neoliberal economic prescription of austerity, privatization, deregulation, etc. Such refusal makes Venezuela almost unique in Latin America now. As Brazilian professor Dawisson Belem Lopes has written, "… Brazil, Argentina, Mexico, Colombia, Paraguay and Peru have proud neoliberals serving as presidents these days," even through the "neoliberal experience of the 1990s was simply disastrous for Latin Americans."

As one of the last regional holdouts against a return to neoliberalism, Venezuela has been especially vulnerable to isolation and targeting, and not just by the US. Raul Burbano says that Canada wants to "marginalize" Venezuela because it does not follow the neoliberal "free trade" agenda that Trudeau is pushing. The Trudeau administration insists on retaining the controversial investor-state dispute settlement (ISDS) mechanism in trade deals. In 2011, former president Hugo Chavez revoked project authorization for gold mines, which prompted four Canadian mining companies to launch ISDS lawsuits against Venezuela for billions of dollars in "lost profits" under the terms of a bilateral trade treaty signed with Canada. Venezuela subsequently cancelled all its bilateral investment treaties – inspiring a world-wide resistance against the ISDS clause, but also further earning the wrath of the private sector.

Sabotage by the private sector has taken the form of hoarding of selected items, price speculation, keeping supermarket shelves empty, sending food shipments to neighbouring countries, even setting food warehouse stockpiles on fire.

As the Canadian Press reported, "Opponents of Venezuela's government blame it for turning one of the region's most prosperous countries into an economic basket case with a shrinking economy, soaring inflation and widespread shortages. The government blames the crisis on an economic war waged by its opponents and outside backers."

Interior and Justice Minister Nestor Reverol has claimed that the US is attempting a "financial coup" to "strangle our country," through hyperinflation and political turmoil in order to end the 18-year-old Bolivarian Revolution.

But that perspective is rarely given credence in the mainstream media. More often, we're told of Maduro's "economic incompetence," government "mismanagement of funds," and "rampant corruption." As Jeffrey Taylor wrote in *Foreign Policy*, "Maduro's response" to food shortages and currency crises "has been to blame everything on scheming 'Yanquis'…."

It's important to emphasize that Venezuela is not fully socialist, but has a "mixed" economy, with the private sector involved in many crucial sectors such as food distribution, pharmaceuticals, consumer product importation and sales, and the media. John Pilger has described Venezuela as a "reformist social democracy with a capitalist base" – a description that helps us understand what is happening there.

As Caleb T. Maupin wrote for *Mint Press News* last year, "It's odd that the mainstream press blames 'socialism' for the food problems in Venezuela, when the food distributors remain in the hands of private corporations," who are "running general sabotage" of the system.

That sabotage by the private sector has taken the form of hoarding of selected items, price speculation, keeping supermarket shelves empty, sending food shipments to neighbouring countries, even setting food warehouse stockpiles on fire. This purposely-generated scarcity creates chaos and discontent, further undermining the government.

"The opposition…have assaulted, lynched and even burned alive [at least

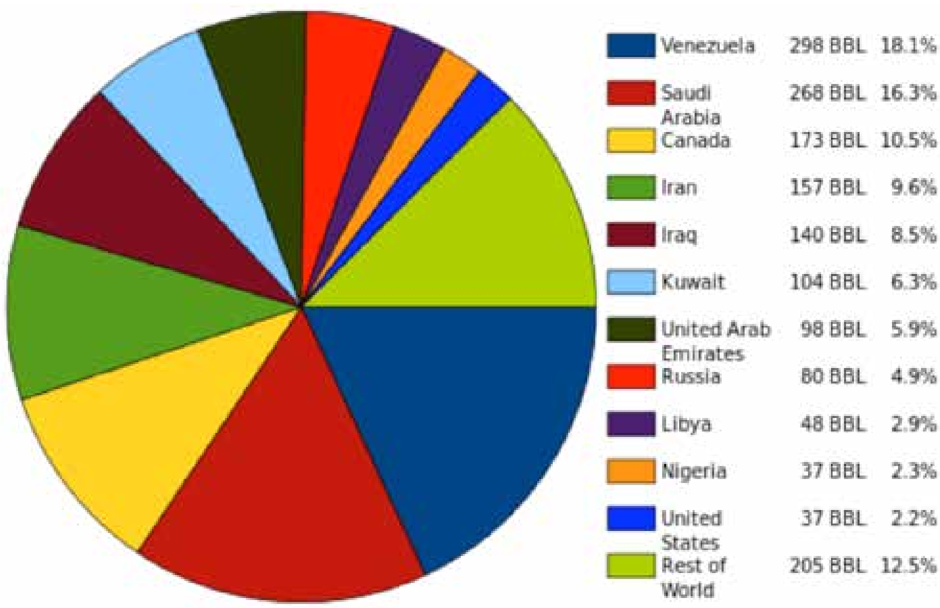
21] young men of dark skin ‘who looked Chavista.’ This is a violent opposition steeped in racism and classism against their own people.”

Maria Paez Victor notes that “The opposition orchestrated economic sabotage, corporate smuggling, black market currency manipulations, full scale hoarding of food and essential products. They closed highways, burned public buildings including a packed maternity hospital, from a helicopter dropped grenades on to the Supreme Court offices, have assaulted, lynched and even burned alive [at least 21] young men of dark skin ‘who looked Chavista.’ This is a violent opposition steeped in racism and classism against their own people and in the service of foreign powers and Big Oil.”

