PP+G REVIEW

Volume 5, Issue 1
Fall 2013

School of Public Policy & Governance
UNIVERSITY OF TORONTO

Editorial Board

Volume 5, Issue 1, Fall 2013

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Editors' Note

2013 is an uncertain time to be working in the public policy field. Governments are struggling with record-high deficits, international tensions are mounting, and countries continue to grapple with the fallout from the 2008 global recession. Policy practitioners are told that we must adapt to austerity measures and learn how to do more with less.

It is with great pride, then, that we present Volume Five Issue One of the Public Policy and Governance Review. This issue features students and professionals bravely tackling the current challenges facing policymakers, and providing insightful analysis and recommendations for moving forward.

The Issue discusses the powers of regulation, approaches to disease and nutrition, and the future of municipal governance. It contains an examination of Ontario's mining industry, as well as an inside look at the International Atomic Energy Agency meeting in Vienna. The Issue concludes with a case study of Vancouver's Downtown Eastside, where poverty and empowerment are addressed in the context of recycling and green cities.

This Issue would not have been possible without the guidance and commitment of all the previous PPGR Editors. We would also like to extend our gratitude to our current Editorial Board, who have leant their time and efforts to the production of this Issue. In addition to the talented writers represented in these pages, we would like to recognize our online contributors who have helped to make the PPGR blog (ppgreview.ca) the premier online hub for quality policy analysis and insight. We hope you enjoy the Fall 2013 Issue of the Public Policy and Governance Review, and welcome your thoughts and feedback.

Sincerely,
Wyndham Bettencourt-McCarthy and Jeremy Mesiano-Crookston
Editors-in-Chief, Public Policy and Governance Review (www.ppgreview.ca)

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Regulation

A Regulatory Outlier: Gambling in Ontario

James Elson

With support drawn from literature examining gambling regulation and specific examples relating to the push for gaming modernization in Ontario, this paper compares the assertions of regulatory theorists with the structure of gambling regulation in Ontario. By examining the interim results achieved in the case of Ontario's gaming modernization, it becomes apparent that gambling regulation in Ontario has been designed to increase monopoly power, reduce or eliminate regulatory independence, and ensure regulatory capture with the intent of furthering the financial and political interests of the government.[1]

Introduction

Ontario is currently in the midst of a serious and contentious debate regarding the proper scope and operation of gambling activities in the province. Following the recommendations of the Ontario Lottery and Gaming Corporation (OLG), significant changes and additions have been proposed with respect to gaming venue locations and the allocation of funds generated by gambling operations. In this context, this paper examines the purpose of gambling regulation in Ontario, as well as the relationship between gambling regulators and the Ontario government, and between gambling regulators and the gambling industry. Regulatory theorists commonly assert that regulation can be justified on the basis of reducing monopoly power and externalities in the market, that regulators must be afforded an appropriate level of independence from government

1 Author's Note: This article is an adaptation of a paper completed in April, 2013, and thus contemporaneous references are made to that time period. Since April, 2013, a number of events have occurred that may have made the regulation of gambling in Ontario less of a "regulatory outlier." With that acknowledgement, however, it remains the author's view that the regulatory approach to gambling in Ontario was, at least for the period chronicled in this article, extraordinary.

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in executing their purpose, and that proper controls must be put in place to protect the regulator from acting solely for the benefit of a single interest. In the context of gambling, however, a different picture is revealed.

With support drawn from literature examining gambling regulation in Ontario and specific examples relating to the renewed push for gaming modernization in Ontario, this paper compares the assertions of regulatory theorists with the current structure of gambling regulation in Ontario and, where possible, the (interim) results achieved in Ontario's gaming modernization. It becomes apparent that gambling regulation in Ontario has been designed to increase monopoly power, reduce or eliminate regulatory independence, and ensure regulatory capture with the intent of furthering the financial and political interests of the government.

Before addressing regulatory purpose, independence, and capture as they relate to the regulation of gambling in Ontario, it will be important to provide a brief outline of the context facing government decision makers, as well as an overview of the regulatory framework for gambling in the province.

Current Context and Overview:
The Regulatory Framework in Ontario
Gaming in Ontario is subject to a relatively complex web of federal and provincial jurisdiction, in addition to a division of responsibility for aspects of regulation at the provincial level. Since 1969, successive waves of change have transformed the gambling industry: "[f]rom a Canadian historical perspective, most forms of gambling were considered vices until the Criminal Code amendments of 1969 and 1985" that began the "transformation of gambling from federal prohibition to provincial regulation" (Campbelll, Smith, Hartnagel, & Law Commission of Canada, 2005). The 1985 federal amendments completed the process of transferring responsibility for gambling from the federal government to the provincial government:

> The central government, in return for 100 million dollars from the provinces, [changed] the Criminal Code to grant the provinces and their agencies the sole legal right to conduct or have conducted lotteries and games of chance (Labrosse, 1985).

As a result of this agreement and subsequent amendments to the Criminal Code, provinces have been granted exclusive authority to manage and conduct lottery schemes, with all Canadian provinces and territories currently permitting gambling to some extent (Campbelll, Smith, Hartnagel, & Law Commission of Canada, 2005). The term "lottery scheme," contained in the Criminal Code, has been interpreted broadly by the provinces

to include casino-style card games that form the backbone of casino ventures in Ontario and across the country (Ibid). Similarly, the provinces have interpreted the term "manage and conduct" broadly, such that four operational/regulatory models have emerged. Broadly speaking, these are: the Crown Corporation Model, where the Province regulates and operates gaming facilities directly; the Hybrid Model, where the Province regulates, owns, and controls casino properties, but operations are conducted by private sector operators; the Charity Model, where charities operate lottery schemes under a provincial licence; and the First Nations Model, where First Nations either own, or own and operate, gaming facilities under a licence (Ibid).

The government of Ontario regulates and operates gambling facilities under a Hybrid Model, engaging private operators to manage daily operations of the casino facilities that it owns. Importantly, Ontario divides regulatory oversight for casino gambling between three agencies: the Ontario Lottery and Gaming Corporation (OLG), the Ontario Racing Commission (ORC), and the Alcohol and Gaming Commission of Ontario (AGCO). The ORC is a Crown agency responsible for regulating horse racing in Ontario, and reports to the Ministry of Government Services [2] (Canadian Partnership for Responsible Gaming, 2010). The AGCO regulates gaming in the province pursuant to the Gaming Control Act of Ontario (Ibid). The AGCO regulates rules of play for games of chance conducted and managed by OLG, and registers suppliers for those games (AGCO, 2013).

The third regulatory body with jurisdiction for the regulation of Ontario casino gambling is the OLG. The OLG's enabling statute has four purposes: (i) to enhance the economic development of the Province; (ii) to generate revenues for the Province; (iii) to promote responsible gaming; and (iv) to ensure that anything done for the aforementioned purposes is also done for the "public good and in the best interests of the Province" (Ontario Lottery and Gaming Corporation Act, 1999, S.O. 1999, C 12 , Sch L). The OLG is also assigned a short list of objects under its enabling statute, including to develop, undertake, organize, conduct, and manage lottery schemes, to provide for operation of gaming sites, and to ensure compliance with the Criminal Code and other applicable legislation (Ibid).

Ontario's Fiscal Context
In March of 2010, the Ontario government presented a budget that forecasted a $19.7 billion deficit for 2010-11, following a $21.3-billion defecit in fiscal 2009-2010. The Ontario government predicted significant budget defecits until 2017-18 (CBC News, 2010). In July of 2010, the OLG was "asked to modernize commercial and charitable gaming" by the government of Ontario (Ontario Lottery and Gaming Corporation, 2012). As a result, it

2 It was recently announced that ORC will be merged with OLG, but further details were not available at the time of submission.

conducted a comprehensive strategic review of the lottery distribution network and land-based gaming facilities, and released a report on gaming modernization in Ontario (Ibid).

Gaming Modernization

The OLG's 2012 report on gaming modernization set out three broad recommendations: (i) become more customer-focused; (ii) expand regulated private sector delivery of lottery and gaming; and (iii) renew the OLG's role in oversight of lottery and gaming (Ontario Lottery and Gaming Corporation, 2012). The OLG's recommendation to become more customer focused included the recognition that the "requirement to locate slots at racetracks limits site locations and impedes OLG's ability to serve customers closer to where they live and is therefore not responsive to customer interest" (Ibid). In addition, the recommendations to "expand regulated private sector delivery of lottery and gaming," included the recommendation to introduce new gaming locations "subject to the approval of host municipalities" (Ibid). The gaming modernization report, and the analysis following the report's delivery, suggested that roughly 40% of the $1.3-billion to $2-billion in projected additional provincial revenue that would be achieved through gaming modernization would be generated by a casino in the Greater Toronto Area (Moore, 2012). The potential for increased revenues from government-sanctioned gambling operations were welcomed by provincial politicians, including Ontario's Finance Minister, who was quoted as saying that "[t]his new revenue will help us balance the budget" (Ibid), and "modernizing OLG's operations and business model is an example of how we are ensuring our assets are delivering the greatest value to taxpayers" (Ministry of Finance, 2012).

Purpose of Gaming Regulation

U.S. Supreme Court Justice Stephen Breyer has suggested a short list of the justifications that are typically presented for economic regulation: the control of monopoly power, rent control/control of excess profits, compensating for spillovers/externalities, inadequate/imperfect information available in the market, and excessive competition (Breyer, 1982). While focusing on the economic regulation of public utilities in the United States, Alfred Kahn outlines four principal components of government regulation: "control of entry, price fixing, prescription of quality and conditions of service, and the imposition of an obligation to serve all applicants under reasonable conditions" (Kahn, 1998, p. 3). Kahn's conception represents the most recognized means of industry regulation, which has been applied (at least loosely) to a wide range of industries, including telecommunications and public utilities in Canada.

Ontario's Monopoly Power

While Breyer and others have suggested that regulation should be used as a means to "control" monopoly power, the regulation of gambling in Ontario appears to have had

the opposite effect. As outlined above, amendments were made in 1985 to the Criminal Code which ensured that the provinces had exclusive jurisdiction over gambling activities within their borders. These amendments have had recognizable effects: "The creation of provincial gambling monopolies has resulted in an overwhelming expansion of gambling, seemingly driven by a desire to maximize profits" (Brodeur & Ouellet, 2004). In particular: The gambling provisions of the modern Criminal Code and the operation and regulatory regimes that have been embraced are directed less at preventing participation in a harmful activity and more toward securing and justifying provincial monopolization of gambling as a revenue source" (Campbelll, Smith, Hartnagel, & Law Commission of Canada, 2005). Ontario has not been a passive actor in this process. It has "eliminated competition from charitable and other groups for gambling venues, co-opted groups in society that resisted and opposed gambling expansion, and developed allies so that the expansion of gambling can proceed" (Klassen & Cosgrave, 2009). Eliminating competition from other "private, yet legal, forms of gambling" has involved, amongst other things, Ontario taking control of "charity" casinos and racetracks that were previously operated privately (Ibid).

Spillover Effects

A second rationale for regulation, as suggested by Breyer, is to compensate for the spillover effects caused by the regulated entity (1982). In the case of gambling, a number of unwanted social costs have been identified, including problem gambling and gambling-related crime (Campbelll, Smith, Hartnagel, & Law Commission of Canada, 2005). Ontario has adopted a number of specific policies to address these issues. In the case of problem gambling, "2% of slot machine revenue from OLG casinos and slots-at-racetrack facilities goes to Ontario's problem gambling strategy," which is administered through the Ministry of Health and Long-Term Care for treatment and research initiatives, and the Ministry of Health Promotion for prevention initiatives (Canadian Partnership for Responsible Gaming, 2010).

While it is clear that the Ontario government and the OLG have both invested significant resources into their responsible gaming strategy, it is difficult to assert that these actions have been taken "for the public good and in the best interests of the Province," rather than as a part of an overall public relations campaign to assist the OLG in mitigating the perceived negative impacts of gambling. Moreover, such a strategy has greatly expanded the OLG's gambling monopoly. For instance, while the Ontario government funds research into problem gambling, the:

> Research projects that receive funding tend to conceptualize problem gambling as primarily a personal, psychological, and medical condition, rather than a broader social issue, while research projects that might reflect

> adversely on gambling, such as benefit-cost analyses, are typically not funded (Klassen & Cosgrave, 2009).

The provincial strategy to co-opt groups in society that resist and oppose gambling expansion is also revealed by the OLG's gaming modernization website, which was created following the announcement of the OLG's expansion strategy. The website is similar in style to other websites aimed at influencing public opinion,[3] and pays specific attention to the "responsible gaming" portion of its mission with videos, fact-sheets, and frequently asked questions (FAQs).

At the core of the economic justifications for regulation is the idea that regulation should be imposed only if the market is, for some reason, unable to deliver efficient outcomes. This efficiency argument includes preventing a single market player from exerting monopoly power over individual consumers. In the case of the regulation of gambling, the opposite appears to be the case: regulation is used in order for the Province to expand its monopoly power over gambling revenues.

An additional justification for regulation is that in its absence, the regulated industry would externalize the true costs of the regulated activity, and the costs would be borne by society at large. While problem gambling, gambling-related crime, and other negative effects associated with gambling are certainly a concern, the Province and the OLG have taken significant efforts to mitigate their impact by directing research away from questions that might adversely reflect on gambling and engaging in marketing and public relations campaigns that tout the OLG's effectiveness at reducing the perceived negative impacts associated with gambling.