Big Oil & Other Resources

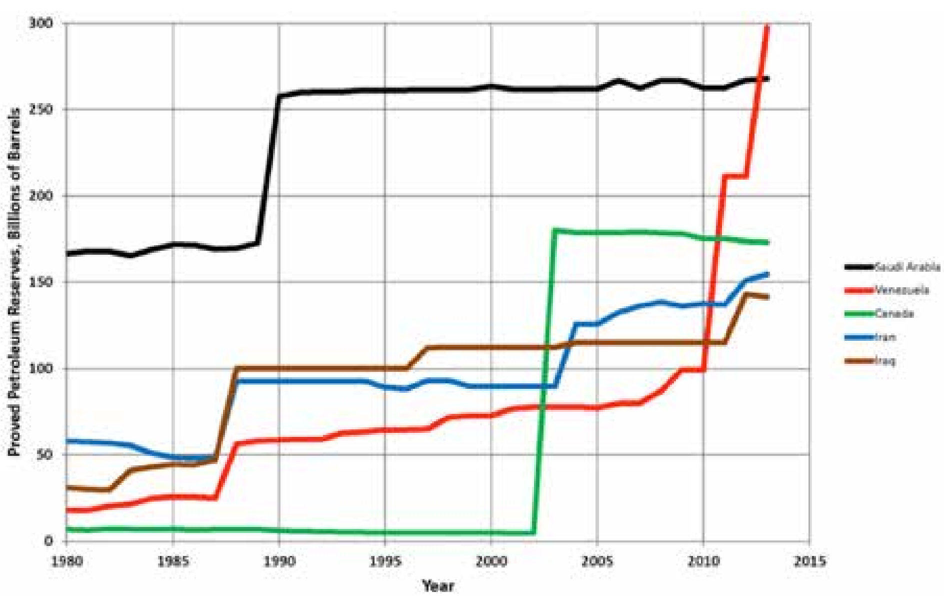
Mint Press’ Caleb Maupin has blamed the US for the collapse in oil prices in 2014, noting that US ally Saudi Arabia flooded the market with cheap oil in order “to weaken those opponents of Wall Street, London, and Tel Aviv, whose economies are centered around [state-owned] oil and natural gas exports,” including Venezuela, Ecuador, Russia, Brazil and Iran.

Figure 1: World Oil Reserves (2014)



World Oil Reserves 2014. Data from US Energy Information Administration. Image: Delphi234 via Wikimedia Commons

Figure 2: Trends in Proved Petroleum Reserves, Top Five Countries, 1980-2013



Trends in proven oil reserves in top five countries, 1980-2013. Graphed data from US Energy Information Administration website www.eia.gov/cfapps/ipdbproject/IEDIndex3.cfm?tid=5&pid=57&aid=6 Image: Plazak via Wikimedia Commons

Interviewed in 2015, John Pilger similarly referred to the “current conspiracy between the US and Saudi Arabia to lower the price of oil” in order to cause a “coup” in Venezuela “so they can roll-back some of the world’s most important social reforms.” The collapse in the price of oil devastated the Venezuelan economy.

As economist Mark Weisbrot argues, “Washington has been more committed to ‘regime change’ in Venezuela than anywhere else in South America – not surprisingly, given that it is sitting on the largest oil reserves in the world.” The US and the Venezuelan opposition want the state oil company, Petroleos de Venezuela (PDVSA) to be privatized, but instead the company has lately been forming partnerships with Russia, China, Iran and others – thereby adding to the urgency of the counter-revolution.

But oil is not the only resource that the US wants to get its hands on. Celebrated Venezuelan writer and member of the Venezuelan Council of State, Luis Britto Garcia, recently wrote: “The current economic situation Venezuelans are going through result from political actions undertaken by those who want to seize power of a country that has the largest oil reserve, the second largest gas reserve, and the largest freshwater reserve, gold and coltan in the world. They intend to impede the success of a system other than capitalism.”

As Mark Weisbrot wrote for *CounterPunch*, “The question of what role Washington should play in Venezuela’s crisis is a simple one, given its recent history. The answer is the same as it would be with regard to the role we would want the Russian government to play in US politics and elections: none at all. Unfortunately the involvement of the United States in Venezuelan internal affairs in the 21st century has dwarfed anything that anyone has even accused Vladimir Putin of doing here.” Besides being thoroughly involved in the 2002 military coup, the US since then “has provided tens of millions of dollars to the Venezuelan opposition,” while supporting violent protests since 2013.

As well, Weisbrot notes, “Today, Florida Senator Marco Rubio openly threatens governments including the Dominican Republic, El Salvador, and Haiti with punishment

Figures 1 and 2 appear in black and white in the printed version of the Journal, *and in colour in a PDF posted at www.comer.org.*

if they do not cooperate with Washington's abuse of the Organization of American States [OAS] to delegitimize the government of Venezuela. And the Trump administration is threatening more severe economic sanctions against Venezuela, which will only worsen shortages of food and medicine there."

Economic Sabotage

The Canadian Peace Congress states: "For the past several months, US imperialism and its allies domestically and internationally have been exacerbating Venezuela's economic difficulties by attacking its international credit rating (making foreign loans increasingly expensive), by weakening the foreign exchange value of the national currency through purposeful speculation, and by withholding basic commodities needed by the people (but whose distribution is still controlled by private monopolies), such as milk, coffee, rice, oil and basic necessities like toilet paper, toothpaste and medicines."

A new book by Venezuelan economist Pasqualina Curcio – *The Visible Hand of the Market: Economic Warfare in Venezuela* – reveals more precisely just how some of this economic sabotage is being done: through multinational corporations, whose brand names we all recognize.

The higher the country-risk, the higher the risk-premium, or the interest-rate paid on debt…. "[Venezuela] has fulfilled all its commitments in a timely manner, and yet its country-risk index was hiked by 202%."

For example, Curcio shows that Big Pharma is "responsible for the import and distribution of 50% of pharmaceuticals in Venezuela," while companies like "Procter & Gamble, Colgate, Kimberly Clark and Johnson & Johnson" control the Venezuelan market for personal and household hygiene products. In league with local private distributors, these multinationals appear to be re-routing and withholding products, and/or bypassing Venezuela completely.

As Curcio notes, "The dependence of the people in Venezuela on large transnational corporations for the acquisition of medicines and personal care products is one of the weaknesses of its economy."

Another economic warfare weapon that Curcio investigates is the "country-risk indicator," a calculation that suggests the probability of foreign debt payment default by any country. The higher the country-risk, the higher the risk-premium, or the interest-rate paid on debt.

Curcio reveals that the "Large banks and rating agencies are responsible for continuously monitoring the credit risk of countries." Moody's, Standard & Poor's and Fitch Ratings are involved in the country-risk calculation, as are "Credit Suisse, Bank of America, J.P. Morgan, Morgan Stanley and Deutsche Bank."

Curcio writes, "Since 2013, when an escalation of the country-risk [for Venezuela] started, to the present, Venezuela has paid US $63.566 billion for foreign public debt service [interest charges]. The country has fulfilled all its commitments in a timely manner," and yet its country-risk index was "hiked by 202%."

The author also reports that "90% of Venezuelan bondholders" have not sold their bonds, "a sign of confidence in the [debt-servicing] payment capacity of the Venezuelan State." But shortly after Curcio's book was translated into English, Goldman Sachs reportedly sold $300 million of Venezuelan bonds to hedge funds – contributing to the narrative of Venezuela's impending economic collapse. Recalling that Goldman Sachs was central to the demise of Greece's economy, it's reasonable to question the motives of this sale. Curcio's book investigates several other economic sabotage tactics used against Venezuela and is well worth reading. For those who question its validity, we need only look a bit closer to home to get a taste of how economic warfare works.

Closer to Home

Shortly after being elected, Donald Trump named billionaire Wilbur Ross as his choice for Commerce Secretary. Known as the "King of Bankruptcy," Ross spent 24 years with N.M. Rothschild & Sons, where he specialized in "asset stripping," or leveraged buyouts of distressed firms that could later be sold for a large profit.

At his US Senate confirmation hearing in January, Ross talked about the Trump administration's desire to re-negotiate NAFTA. As reported in January 2017, "Ross did not shy away from spelling out the aggressive implications of Trump's trade policy. He boasted about the recent collapse in the value of the Mexican peso and the further weakening of the Canada dollar. 'The president-elect,' said Ross, 'has done a wonderful job of preconditioning other countries [with] whom we will be negotiating that change is coming. The peso didn't go down 35 percent by accident. Even the Canadian dollar has gotten somewhat weaker – also not an accident. He [Trump] has done some of the work that we need to do in order to get better trade deals,' Ross said."

If that's how the US deals with its friends, it's not too hard to imagine what's being done to Venezuela.

Canadian freelance writer Joyce Nelson's sixth book is Beyond Banksters: Resisting the New Feudalism*, published by Watershed Sentinel Books in 2016.*

Our Comment

The plight of Venezuela is another cautionary tale. "Dare not to strain against the leash; we'll fix you if you do!"

This tale reminds one of stories told in *Confessions of an Economic Hitman.* The US interference in Venezuela follows a highly familiar pattern – same bully tactics; same demands! The Trudeau administration's support for neoliberal "free trade" and the ISDS mechanism makes you wonder about the Trump-Trudeau charade!

Economic warfare is one good reason to think again about "free trade."

That even a "mixed" economy is beyond the pale, reflects the neoliberal determination to rid the world of political economies designed to serve the common good.

It behooves us all to seriously consider what *we* are willing to pay for a better world for, clearly, the capitalists in charge are not about to come out with their hands up.

In Debt or Democracy, economist Mary Mellor writes: "A money system that would enable democratically determined provisioning must be sovereign…however, sovereignty is compromised if there is a need to interact with more powerful currencies…. The aim for an international currency must be to insulate currencies from each other and create purchasing parity between nations." She argues the need for "a buffer currency for sufficiency and social justice," and outlines its advantages.

"The main change under this system," she points out, "is that comparative monetary values would not be the driver. Container loads of goods would no longer pass container loads of similar goods going in the opposite direction. Most importantly, it would curb the power of global speculative finance, which currently forms the lion's share of global foreign exchange."

"Another effect of a buffer currency would be that tax havens could not operate as the money would need to be filtered through the buffer currency."

"Free trade" is second only to debt in the grand strategy to undermine nation states and secure global hegemony through a neo-feudal fascist "new world order."

Élan

Legitimacy and the Double Standard

The Duplicity of Law and the Cowardice of Capitalists

By Harry Glasbeek, The Bullet, August 3, 2017

Capitalism is ugly.

The major villains at Goldman Sachs, J.P. Morgan, Citigroup, Barclays Bank, Royal Bank of Scotland, AIG, were not impelled by any desperate need they had to meet, or by their lack of education and opportunities, the circumstances that lead the poor to commit crimes. They were acting as self-seeking, greedy, venal individuals who do not care for anyone but themselves. They were acting as capitalism expects capitalists to act. Their manipulations of financial markets led to the evictions and impoverishment of millions and ravaged sovereign states. None of the most heinous miscreants have been prosecuted for their crimes. Spineless, supposedly Rule-of-Law-loving governments, hid behind the slogan that these corporations and their avaricious leaders were "too big to fail, too big to jail."

The law's shocking tolerance for the wholesale financial thievery in capitalism's flagship nations presented capitalism's gatekeepers with a political problem. It laid bare a central fact: there is one set of laws for capitalists and another for the rest of us. This is not to be acknowledged. Capitalism's legitimacy depends heavily on the belief that the law is evenhanded and that capitalists, just like all other people, are subject to law. Law's prestige derives from this evenhandedness, from its devotion to fairness. That is how it delivers justice. Vague as the ideas of fairness and justice are, once law is seen to fail to deliver on these fronts, capitalism is in danger as it stands to lose the patina of legitimacy law bestows on it. The peasants, as the self-proclaimed zillionaire Nick Hanauer warns, are then likely to bring out their "pitchforks." He wants to retain the unearned privileges capitalism bestows on him and he urges his comrades to exploit the working class a little less crassly. Exploit, but do so slyly, is the advice he and the zillionaires' intellectual gatekeepers (Stiglitz, Krugman, Summers, Carney, Lagarde) give their fellow exploiters.

Living by the Same Rules?