Regulatory Independence and Relationship with Government

A major question in regulatory literature relates to the level of independent decision-making authority an administrative body is given by government, and the degree to which the body can legitimately and freely exercise that power without government interference. As stated by Sossin:

> All administrative bodies in Canada are, by definition, dependant for their existence on their legislative mandate, and the political will that mandate reflects. Further, these bodies are not free to adopt the mandate they believe is most appropriate, but must discharge the responsibilities provided to them (Sossin, 2009).

3 Contrast with www.porterplans.com, regarding the proposed expansion of Billy Bishop Airport in Toronto.

Independent bodies must, therefore, "act impartially and objectively and to advance only the legislative purposes for which they were created" (Sossin, 2009, 7). Within these constraints, administrative bodies are afforded different levels of authority and independence by government depending upon their statutory purpose. At least part of the rationale for delegating such authority to administrative bodies is the ability of the agency to make decisions without partisan political goals in order to advance the public interest:

> These schemes typically [try] to balance independence from elected politicians in the executive and legislative branches of government with some form of direct accountability to the larger public and to the regulated companies and their consumers. In effect these schemes [replace] the normal process for political decision making in a democracy with alternative forms of accountability (Gomez-Ibanez, 2003, p. 48).

Broadly speaking, administrative agencies have been widely accepted in Canada as a legitimate means for governments to delegate differing levels of independent decision-making authority.

Independence and the OLG

This is not to say, however, that the OLG is a truly independent agency. To the contrary, the "OLG is a provincial agency responsible for province-wide lottery games and gaming facilities" (Ontario Lottery and Gaming Corporation, 2012). The OLG's public function is clearly outlined in the OLG's enacting statute: to enhance economic development; to generate revenues; to promote responsible gaming; and to ensure that these objects are pursued for the public good (Ontario Lottery and Gaming Corporation Act, 1999, S.O. 1999, C 12 , Sch L). The OLG has, therefore, been delegated a public function with a relatively low level of independent decision-making authority, and remains accountable to the government in the exercise of that authority. What is clear from recent developments relating to the push to modernize gaming in Ontario, however, is just how low a level of independence the OLG has been afforded by government, such that even when its recommendations and actions fall squarely within its statutory purpose, as in the examples of the slots-at-racetracks and Toronto casino hosting fee debates, the government has seen fit to step in and alter the OLG's approach.

Slots-at-Racetracks

As part of its report on gaming modernization in Ontario, the OLG identified the need to become increasingly customer focused, and stated that the "requirement to locate slots at racetracks limits site locations and impedes OLG's ability to serve customers closer to where they live" (Ontario Lottery and Gaming Corporation, 2012). This was not, however, the only reason the OLG identified as pushing its decision away from the status quo. In fact, the OLG reported that:

> Based on the current Slots-at-Racetrack Program, the horseracing sector is projected to receive $345 million (2011-12). Since the program was launched, horsepeople and racetrack owners have received over $3.4 billion (Ontario Lottery and Gaming Corporation, 2012).

Called a $345 million subsidy for the horseracing industry by some[4] and a "successful revenue sharing partnership" by others,[5] the Slots-at-Racetrack Program was identified by the OLG as restricting "OLG's ability to maximize revenues for key government priorities" (Ontario Lottery and Gaming Corporation, 2012). As such, the OLG recommended that the program be eliminated.

Responding to the OLG's recommendations, the government of Ontario directed the OLG to implement a number of proposals from its modernization report, including "ending the Slots-at-Racetracks Program on March 31, 2013, and allowing slot facilities to be located more strategically" (Ministry of Finance, 2012). The government directive generated significant opposition, especially from rural and municipal stakeholders who argued that eliminating the program would result in the loss of over 60,000 jobs, mostly relating to the horse racing industry in rural Ontario (Standardbred Canada, 2012; Ontario Horse Racing Industry Association).

As a result of this outcry, the government appointed a panel comprised of former cabinet ministers from the three major Ontario political parties to provide recommendations to the government on how to allocate transition funding and advise on the modernization of other industry revenue sources to assist the industry in becoming more self-sufficient (Government of Ontario, 2012). The panel's report, released in October of 2012, called the Slots-at-Racetracks Program "poor public policy," but recommended alternate funding to keep the horse racing system viable (Horse Racing Industry Transition Panel, 2012). This recommendation has led to the Ontario government negotiating "transition funding agreements" with Ontario racetracks, at an estimated cost of $200-million–more than half of what they were already receiving (The Canadian Press, 2013). In addition, the horseracing sector will be integrated into a "provincial gambling strategy with Ontario Lottery and Gaming to find new revenue streams" (Ibid), a recommendation that was not

4 See, for example: "Horse farmers protest planned cuts to race track subsidy at Queen's Park," Erin Criger, City News Toronto, February 2, 2012
5 "OHRIA Responds To Slots-At-Racetracks Partnership Review" Standardbred Canada, February 13, 2013

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included in the OLG modernization proposal, and is not consistent with the OLG's current purpose.

Toronto Casino Hosting Fee

The Toronto casino hosting fee debate has a similar origin to the Slots-at-Racetracks debate. As part of its report on gaming modernization in Ontario, the OLG identified the need to become increasingly customer focused, and stated that with respect to gaming, "particularly in the Greater Toronto Area, customer interest is not being met" (Ontario Lottery and Gaming Corporation, 2012). As a result, the OLG recommended that "a new facility in the Greater Toronto Area" be built subject to the receipt of municipal council approval (Ibid). Given the financial projections for a casino in the GTA, this proposal has received substantial attention from provincial and municipal stakeholders.

Shortly thereafter, Toronto initiated a fact-finding exercise to determine the economic impact a casino would have on the city, and in particular, the amount the casino would generate in hosting fees: money that would be generated to offset municipal expenses on an annual basis. The OLG, as the contractual partner of host municipalities, played an important role in this process as the body responsible for setting hosting fees. As reported by the *Toronto Star*, the OLG told Toronto "to expect a provincial hosting fee of $50 million to $100 million per year for a downtown casino-resort" (Rider, 2013). This figure was roughly double the share of revenue offered to other municipalities (Howlett, Church, & Morrow, 2013), and five times as much as the city would collect under the "standard formula" proposed by OLG for host municipalities (Howlett, 2013).

This revelation sparked outrage in other potential and firm casino host municipalities, some of which subsequently threatened to withdraw support for casino developments if the OLG failed to offer their municipality the "same deal as Toronto" (Howlett, Church, & Morrow, 2013). The Ontario government subsequently directed the OLG to ensure that the agency offered the same funding formula to all host municipalities, with the Premier quoted as saying: "The hosting formula for Toronto will be the same as the one for other communities. All municipalities will be treated fairly so they can all share in the benefits" (Maple Gambling , 2013).