The idea behind this advice is that capitalism and capitalists should not give fodder to non-capitalists to ask why capitalists are not required to live by the same rules as the rest of us. But it is becoming harder and harder for capitalism's cheerleaders to ward off the questioning. All over the world, populations have been engaging in colourful and brave protests against a huge variety of capitalist brutalities and demonstrating their dissatisfaction by delivering surprise after surprise in election after election. Many people are angered and agitated by capitalism's ravaging of their environment, of their standard of living, of their physical and cultural well-being, of their hard fought-for entitlements to participate in the selection and running of their own governments. The financial robberies and skullduggeries merely added fuel to this already smouldering fire.

To many, it is becoming painfully obvious that not only does capitalism hurt, kill and rob people, but also that some, a very few individuals, a few actual capitalists, benefit from those egregious inflictions of harm. There is a more easy-to-see gap between, on the one hand, law's self-portrayal as being spiritually committed to the evenhanded treatment of conduct and individuals, that is, to the values that pertain to a liberal polity and liberal economy and, on the other hand, law's actual working in a capitalist society.

For individual capitalists it is ideologically important to hide the gap between law's claim to evenhandedness and its actual working. This opens a promising door for anti-capitalists. It is possible, indeed, rather easy, to show that if we can force law to live by its claimed aims and goals, capitalists can be outed as receivers of ill-gotten gains and participants in deviant, even criminal, conduct. It will become obvious that, for capitalists to enjoy their special privileges, it has been necessary to bend and twist law into a logical pretzel. This will go a goodly way to erode the legitimacy of capitalists and capitalism. It will also satisfy the desire for revenge that has impelled so many harmed people to go out into the streets and to call for radical change. There is a potential to change the terrain of anti-capitalist politics, to tilt it our way a little.

Let me elaborate.

Law's Self-Portrayal

Canada holds itself out as a liberal market capitalist democracy. The ideal of liberalism is the protection of the sovereignty of individuals. *In law*, all individuals are to be treated with equal respect. All are entitled to think and act as they choose, subject to restrictions that permit the majority of us to so think and act. As sovereign individuals we are expected to take responsibility for our conduct. Individualism, as opposed to collectivism, is the central social and political value it favours. This is reflected in the devotion we have for the Rule of Law which demands that law remains wedded to fair processes and neutral applications of the law by neutral and neutred adjudicators who treat all individuals as equals before, according and under the law. As law is both created by the State and provides the mode of exercising State power, law plays a role in ensuring that State's inherently coercive power does not undermine the goals and values of law's liberal project. That coercive State power is kept in check by independent judges and constitutional bills of rights. Law also sets out to restrain the State's power to treat individuals as criminals; no one should be inhibited in their exercise of autonomy unless it can be justified by reference to the public good. The vote of each individual is to have equal weight as governments are elected to do their job. That job is perceived to be to facilitate and to promote private and individual self-seeking, rather than telling individuals how to behave.

By coincidence, as it were, this individualistic scheme and its opposition to coercion dovetails with the needs of the preferred idealized market economic model. If all act as self-interested individuals, none of whom can dictate conditions to any other, an efficient economy will ensue, one that enhances the freedom of all individuals to make their own choices.

Of course, these are ideals. There is much slippage. But, what is clear is that the model does not identify capitalist relations of production as having any particular salience. Capitalists are just seen as sovereign *individuals*, not warranting any special legal treatment. Their class position is of no interest to law. But, in fact – as the opening paragraphs show – liberal law does support the maintenance of a class-divided society. It hides this by making some vital assumptions, turning them into unchallengeable premises and by inventing a tool, the corporation, to give these assumptions a capitalist bite.

Law's Assumptions

(i) Liberal law does not question the grossly uneven division of wealth that prevails in our economy. Law does not care whether property has come to be owned as a result of endeavour, the winning of a lottery or by inheritance (even if it came from people who originally stole it). People either own means of production or not. The law considers them equals when they meet and engage with each other. The mere disadvantage of not having any wealth is not seen as a diminution of autonomy, of sovereignty of the wealth-less. If an individual does own property, it is seen to be part and parcel of that individual's essence and cannot be taken from her by anyone unless there is some very special reason to do so. This explains the difficulties faced by governments when they want to tax the rich.

(ii) Liberal law, pretending that individuals all are equally autonomous, regardless of their wealth, assumes that any deal entered-into seriously between a rich and a poor person is a legally enforceable one. The voluntary choices made by all individuals are to be respected no matter how awful the terms of the deal may be for the property-less party. Individuals with no wealth, workers, in order to live, *must* sell some of the very things that make them individuals – their intelligence, physical abilities and imaginations – to another, a capitalist, who may do with them what he pleases. Workers are assumed to have voluntarily agreed to obey orders by the purchasers of their bodies and minds; they are assumed to agree to a level of personal harm to their bodies and minds.

Law's assumptions have been internalized, normalized, making challenges difficult and permitting law to pursue the project it must honour to remain relevant to a capitalist society, namely, the maintenance and perpetuation of a class-divided political economy. This unarticulated agenda stays hidden even while it is given a boost by law's creation of the for-profit corporation. Law pretends (law does a lot of pretending!) that the corporation is just that, a tool, a mere instrument to advance liberal political and market economic ideals.

Fakery in Law

A registrar will register a corporation on behalf of one of a multitude of applicants, provided they are over 18, sane and not bankrupt and have selected a name that is not already in use. As soon as the registrar signs off, a legal person is created with all the capacities of the adult individual loved by liberal law. Unlike the human individual, the corporation cannot be seen, touched, smelled, has no colour or mind or body. But, such is the magic of law, it can hold the property its founders put into it and do with it as a human being might. It becomes a legitimate market actor. Because it is an *it*, it must have a board of directors to set its policies, executive managers who will put the plans into effect and workers who actually work. All this is said to lead to efficiency because it allows the pooling of assets that will then be put to optimal use in a co-ordinated manner.

First lie: The pretence is that the corporation is an individual. The best justification for its creation by law, however, is that, as a collective of human beings and assets, it will be more efficient than atomized individuals, each with their separate assets. It is, by design, not an individual in the liberal legal or the market economic sense. This is not just a debating point. As a collective, a corporation inherently has more power to coerce and to exploit than individuals do. This violates every basic tenet of liberal law and market economics.