The OLG's mandate includes enhancing the economic development of the Province and generating revenues for the Province, but does not include ensuring that hosting fees are determined on an equitable basis between different host municipalities. In that sense, the OLG acted within its mandate in discussing the possibility of a "sweetened deal" for Toronto. The hosting fee, it seems, was "designed to improve the OLG's chances of getting the green light from city councillors for the casino" (Howlett, Church, & Morrow, 2013).

Since being directed to ensure fair treatment of host municipalities, the OLG has yet to release a “revised” formula that can be relied on by the City of Toronto in its ongoing decision making process. However, the $100 million figure appears to have struck a chord with prominent city figures, including the Mayor and City Manager, both of whom have suggested they will require at least $100 million in hosting fees to support the casino project (Alamenciak, 2013). In that sense, the OLG’s approach worked, but was undermined by the actions of the provincial government.

Outcome

The Ontario government’s handling of the Slots-at-Racetracks Program and its approach to the OLG’s proposed Toronto casino hosting fee demonstrate that despite the OLG’s relatively low level of independence, and despite having acted within its statutory mandate, the Ontario government has consistently undermined the OLG’s independence in order to further its immediate political interests.

Regulatory Capture

George Stigler is widely credited with developing the theory of regulatory capture: “That, as a rule, regulation is acquired by the industry and is designed and operated primarily for its benefit” (Stigler, 1971). Stigler proposed his theory in contrast to two other views of regulation: that it is instituted for “the protection and benefit of the public at large or some large subclass,” or that the reasons for regulation defied “rational explanation” (Ibid). Essentially Stigler:

> [...]Proposed that the creation and operation of regulatory agencies could be understood entirely as a device to transfer economic resources to various private interests in return for those interests providing votes or campaign contributions to politicians...every industry or occupation that had enough political power would seek to establish regulations that limited competition by controlling entry and fixing prices. Public interest goals, such as monopoly protection or promoting universal access, simply provided a plausible cloak to hide the real purposes of regulation (Gomez-Ibanez, 2003, p. 43).

Powerful opposing views have been presented as well, such as those of economist Richard Posner, who argued “that regulatory agencies were more likely to be captured by subsets of their consumers rather than by producers” (Gomez-Ibanez, 2003, p. 43).

In effect, Posner argued that cross-subsidies of rates by one group for the benefit of another (for example, subsidies on rail shipping for farmers, paid for by manufacturers) was “taxation by regulation,” and the dominant form of capture (Gomez-Ibanez, 2003, p. 43). However, it is a third view, one that combines Stigler’s and Posner’s theories, which

is most applicable to the regulation of gambling in Ontario. Economist Sam Peltzman viewed “the regulators (or the legislators who oversee regulatory agencies) as politicians in search of support from competing interest groups” (Ibid). In fact, according to Gomez-Ibanez, “Recent scholarship tends to support Peltzman’s argument that regulators often draw support from a variety of sources instead of being captured by a single interest, and that these patterns of support change over time” (Ibid).

Capture of Gambling Regulation by Ontario

In the case of gambling regulation, the Province of Ontario has successfully captured gambling regulation. Although most commonly applied to particular interest groups rather than a jurisdiction, three points emphasize Ontario’s successful efforts to capture gambling regulation under its jurisdiction. First, Ontario captured the legal power to regulate gambling within its borders in an unusual way. In capture theory, “law is a resource to be ‘captured’ and used by groups to protect and extend their material interests” (Campbelll, Smith, Hartnagel, & Law Commission of Canada, 2005). Ontario successfully obtained monopoly power to regulate gambling within its borders in exchange for a monetary payment to the Government of Canada:

> Essentially, the provinces purchased their monopolies with a $100 million payment to the federal government. This is particularly remarkable, as it represents the purchasing of amendments to the Criminal Code of Canada. Despite the dubious morality of elected representatives decriminalizing otherwise criminal behaviour for cash payments, the permanency of the exemptions appears beyond doubt (Patrick, 2000:111).

Second, since most policymakers express concern that a given regulator will be captured by interest groups, significant efforts are put into ensuring transparency and openness in the regulatory process, while limiting the regulator’s conflict of interest. In the case of Ontario’s capture of gambling regulation, the regulatory bodies put in place have been presented with statutory mandates that are difficult, if not impossible, to reconcile. As stated above, the statutory purpose of the OLG includes both generating revenues for the Province and promoting “responsible gaming.” There is a deep conflict evident in the literature between the state’s desire to boost gambling revenues by capitalizing off their addictive nature, and the state’s responsibility to mitigate the social problems that come as a result of problem gambling (Klassen & Cosgrave, 2009). The difficulty for Ontario is that, unfortunately, “The properties that make games addictive can be the very same properties that make them exciting to play” (MacNeil, 2009).

Given this conflict, states wishing to minimize the resistance to gambling expansion have employed a number of common strategies, such as framing. Indeed, Ontario has engaged in framing strategies to differentiate "gambling" and its negative connotations from the state sanctioned activity of "gaming." According to Klassen & Cosgrave, "The term gambling is now used only when addressing problems associated with gambling, such as problem gambling," indicating the objective of policymakers and government gaming officials to influence public discourse and shape gambling behavior (2009). A brief review of the OLG modernization website by the author confirms the use of framing in Ontario, since the term "gambling" and "gaming" have been adopted by the OLG in the way suggested by Klassen & Cosgrave as a means to frame OLG's position and influence public opinion.

A third example of the Province's capture of gaming regulation in Ontario relies on a rational choice theory of decision making. If we assume that the Province has captured the regulator and seeks to maximize the revenues generated by the regulated industry, then as a rational decision maker, it would appoint individuals to operate the regulator with industry experience, expertise, and connections in pursuit of its goal. In fact, according to a report from the *Globe and Mail*, the Chairman of the OLG, and at least two current or former directors, are individuals with significant ties to the gaming industry (Howlett, 2013). When questioned about this strategy, the Minister of Finance stated: "I could easily appoint somebody who doesn't know the gaming industry, who has no possible conflict. But is that in the taxpayers' interest? I don't believe it is" (Howlett, 2013). The government's actions in making these appointments are, therefore, perfectly consistent with a rational actor seeking to achieve the highest possible level of gambling revenue. It is clear that the Ontario government has been successful in capturing gambling regulation in order to promote its direct fiscal interests.

Conclusion

The regulation of gambling in Ontario presents an interesting and counterintuitive example of the kinds of regulatory regimes existing in Canada. While regulatory theory suggests that regulation can be used as an instrument to control monopoly power and reduce spillover effects, gambling regulation in Ontario has been used to increase the Province's monopoly power and manage associated spillover effects to reduce public perceptions of gambling as a social harm. Similarly, while independence from government and avoidance of regulatory capture are considered to be legitimate goals for regulators, the Ontario government has sought to limit the amount of independence exercised by the regulator and ensure the regulator's capture by the government's fiscal interests. In this way, the regulation of gambling in Ontario is a regulatory outlier.

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Regulation

The Northwest Atlantic Fisheries Organization: Regulating Fisheries in International Waters

Evan Brander

Governing the common property resource of fish populations in international waters presents a significant regulatory challenge. Any action to regulate fisheries in international waters requires multilateral cooperation amongst a large number of countries. International fisheries bodies may be impeded in their regulatory efforts by international laws regarding the high seas. One regulatory body that has overcome some challenges is the Northwest Atlantic Fisheries Organization (NAFO). NAFO has had mixed success in achieving its mandate of ensuring sustainable extraction of fish from its regulatory area. This paper first discusses the economic rationale for establishing a fisheries regulator for international waters. The case of NAFO and the challenges it has encountered are explored, and the theoretical literature on the governance of common property resources is reviewed to make recommendations on the optimal design of regulatory bodies for fisheries.

Introduction

The governance of fisheries in international waters presents a significant challenge to regulatory bodies. International waters are not owned by any one nation and the vessels of any country can harvest from them. In the absence of a regulatory structure, fish populations in international waters may be overharvested to the point of collapse.

Many regulatory organizations have been developed to conserve fish resources by limiting the size of a fishery's harvest. One such regulatory body is the Northwest Atlantic Fisheries Organization (NAFO), which governs an area that includes the territorial waters of Canada, the U.S., France, and Denmark, as well as a large section of international

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waters. The NAFO has had mixed success in its goal of conserving the resources of the Northwest Atlantic. Significant legal, economic, and political barriers have hindered its regulatory efforts. This paper will begin by presenting a rationale for the regulation of international fisheries, followed by a description of the NAFO and the regulatory challenges it has faced. The final section of this paper will draw lessons from the theoretical literature on the governance of common pool resources that could be applied to international fisheries regulation.

Under open market conditions, fisheries will not harvest fish at sustainable levels. Oceans are common pool resources, where everyone has access to the resources. Fish populations are rivalrous as a resource, meaning that when one person harvests fish, they reduce the amount of fish that can be harvested by another person. When fisheries are not regulated, a "tragedy of the commons" situation is likely to arise. When common property resources exist, the tragedy of the commons occurs if all of the users of that resource would harvest as much as they can until the cost of harvesting is equal to the benefit derived from harvesting. When all members of a community harvest at this level, the common property becomes severely overburdened. These unsustainable harvests continue until the common pool resource is completely depleted.

The traditional solution to the problem of common pool resources is to simply assign property rights. If one person, rather than a whole community, owns a resource, that person will have an interest in maintaining the quality of that resource. They will set the harvest levels at a sustainable rate to ensure that the resource will be in existence for many more years, and take care that the costs of all negative externalities adversely impacting the resource are paid for.

In the case of the fisheries, assigning private property rights is very difficult. Many fish populations are highly mobile, crossing many countries' ocean boundaries during the course of the year. Assigning property rights to individual fish populations and monitoring the movement of those populations would be inefficient and prohibitively expensive (Libecap 2005, 546). Assigning property rights is especially difficult in international waters, where the ability of any one nation to regulate international waters is limited. International waters are governed by a series of United Nations laws, but it is often unclear how these laws can be enforced, making them the ultimate common-pool resource and particularly challenging to regulate.

In the absence of regulation, international fisheries will almost certainly be overharvested. Individual fishers simply do not have an incentive to harvest at a sustainable rate. If a fisher chooses not to catch a fish, he forgoes present income in order to potentially increase future income for his entire industry. Since the fisher cannot exclude others from future benefits, he will assign a low value to future gains (Sweeney et al. 1974, 182). Instead, he will catch fish at present, even if this means that he is harming the sustainability of his industry. On the macro scale, each nation has an incentive to harvest as many fish as it can once fish populations migrate into international waters. This prevents rival fishing nations from overharvesting when the fish are in their domestic waters.

Regulation of the fishing industry could help transition the harvest to an efficient rate. This theoretical harvest rate is known as the maximum sustainable yield. At this rate, the biomass of fish will be able to regenerate the number of fish that were caught in a season. In the long run, the fish population will be maintained at a constant level (Clark et al. 1979). When harvests go beyond the maximum sustainable yield, more fish are caught in each season than can be regenerated and the total fish population falls.

Rationale for Regulation

Several authors present a theoretical rationale that would support regulating fisheries in international waters. Alfred Khan argues that a free market should be the ultimate goal in any economy, but that there are some instances where government intervention is necessary. Khan states that the role of government regulators is “generally conceived of as one of maintaining the institutions within whose framework the free market can continue to function, of enforcing, supplementing, and removing the imperfections of competition–not supplanting it” (Khan 1988, 2). When the free market fails to arrive at an optimal outcome on its own, the government may be required to intervene. The government should aim to impose conditions that would mimic an optimal free market outcome.

In this traditional economic rationale for regulation, Khan assumes that the free market achieves a sub-optimal result because there is too little competition. When a firm faces high initial startup costs and then diminishing marginal costs as it produces goods, it may be a natural monopoly. In this case, the government may need to regulate the activity of the monopoly to ensure that quality standards are met and that prices are set at a proper rate (Khan 1988, 11). In the case of international fisheries, the firms engaged in harvesting fish are in perfect competition. There are a large number of firms in a market with no barriers to entry or exit. Despite the high degree of competition in international fisheries, the market arrives at a sub-optimal outcome.

Stephen Breyer extends the economic rationale for regulation beyond simply imposing a competitive outcome. Even in perfect competition, spillover effects, or externalities, are created. These are negative consequences of producing a good that are not paid for by either party to the transaction. Breyer argues, “The regulation of spillover costs is justified by the desirability of avoiding economic waste” (1982, 23). In international fisheries, the social cost of overfishing is higher than the market price paid for the fish that are caught. The traditional solution to this problem is to assign private property rights to encourage economic actors to internalize the costs of externalities in their transactions. In the case of fishing in international waters, this is impossible. There is no governing body that can effectively deny vessels access to international waters. In this case, government regulation is justified to prevent negative externalities that harm the environment and the economic future of the fishing industry.

Since international fisheries are already in perfect competition, there may be no true economic rationale for regulating the industry. According to Tony Prosser, any economic argument for regulation must involve governments intervening “to maximize productive and allocative efficiency through open markets and support for consumer choice” (2010, 13). In the case of international fisheries, any attempt to regulate fishing firms will harm productivity, constrain competition and reduce consumer choice. All of these effects are in direct opposition to the supposed goals of regulation under the economic rationale.

Prosser presents an alternative to the economic rationale for regulation in his social solidarity model. In this model, regulation takes place to ensure inclusiveness and prevent social fragmentation (2010, 16). This rationale is used to justify regulations that promote sustainable development. People may be tempted to overharvest to yield immediate economic gains. However, overharvesting in the present will harm the future sustainability of the industry. Economic actors have a tendency to irrationally discount future benefits (and losses) and prefer smaller immediate gains. In these cases, government action may be needed to bring about an outcome that serves the long-term interests of the economy and community.