To return: the corporation is said to be economically efficient. It does generate wealth. One reason is that it is immunized against the force of normal legal controls.

Second lie: As *the* active capitalist, the corporation is responsible for the materialization of risks it has created by its activities. Of course, the corporation, as such, does not care whether it has to pay compensation and/or is punished. There is no way to use the normal sanctions of liberal, based on individual psychology, social awareness and fear of loss of liberty. The treasured liberal idea that all individuals are to be held responsible for their personal actions is defanged. Liberal law is rendered impotent by its own creature.

To return: while the corporation is supposedly like a real person, all its thinking and acting is done by human beings. As just seen, technically it can be held responsible for that thinking and acting, even though the impact of such responsibility is a muted one. Similarly, the responsibility of those corporate thinkers and actors also mutates in an unexpected way.

Third lie: Directors, executives and workers, as individuals inside a corporation, have specific duties and obligations to the corporation, shareholders and outsiders. These duties vary in their scope, each attracting different remedies and sanctions. This poses problems for victims and regulators and enables directors and executives to shuffle the deck. They frequently arrange to have the corporation pay the damages or the fines provided that they are left off the hook. This is what happened in the banking scandals. Corporate law creates a malady: multiple personality disorder, a syndrome which facilitates the deflection of personal responsibility.

To return: investors of capital who expect a share of the profits reflecting the proportion of invested capital their contribution represents, are known as shareholders. They are seen as putting their capital at risk and are often referred-to as risk-takers.

Fourth lie: Law presumes those red-blooded capitalists who invest their monies to be such virtuous contributors to the general good that they should be thanked – legally. They are given the privilege of limited liability. This means that they can never be asked to lose more than the amount they invested, even if the corporation in its pursuit of profits on behalf of those shareholders caused more losses than their investments represent. Their responsibility is not measured by their risk-creating conduct; the responsibility imposed is not that which is attached to a sovereign individual. Liberal law and market economics be damned! Worse: corporate law also holds that, as shareholders do nothing, being indolent gamblers laying about in the hope their bet is a winner, they should not be personally responsible for any violations of law committed by the corporation and its directors, executives and workers. They are given legal immunity, as well as fiscal limited liability. Individual responsibility is not for them. As well, note that the label 'risk-takers' is a blatant falsehood. The law allows shareholders to shift virtually all the risks imposed by their actions onto others. This links to another lie.

Fifth lie: The same law that holds that shareholders are not responsible for corporate wrongdoing (because, apart from being such generous contributors of capital, they are passive bystanders), gives them immense legal powers to control the corporation. They have the legal power to replace those directors and executives who do not bring the bacon and to offer sweet rewards to those who do. They are able to, and do, dictate, the profit-maximizing policies of the corporation. They, not corporations, are *the* capitalists. After all, corporations as mere things, do not care about anything. Those who run them give corporations the impetus to maximize profits and they do it to please shareholders. Directors and executives do have some reason to abide by the letter and spirit of the law but, as we have seen, they have little to fear from the law should they push the envelope as far as it can go and even further in their drive for profits. They do have much to fear from not pleasing shareholders; they have much to gain by pleasing shareholders. Shareholders, having been rendered legally immune can afford to be indifferent as to how *their* corporation and *their directors and executives* seek to satisfy them. Profits at any cost is the not-so-hidden mantra. They push directors and executives to be callous about the consequences of their risk-creating conduct. Despite proclamations of adherence to liberal ideals, the corporation is a legally created site of irresponsibility.

It should now be plain that the reason that corporations maim, kill, dispossess, pollute, violate laws and social expectations, more so than any other group or institution in our society, is the fact that corporations are built to permit *flesh and blood* capitalists to exploit, ravage and pillage under cover of law, law that purports to set its face against the coercion and oppression of sovereign individuals by other individuals. It should not be surprising: in a capitalist system, law has to further the capitalist project. But, it is complicated. To be effective as a legitimator of capitalism, law has to demonstrate that it truly does endorse and enhance liberal norms and values at the same time that it may have to be antagonistic to them when it is pushed to satisfy capitalism's needs. This is what opens the door to progressive people.

Liberal Responsibility in the Non-Corporate Sphere

Employers are legally responsible when their employees carelessly and/or in violation of law harm outsiders. Tavern owners and other alcohol licencees are legally responsible when they continue to supply a patron when they could have anticipated that that patron could harm an outsider and did so. Churches are legally responsible for the acts of some of their employees when they abuse people in their care. The same is true of school boards, franchisors whose franchisees underpay or violate workers' human rights, of police boards whose police officers violate people's civil rights, and so on and so on. The fact that none of these, employers, tavern keepers, churches, etc., intended the infliction of injury does not negate their responsibility. This legal approach is based on the liberal notion that a person who controls an activity from which s/he expects to benefit should be responsible for the materialization of risks created in pursuit of those benefits. To take responsibility for one's actions is the essence of liberalism. It is only when we cloud the issue by interpolating corporations that the usual rule is 'forgotten.' Corporate law protects those who control and expect to benefit from corporate activities from being saddled with responsibility. Shareholders are allowed to cower beneath a corporate veil. Yet, these cowards, especially the very successful ones, stride around our polity like feudal kings used to do. The pretence is that this is not objectionable because shareholders, while seeking benefits from the corporation's endeavours, do not control them. This is another lie.

Sixth lie: It is often contended that corporations have far too many shareholders to be able to identify them all and that many, perhaps most, investors in corporations are not direct investors. Rather they contribute money to an institution that pools investments and buys shares with them. If anyone exercises control over corporate activities it is those institutions that act as intermediaries. But, this is not an accurate picture of our corporate world. There are many incorporated businesses that do not employ anyone. It is no trick to discover who controls their corporations and intends to benefit from them. Most of the incorporated businesses in Canada are small businesses. In fact 87.4% of all employer businesses employ 19 people or less. If incorporated – as many are in the hope of avoiding legal obligations – it is dead easy to discern who controls the enterprise for whose benefit. At the other end of the scale, of the top 500 firms listed by the *Financial Post*, 254 are privately held, that is, their shares are not traded precisely because those who run it want to control these firms without any intervention by anyone else. The identity of the controllers and beneficiaries is not a mystery. Of the other 246 major corporations whose shares are traded all the time, only 67 do not have a single or small group of shareholders who control the voting power in the corporation. While it will sometimes be technically difficult, it is feasible to find those who control corporate policies and whose failure to consider the consequences of pursuits engaged-in on their behalf should leave them no better off than a tavern owner or a church when it comes to legal accountability. Only the perpetuation of the lies that all shareholders are virtuous and passive and that controlling shareholders cannot be found prevents liberal law from being applied as it self-righteously claims it wants it to be applied.