Fisheries Regulation

There is a wide range of policy options that could theoretically be put in place to regulate international waters. Countries could impose quotas on their fishing industries to restrict catch levels. The fishing season could be restricted to limit the amount of time that fishers are able to harvest and to allow fish to regenerate a sustainable biomass after the harvesting season. Governments could also impose technology restrictions that make it more difficult to catch fish (Sweeney et al. 1974, 186).

Each of these policy options is problematic at the international level, where regulatory efforts for international waters will have to be negotiated between multiple state actors. Each country will try to set quotas at favourable levels for their domestic fishing industries. The ability of any country to monitor the harvests and fishing practices of other nations is limited by high costs. International laws limit the ability of any government body to enforce regulations in international waters. A regulatory body that was established to govern the international waters of the Northwest Atlantic Ocean encountered all of these challenges in attempting to carry out its mandate.

The Northwest Atlantic Fisheries Organization

The Northwest Atlantic Fisheries Organization (NAFO) is an example of a regulatory body created to govern fishing in international waters. The Organization's jurisdiction covers a segment of the Atlantic Ocean bordered by the territorial waters of Canada, the U.S., France (St. Pierre and Miquelon), and Denmark (Greenland and the Faroe Islands). The area of the Atlantic where the NAFO has the authority to manage fishery resources is in the international waters bordering the Exclusive Economic Zones (EEZs) of the coastal states. This region is not the sovereign territory of any state. In 2011, vessels from 14 different nations harvested fish from the NAFO's regulatory area.

The NAFO was founded in 1970 with the goal of achieving "the optimum utilization, rational management, and conservation of the fishery resources of the Convention Area" (NAFO 2004, v). The responsibility of the Organization extends to managing fish populations in the region, excluding tuna, salmon, and marlin. The NAFO consists of four constituent bodies: a General Council, Scientific Council, Fisheries Commission, and a Secretariat. The General Council is the main forum of the NAFO, where each constituent country can vote on NAFO decisions. The function of the Scientific Council is to conduct research and publish reports to advise NAFO members on optimal fisheries management practices. The Fisheries Commission has the responsibility of setting the nominal catch rate for fish species covered under the NAFO.

The NAFO's monitoring efforts are carried out through a number of different methods. Each ship fishing in the NAFO regulatory area is required to be equipped with a satellite tracking system so that it can be reached for inspection. All ships must also have an independent observer on board, arranged by their flag state. This observer must write daily reports that give the vessel's total catch for the day and reveal any violations (NAFO 2013c). The NAFO does not have monitoring vessels that perform inspections in its regulatory area. Instead, this task is contracted out to vessels and aircraft from Canada and the European Union. These vessels have the authority to board any vessel in the

NAFO regulatory area and report back to the NAFO on any violations that they discover.

Though it has the authority to set catch quotas for all member nations, the NAFO itself does not have the ability to enforce catch limits. Under the NAFO convention, its ships are given permission to board vessels in the regulatory area to measure and record the catch volume and species harvested. If the vessel is found to be in contradiction of fishery management regulations, the NAFO can report this to its member states. Each member state can then choose to take sanctioning action against the vessels that have broken the rules. The sanctions that are imposed must be reported to the NAFO so that they can be published in the Organization's annual statement.

When a nation that is a member of the NAFO has reached its quota, it is informed by the Fisheries Commission that it must close its fishery within 15 days. At this point, it is up to the nation to close its fishery and ensure that its domestic fishing vessels do not continue to harvest after the mandated closing date (NAFO 2013a, 6). If a nation is found to be exceeding its quota, the NAFO may choose to reduce that nation's quota in the following year (NAFO 2013a, 7). The NAFO is also responsible for setting the minimum allowable fish size to ensure that young fish are returned to the sea and only larger, older fish are harvested. If the NAFO monitors find that a ship is catching too many fish that are smaller than the minimum size requirement, that ship will be told to remain five nautical miles from the location of its previous catch (Ibid). The NAFO does not have the legal authority to take direct action to prevent a ship from exceeding its nation's allowable catch or to ensure that ships are harvesting only mature fish.

The authority to impose sanctions on vessels found to be in violation of NAFO regulations falls to the flag state of that vessel. Once the NAFO finds violations of its regulations, it reports these to member nations. In the case of serious violations, the flag state of the violating ship can demand that the ship go to port for a thorough inspection. The state can then take judicial action according to its own laws. If a nation chooses not to have a ship return to port and allows it to continue fishing after a violation, the NAFO's only recourse is to report this action to all other member states (NAFO 2013a, 36). Those states can then choose to take action against the offending ships by denying them access to ports.

According to NAFO compliance reports, the organization has had trouble in carrying out its mandate to conserve fishery resources in the Northwest Atlantic. The NAFO has had particularly significant problems with its monitoring efforts. The Organization relies heavily on reports submitted by independent observers and by port officials to monitor catch levels and watch for violations. In 2006, 36% of observer reports were missing, and of those submitted, 73% were submitted late. 16% of Catch on Entry reports showing a vessel's catch level upon entering a port were missing, while a further 19% of port inspection reports were also not located (NAFO 2007, 3).

Despite this missing monitoring information, NAFO officials made 38 citations in 2006. The violations of NAFO rules included 17 citations for mis-recording of catches and six citations for using illegal gear. There was also one citation for violating quota requirements. The total number of citations was up in 2006 relative to the previous two years, despite the fact that the number of vessels active in the NAFO's regulatory area had declined (NAFO 2007, 3). Missing reports and an increase in citations suggest that NAFO regulations have not proven to be a perfect deterrent to those wishing to overexploit fishery resources. The following section will consider some of the factors that have caused the NAFO difficulty in regulating the fisheries of the Northwest Atlantic.

Legal Ambiguity

One major problem that has caused the NAFO difficulties in regulating international waters is the ambiguity of international law regarding the high seas. Fishing tradition follows a first-come, first-served basis: "In international waters, anyone may acquire ownership of a fish by catching it, and no one has rights to the fish until he catches it" (Sweeney et al. 1974, 183). International waters are not under the jurisdiction of any sovereign state and anyone can enter them to harvest fish. The 1982 United Nations Convention of the Law of the Sea (UNCLOS) tried to change this by saying that anyone fishing in an area protected by a regional convention should follow the regulations set out in that convention.

International laws on high seas fisheries are very unclear about whether any nation has the authority to enforce NAFO regulations in international waters. The UNCLOS has stated: "All States have the right to engage in fishing on the high seas subject to: a) their treaty obligations b) the rights and duties as well as the interests of coastal states" (UN 1982, 65). The UNCLOS does not lay out the rights of each country to enforce regulations that protect its interests. When fish species are highly migratory, they may spend only part of the year within a country's EEZ. The UNCLOS does not say whether a country has the authority to protect this species when it is no longer within its own EEZ.