The Politics

Capitalism, precisely because it is a system, is totalizing. We are all subjected to its coercions and are all implicated in its daily workings. We are impacted differentially and find it hard to fight it as a system. We need a tangible target. Understandably, the creation of the corporation as a tool to do capitalists' bidding has served to make it appear to be *the* enemy. As the story told suggests, the corporation's crafty legal design, leading to multiple personality disorder and an ordered site of irresponsibility, makes it extremely difficult to win individual battles, to get redress and justice, let alone meaningful reforms or radical change, when corporations are our targets. All too often, it feels as if we are fighting windmills.

"If anti-capitalists set out to identify controlling shareholders whenever they engage in a local struggle against an oppression apparently perpetrated by a corporation, it would further not only the specific aims of the battle but also the struggle to break the hold capitalism has on our political imagination."

There are flesh and blood human beings who profit from all this obfuscation. They are the real capitalists. If anti-capitalists set out to identify controlling shareholders whenever they engage in a local struggle against an oppression apparently perpetrated by a corporation, it would further not only the specific aims of the battle but also the struggle to break the hold capitalism has on our political imagination. Once it is accepted that controlling shareholders, that is, human beings supposedly subject to our laws, are responsible for the decisions that impose hardships, the logic of law can be used to ask them to account for their actions. Once these hidden cowards are forced to come out from under the veil they can no longer say that they cannot help it if 'their' corporate monies are used to make a mockery of our democratic institutions, and they can no longer say that they had no way of stopping the use of processes that make so many environments unlivable or poison workers, they can no longer say that they are not connected to the dispossessions of peoples and cultures. They control the corporations that do these things as they maximize profits on shareholders' behalf. Anti-capitalists of all stripes will be able to see that they have tangible enemies who all belong to the same class. They will have targets that, unlike a pervasive invisible system or a legal artifice, are concrete and that, like the rest of us, will respond to pain and hurt. This just might wound the corporation and have some impact on capitalism.

It is worth a shot. "We have nothing to lose but the bosses' smile" (Greg Shotwell, *Live Bait & Ammo,* no. 76, August 2010).

Harry Glasbeek is a Professor Emeritus and Senior Scholar, Osgoode Hall Law School, York University. His latest book is Class Privilege: How law shelters shareholders and coddles capitalism*, Toronto: Between the Lines, 2017. The follow-up,* Capitalism: a crime story*, will be published by Between the Lines in Spring 2018.*

Our Comment

While probably most of us know that *legal* is not a synonym for *just*, it may come as a surprise to most of us that "there is one set of laws for capitalists and another for the rest of us."

The meltdown of 2007-2008 blew the cover of the "major villains," calling into question as never before the legitimacy of capitalism, and raising the spectre of an enlightened peasantry wielding "pitchforks."

The meltdown generated, on the one hand, serious attention to the need for damage control, and on the other, a new level of resistance.

In *Class Privilege: How The Law Shelters Shareholders and Coddles Capitalism,* Professor Glasbeek reports that "Mark Carney, the prestigious governor of the Bank of England, speaking in 2014 at a tellingly named Conference on Inclusive Capitalism, made a passionate plea for capitalists to reconsider the oft-expressed opposition to the return of some countervailing powers for consumers, trade unions and the wealthless" (page 244).

He quotes "Christine Lagarde of the International Monetary Fund [who] made a similar plea, suggesting that, should governments not bring capitalists back to their senses, Karl Marx's prediction that capitalism would create its own gravediggers might come true" (page 244).

"The Henry Jackson Institute, the organization behind the Inclusive Capitalism Initiative," he points out, "explained its raison d'être as follows: We felt that such was the public disgust with the system, there was a very real danger that politicians could seek to remedy the situation by legislating capitalism out of existence" (page 245).

Glasbeek exposes the degree to which the system depends on ignorance, and reviews the extent to which "capitalism is ugly" – and why.

Who would have thought that this crisis for capitalists could "open a promising door for anti-capitalists"? The trick is to "show that if we can force law to live by its claimed aims and goals, capitalists can be outed."

The article leads us from the ideal of liberalism underlying our professed, "liberal market capitalist democracy," to the implications of that for our legal system. It goes on to make clear the hypocrisy exercised in the law's support for "the maintenance of a class-divided society.

Glasbeek explains in considerable detail, the reliance on "vital assumptions, turning them into unchallengeable premises," and on the invention of the corporation.

The identification and refutation of the law's assumptions reveals the same level of "thinking" one finds in neoliberal economics – like, for example, the dismissal of certain inconvenient factors as "externalities," and pretenses to keep the law "relevant" to a capitalist society. One outstanding pretense is that the corporation is an individual that qualifies for extraordinary freedom and benefits while being excused from the personal responsibility required of a human individual.

The dilemma of the law that "opens the door to progressive people" is an inescapable flaw that renders this hypocritical system vulnerable.

Excuses designed to protect shareholders from responsibility for corporate misdemeanors are mercilessly exposed for what they are. Shareholders, it is argued, are legitimate targets who should be held as highly responsible for the destructive fallout from corporate risk-taking and ruthless maneuvers, as their counterparts in the non-corporate sphere.

Professor Glasbeek's conclusion that his recommendations "just might wound the corporation and have some impact on capitalism," is less satisfying than what he has been able to develop in *Class Privilege,* in which, of course, he has been able to pursue the topic more fully. He cautions there against our settling for short-term concessions made to disarm those pitchfork-wielding peasants.

"Let us use the reforms on offer as a platform for radical change, not as ends in themselves. Let the platform be a staging point for translating capitalist-compatible reforms into demands that reject capitalism's crass logic. The changes to be put on the agenda should envision a system of social relations which does not proclaim greed and monetary growth to be the pinnacle of human achievement" (page 248).

"The need to see capitalism for what it is and to assault its logic remains pressing" (page 245).

Élan

Why Is Trudeau Blowing His Chance to Curb Dangerous, Climate-warming Methane?

By Andrew Nikiforuk, thetyee.ca, June 7, 2017

The facts and solutions are readily available, but our pipeline-loving PM stalls.

Here's what the Trudeau government definitely knows about the science of methane.

The gas accounts for more than one-quarter of all global warming, and reliable data from satellite and airplane surveys show that emissions are increasing, largely from the oil and gas industry.

In Canada, methane now accounts for approximately 15 percent of Canada's total greenhouse gas emissions. The bulk of that pollution comes from the oil and gas industry, but that's a gross underestimate because industry does its own self-reporting.

Spewing more methane into the atmosphere is like dumping gasoline on a campfire, because the gas is 86 times more potent than carbon dioxide as a climate destabilizer over a 20-year period.

Moreover the light gas often travels with a variety of toxic compounds, including radon hydrogen sulfide, toluene, xylene and benzene.

It also contributes to the formation of what scientists call tropospheric ozone, or smog. Ozone not only harms plants and reduces crop yields, but can also damage the lungs and is a public health hazard.

For Trudeau, methane should have been a politician's dream. Reducing one tonne of methane emissions over a period is like eliminating more than 80 tonnes of carbon dioxide. The solutions, which are all about fixing leaks or stopping venting, are economic, technically well-known, conserve a natural resource (methane), and create jobs.

In fact, any government serious about climate change would tackle methane first, because methane reductions not only deliver a bigger bang for the buck in the messy field of climate change but also solve other problems.

Now, you'd think a country with a big greenhouse gas problem and a terrible record of doing anything about it would jump at the chance to expend little effort and dollars to effect big change.

But not Canada. And not Trudeau.

Last month the Trudeau government did another one of its famous back steps on climate change and delayed the implementation of rules to curb methane leaks in the oil and gas industry by another three years.

In so doing, Trudeau broke a 2016 promise with the Obama administration to reduce methane emissions by 40 to 45 percent at 2012 levels. Trudeau planned to implement the regulations in 2018 with full phase in by 2020. Now they won't fully come into effect until 2023.

The federal government justified the delay by saying it would give industry more time to adjust and budget for the regulations to fix and repair leaks.

But that's bullshit. After the Trump administration dismantled rules and regulations to control methane in the oil patch, Trudeau chose to follow Trump and delay, too.

He promised not to behave that way. Last year during a Calgary speech, Trudeau vowed that if Trump stepped back from climate action, the US retreat would create an "extraordinary opportunity" for Canada to strengthen its commitments and move forward. But that was last year.

In delaying action in Canada, Trudeau played Neville Chamberlain to the carbon-heavy Trumposaurus.

Trump, of course, loves methane and hates regulations because they often restrain the self-serving behaviour of the rich and powerful such as the Koch brothers. (The oil refinery barons spent hundreds of millions fighting climate change and have secured a voice in the White House.)

In the last three months the Trump administration cancelled a requirement to report on methane emissions because oil and gas companies complained that they added paperwork and costs.

Trump also ordered a review of an Obama rule that would have limited methane emissions at new oil and gas drilling sites.

And his government issued a 90-day stay to halt federal methane leak detection and repair requirements scheduled to take full effect on June 3. He also said he would soon propose to extend the stay indefinitely.

So, here's what Canada is now going to delay or simply ignore in the world of methane leaks and venting.

About Our Commenter

Élan is a pseudonym representing two of the original members of COMER, one of whom is now deceased. The surviving member could never do the work she is now engaged in were it not for their work together over many years. This signature is a way of acknowledging that indebtedness.

Hundreds of thousands of controllers and pumps designed to dump or vent gas into the atmosphere account for more than half of vented emissions from Canada's oil patch. The industry uses gas-driven pneumatic devices to regulate valves and the flow of gas at remote oil and gas facilities because they are a cheap power source. Most of the devices are designed to vent methane.

A typical Alberta well site sports an average of three pneumatic controllers and 1.2 pumps, emitting the greenhouse gas equivalent of 20 cars. Oil and heavy oil sites leak or vent the most methane.

A recent study by Environmental Defence found that "the actual emissions at oil and gas facilities from pneumatic devices are 60 percent higher than estimates used to compile Canada's [greenhouse gas] inventory."

In fact the volume leaking from pneumatic devices in Alberta alone over a one-year period, 490 kilotonnes, could heat more than 200,000 homes.

The good news is that whenever industry replaces a high-venting pneumatic controller with a low-venting one, it can reduce methane emissions by 81 percent.

Electric pumps (solar-powered) can replace pneumatic ones with 100 percent methane reductions. Industry can also capture vented gas from pneumatic devices and use the methane on site as a fuel source, too.

But Canada won't be doing that for another three years, and when we do we'll be regulating methane in a piecemeal manner.

Due to the weakness of Trudeau's regulations, thousands of small compressor and dehydrator sites that leak less than 60,000 cubic metres a year will be exempt from the rules.

(Alberta has its own plan to reduce methane emissions by 45 percent, but don't hold your breath: it will be administered by a dysfunctional agency largely funded by industry, hated by landowners and run by a former energy lobbyist.)

Canada will also ignore for another three years the massive methane venting of heavy oil operations.

In just 11 Alberta townships alone, oil and gas companies dump more than five million cubic metres of methane into the atmosphere every year.

In another 72 townships, industry vents between one and five million cubic metres of methane a year.

The problem has been so noteworthy and troubling that industry researcher Bruce Peachey has given talks and written articles entitled "Heavy oil methane: Still venting after all these years."