Canada interpreted the UNCLOS to mean that it had clear authority to protect its fish resources in the entire NAFO regulatory area. In 1994, Canada passed the Coastal Fisheries Protection Act, which unilaterally gave Canadian officials authority to enforce NAFO regulations in international waters outside of Canada's EEZ. The Act gave the Canadian Coast Guard the authority to monitor and board fishing vessels in international waters and to arrest anyone who was found to be violating NAFO regulations.

In March of 1995, the authority given by the Coastal Fisheries Protection Act was exercised during two high profile conflicts between Canadian Coast Guard ships and Spanish fishing vessels. In the first incident, the Coast Guard spotted the Spanish ship Estai harvesting migratory turbot just outside of Canada's EEZ off the Grand Banks. The Coast Guard fired warning shots over the bow of the Estai, and then pursued it. They captured the ship, impounded it in a Canadian port, and arrested the captain. Two weeks later, Canadian authorities encountered a second Spanish ship harvesting in the same area, which they captured and severed its nets. Spain accused Canada of piracy and clear violations of international law, since both ships were outside of Canada's EEZ and thus in international waters. However, the Canadian government argued that since the Spanish vessels were breaking NAFO regulations, the Coast Guard was within its rights to take disciplinary action (Faith 1996, 208).

Jeremy Faith argues that in seizing Spanish ships in international waters, Canada was breaking international law (Faith 1996, 209). Even though Spanish ships were violating NAFO regulations (and Spain was a member of NAFO), Canada did not have the authority to discipline the ships outside of its own EEZ. The UNCLOS states that countries harvesting in international waters should seek to find an agreement on conserving fish populations in that area of the ocean. The convention does not state that an agreement was required. Therefore, even though an agreement was in place in the form of the NAFO, the UNCLOS does not give countries legal authority to enforce its regulations (Faith 1996, 209).

If Canada had not taken decisive disciplinary action to enforce NAFO regulations, the fish stocks under dispute would likely have been depleted. Any judicial action by Canada would likely be lengthy, and international courts might have ruled in favour of Spain's fishing rights (Faith 1996, 214). Canada took the only action that would definitely lead to the effective enforcement of NAFO regulations, and had to break international laws to do so.

Fishing Under Flags of Convenience

A major challenge to international fisheries regulation has come in the form of ships fishing under flags of convenience. Traditionally, ships are registered under the same country as the nationality of their crew. In recent decades, a trend has developed where ships are registered in countries with open registries. Open registries allow any ship to be registered to a country, regardless of the nationality of the crew. According to estimates, up to 21.5% of ships worldwide are registered under open registries (DeSombre 2005, 74).

A ship has two incentives to register in a country with an open registry. The countries with open registries are often also tax havens, so the taxes paid on fish harvested will be minimal. The main reason for joining an open registry is that a ship is not obligated to follow international regulations if it is registered to a country that has not ratified UN agreements on the high seas (DeSombre 2005, 73). The countries with the most popular open registries are Belize, Honduras, and Panama. Bolivia, a landlocked country, also has many international ships in its open registry.

Prior to 1995, ships fishing in the Northwest Atlantic that were not registered with one of the NAFO signatories were not obligated to follow NAFO rules or regulations. The rational economic choice of these ships would be to harvest as many fish as possible while earning a profit. This would lead them to take in harvests far in excess of NAFO regulations.

The problem of fishing under flags of convenience was largely solved in the NAFO's regulatory area with the 1995 UNCLOS Implementation Agreement. The Agreement stated that in international waters protected under a regional conservation organization, only ships from countries that were members of that organization were allowed to harvest fish. This made ships registered in open registries ineligible to harvest in the Northwest Atlantic.

Technology

Technological advancements have created new challenges for the regulation of international waters. Many large factory ships operate in the world's oceans, with the ability to remain at sea almost indefinitely. They can process and freeze their catch and offload processed fish into smaller vessels while still at sea. They can refuel at sea and, to some extent, be repaired at sea. This means that they have the ability to remain within international waters for years at a time without ever entering any country's EEZ (DeSombre 2005, 74).

When a ship never leaves international waters, it cannot be disciplined if it violates fishery regulations. As long as the vessel never enters any coastal state's EEZ, it will remain free from prosecution. There is still no legal provision for countries to enter international waters to enforce NAFO regulations. NAFO vessels have the authority to board and monitor any vessel in its regulatory area, but are not able to enforce their regulations. The NAFO relies on member nations to enforce regulations when a ship docks in its ports or enters its national waters.

Illegal and Unreported Catches

Illegal fishing and unreported catches present a challenge to the regulation of any fishery. Illegal poaching of fish may undermine conservation efforts by increasing the total harvest above the maximum sustainable yield. In the Northwest Atlantic, illegal fishing has been a significant problem. It is estimated that up to 82,000 tonnes of fish, representing a total value of between $20 million and $74 million, is illegally harvested each year in the Northwest Atlantic (Agnew et al. 2009, 2). This illegal catch accounts for 9% of the total harvest in the region. Illegal harvesting may be done by small, independent fishers or by large factory trawlers.

When Canadian authorities arrested the Spanish vessel Estai, they found an illegal hold for storing undersized, unreported fish. They also found two sets of books recording their legal allowable catch and their actual catch, which far exceeded allowable limits (Pitcher et al. 2002, 321). Though illegal catch in the Northwest Atlantic has decreased substantially from a high in the 1990s, it remains at a level that threatens the sustainability of the fishery. The NAFO's ability to cut back the illegal catch in its regulatory area is restricted by high monitoring costs in a large geographical area.

Lessons from Theory on Optimal Institutional Design

There is a large body of literature on the optimal design of regulatory structures for common pool resources. Nobel Prize winning economist Elinor Ostrom studied a large number of common pool resources that were effectively managed by micro-level regulatory institutions, which had been adopted by resource users themselves. Ostrom challenged the "tragedy of the commons" thesis by identifying common pool resources that were not depleted, even though there was no formal regulatory structure to protect them. She argued that the most effective institutions for regulating the use of common pool resources had a number of factors in common. According to Ostrom, "A robust system of governance recognizes the multi-scale aspects of natural resource governance as well as the presence of individual incentives and seeks to correct them" (2010, 326). The most effective regulatory structures are polycentric; that is, they have multiple levels of authority that work towards the goal of achieving the most efficient harvest rate for the resource. A polycentric system begins at the ground level with monitoring done by resource users themselves. Above this level of authority are regional bodies that carry out enforcement measures. Beyond the regional bodies, there may be a governing body that ensures standard enforcement measures between the regional authorities. In this decentralized system of governance, those most connected to the resource and with the greatest interest in its survival have the authority to monitor and protect it.