As Peachey has noted, the heavy oil/bitumen industry promised to do something about its methane vents 15 years ago, but didn't.

Whenever heavy oil producers choose to capture methane venting from cases, tank tops or even trucks, they stop poisoning crops and people as well as destabilizing the climate.

But thanks to fickle provincial regulators and petrolized political leaders like Trudeau and Alberta Premier Rachel Notley, there is only one meagre example of change in the heavy oil business: Shell's former Cliffdale operation.

Several years ago the bitumen operation discovered that vent volumes were higher than expected – a typical and overwhelming industry problem, says Peachey. Nearby rural residents in Peace River, Alberta were getting fumigated with hydrocarbons.

Shell then spent $40 million to plug leaks and saved nearly $4-million worth of methane a year. It even used the conserved methane as a fuel source to boil steam to produce bitumen.

The case proves that heavy oil methane venting can be plugged, said Peachey, "if a company is motivated to do so."

"Shell has shown you can, and it didn't cost them that much. So what does that mean? It really means that you have to include the vent gas capture as part of the total economics of the oil production. And that's what Shell does. They say, we are not going to produce oil unless we are cleaning up our mess at the same time. It's not a matter of technology, it's totally based on motivation."

Peachey added that industry has frequently fudged the scale of the heavy oil venting with wacky standards on measurements "big enough to drive a Volkswagen through."

"There is a lot of potential for the numbers to be biased, for the numbers to not be what is actually being vented, and there is a lot of incentive for them not to get to where they would have to do anything about it."

Next comes the venting from hydraulic fracking, a growing source of methane pollution in BC, Alberta and Saskatchewan.

The amount of methane flared or vented from wells has increased nearly fivefold since industry deployed multi-stage fracking operations nearly a decade ago. In fact US researchers now estimate that "the greenhouse gas footprint for shale gas is 22% to 43% greater than that for conventional gas."

It all stems from the nature of hydraulic fracturing, according to the Alberta Energy Regulator: "It takes longer to recover load fluids and clean out wells in these operations, resulting in greater flare volumes and longer flaring durations than with vertical wells and wells that are not fractured."

But the new federal methane regulations, when they come into effect, exempt Alberta, Saskatchewan and BC. Why?

Because provincial oil and gas regulators, largely funded and controlled by industry, are allegedly dealing with the problem. But landowners say that's nonsense.

Next comes ongoing methane leakage from tens of thousands of badly sealed inactive wells, abandoned wells as well as active ones.

Regulators don't have a good handle on the scale of this multibillion-dollar liability. They aren't doing the monitoring on abandoned wells or even requiring that industry address the liabilities of inactive wells in a timely fashion.

University of Calgary researchers recently found "that 607 unremediated 'serious' leaking wells in Alberta and BC contribute more than three-quarters" of the methane volume emitted from surface casing vents.

As things stand now, regulators gauge the seriousness of leaks from well sites based on rate of methane leakage as opposed to its impact on water, atmosphere, vegetation or animal and human health.

Last but not least the Trudeau government doesn't want to deal with the giant elephant in the room: the under-reporting of methane emissions in the nation's oil patch.

Remember how the oilsands industry once claimed that it was clean, green and world class? That fake news story was based on self-reporting or industry estimates of its own pollution.

But when scientists went into the field and measured pollution over four oilsands facilities in real time from airplanes and satellites, they found that bitumen miners actually emitted two to four-and-a-half times more volatile organic compounds than they had reported.

Such compounds can produce ozone, a greenhouse gas that can harm human health. (A separate study on greenhouse gas emissions from the oilsands is in the works.)

The consistent story of under-reporting pollution in the oil patch applies to methane, too. For years BC's former minister of natural gas development, for example, claimed that the province's 20,000 oil and gas wells didn't leak and that industry's fugitive emissions were the smallest in North America.

Not trusting government hubris, the David Suzuki Foundation partnered with the FluxLab at St. Francis Xavier University and took measurements at 1,600 well sites. They found more inaccurate estimates and huge under-reporting.

Their peer-reviewed study found that methane emissions from BC's shale gas basins are probably at least 2.5 times higher than provincial government estimates.

In the end Trudeau's decision to delay tackling an immediately fixable problem probably 2.5 times worse than provincially reported is another vote to destabilize the climate and to appease a petro tyrant south of the border.

It all prompts a question: What's worse – an orange-haired US caudillo who denies climate change science and openly pimps for the fossil fuel industry, or a Tofino surfer dude who acknowledges the threat of climate change but approves bitumen pipelines, embraces liquefied natural gas projects dependent on hydraulic fracking, and then delays any meaningful action on fixable methane leaks?

The answer is self-evident: it is the deceiver and the hypocrite.

But that's been Canada's real position on battling climate change for decades.

Our Comment

The law is not the only feature of the current system that fails to deliver justice according to "the ideal of liberalism."

Andrew Nikiforuk's account of how our Prime Minister is "blowing his chance to curb *dangerous*, climate-warming methane," exposes the same double standard with regards to responsibility and risk-taking that Professor Glasbeek deplores in his article on *The Duplicity of Law and the Cowardice of Capitalists*.

In a truly democratic system the public would be well informed and meaningfully involved in the process of decision-making on such critical issues, and the government would be held accountable.

In a truly democratic system, a "politician's dream" would not be arbitrarily converted into yet another toxic nightmare for the citizens whose best interests s/he has been elected to serve.

Broken promises! Preferential priorities! Prolonged environmental damage! Why indeed?!

As for the industry, what a catalogue of irresponsibility! No wonder deregulation is so fundamental a neoliberal 'principle'!

True costs such as those of hydraulic fracking and leaking, the use of cheap power sources, and the neglect of inactive wells should be factored into the industry's bookkeeping. Accurate cost/benefit assessment could then better direct suitable, intelligent policy.

Can't afford the solutions? What we can't afford is a system that permits those in charge to arbitrarily approve such known and needles risks, and that frustrates efforts to develop alternatives in support of an industry determined to suck the last drop of profit from the status quo.

Élan