Polycentric systems of governance for small fisheries that are entirely within the borders of one country may be very simple. Polycentric systems typically grow over a very long period of time and are developed by resource users themselves (Hess and Ostrom 2003, 122). A community might gather to develop a system of governance to protect a dwindling resource. The community will set strict rules about the maximum harvest per person and each member of the community will have an incentive to monitor other fishers to make sure they do not exceed their maximum yield. When someone is found to have violated the rules, the community will impose sanctions against that person. The reason for the success of this system is that all fishers are given an incentive to protect the collective interest of the community to conserve the fishery against the profit-seeking interests of individuals. The system has multiple levels of authority from the individual to the community level. This leads to a sustainable system with low enforcement costs.

Such a community-based system of governance would be impracticable at the level of an international fishery. However, the structure of NAFO could be adapted to integrate some of the factors that make such a system successful. The base level of authority in a successful polycentric system should be at the level of the individual. If individual fishing vessels were given the authority to monitor the catch level and fishing practices of other vessels, this would improve compliance rates. It would allow for more frequent and less expensive inspections, and would encourage fishers to work towards the collective interest of conserving the fishery.

To deal with the problem of individual countries pursuing their own economic interests by allowing vessels to get away with breaking fishery rules, the NAFO's enforcement structure should be changed. Under the current system, when NAFO officials determine that a ship has violated its rules, the Organization reports this violation to the vessel's flag nation and allows that nation to punish the offenders. In order to ensure that consistent efforts are taken to sanction all offenders, an NAFO body made up of delegates from each member nation could recommend a punishment for each individual offender. Consistent enforcement efforts would help to deter future violations by establishing the consequences of breaking NAFO rules. A governing body made up of members from all the NAFO nations would ensure that the collective goal of conserving the fishery is pursued whenever a fisher is punished.

An alternative policy option to adopt if a polycentric governance system is impossible would be to extend the Exclusive Economic Zones of all coastal states to include all of the international waters in the NAFO's regulatory area. Such a plan would redraw the map of the Northwest Atlantic by dividing up the existing international waters into territorial

waters for each of the coastal states. The United Nations Convention on the Law of the Sea established a new international standard for determining a state's territorial waters. A state's aquatic border was set at 12 nautical miles from the low water line on the nearest point of land, including islands and reefs (UN 1982, 27). The state's EEZ continued 200 miles from the low water baseline.

The Convention took away traditional rights to fish in international waters. Previously, anyone was allowed to fish outside the territorial waters of a coastal state. The UNCLOS limited fishing rights within a 200-mile zone to only the coastal state's nationals. A new convention could be convened to extend the EEZs of coastal states further, so that there are no international waters left in the NAFO's regulatory area. All of the waters regulated by the organization would be assigned to a state and useable only by its citizens.

An individual state may be better able to govern a common pool resource than an organization that includes multiple state interests. A government can impose enforcement measures more effectively in its own territory than a community-based governance regime. Compared with polycentric, community-based regimes, the state "can define and enforce new access and use arrangements and provide more formal mechanisms for arbitrating disputes" (Libecap 2005, 546). A state has the authority to create and enforce rules in its own territory. If one government delegates authority to a regulatory agency, it may have a more credible claim to enforce regulations than if its authority comes from a multilateral agreement. Regulating an open access resource becomes more difficult when the resource users are a heterogeneous group. Each user will have different goals and production costs, which makes finding a consensus on a policy direction more difficult (Ibid). By giving control of a section of international waters to one state, some of the heterogeneity of resource users' interests is removed. Fishers from the same country are likely to have similar interests partly because they sell to the same markets. By allowing only fishers from one country to use a region of water, the possibility of finding a policy consensus on how to effectively regulate that water is increased.

Such a policy of "privatizing" international waters would face several barriers to its adoption. There are multiple state members of NAFO that are not coastal states in the Northwest Atlantic. Cuba and South Korea are both members of NAFO, and Russia and the Scandinavian countries are extensive users of the NAFO Regulatory Area, despite the fact that none of these countries' territorial waters border the Northwest Atlantic. By assigning fishing rights in international waters to coastal states, many NAFO members and all landlocked states would be excluded. In previous UN conferences on regulating international fisheries, negotiations have been extremely difficult (Mack 1995, 314).

Many states have been reluctant to alter customary rules regarding access to the high seas. Extending EEZs further into the NAFO's regulatory area would require multilateral agreement by the UN. This plan is unlikely to gain enough support to pass a UN vote.

There is mixed evidence about whether giving control of international waters to individual states actually results in more efficient management of resources. Gary Libecap notes that many states have not done a good job of regulating their own EEZs. When the U.S. extended its EEZ to 200 miles, American fishers were incentivized to make large investments in new vessels and fishing equipment. In the absence of international competition, the American fishers could overexploit fish resources for large profits (Libecap 2005, 558).

Privatizing international waters may not solve the problem of overexploitation of highly migratory fish populations that move between the territorial waters of multiple countries. Julie Mack found that even when a body of water is shared between only two countries, problems can arise in negotiating an agreement for protecting migratory fish. In the North Pacific, the U.S. and Canada have failed to agree on adequate measures to protect halibut populations that migrate between their EEZs. There have been many cases where a nation mismanaged its own fish stocks by failing to set appropriate catch limits. Ostrom identified a fishery that had been successfully governed by unofficial, community-based regulations for decades. When the state imposed an official regulatory regime, catch levels were not set properly and the fishery nearly collapsed (Ostrom et al. 1999, 279).

There may be no perfect solution for regulating the world's international fisheries. The competing interests of state actors, high monitoring costs, and a large incentive to violate regulations make it difficult to effectively govern international waters. Although there is a clear rationale for regulating international fisheries, governance efforts in some cases remain weak. Despite the large challenges facing international fishery regulators, the NAFO has had some success: cod on the Flemish Cap and redfish on the Grand Banks were protected by an NAFO-enforced moratorium until their populations recovered to healthy levels, and are now being harvested again (NAFO 2013b, 8). Though it cannot ensure total compliance with all of its regulations and its enforcement abilities are strictly limited by international law, the NAFO has overcome many challenges to achieve relative success in carrying out its mandate. Future regulatory regimes for protecting international fisheries may benefit from a more polycentric, layered approach to enforcing their regulations. Effective institutions for governing international fisheries will become increasingly necessary as global fish populations continue to decline.

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Volume 5, Issue 1, Fall 2013

Disease & Health

Applying Policy Network Analysis to HIV Planning and Programming: Analytical Insights from Papua New Guinea

Thomas Gowa

The article presents a framework designed to help international development practitioners in HIV & AIDS work consider the relevance of policy networks to HIV programming. With a focus on the HIV response in Papua New Guinea, it applies two divergent policy network analysis theorems to demonstrate how such analyses can complement the dominantly technical diagnostic work typically carried out by HIV practitioners. The underlying premise is that HIV policy planning and implementation can benefit from an understanding of the significance of motives that drive actors to support or oppose specific initiatives at various stages of HIV planning and implementation processes through the use of policy network analysis.

Introduction

This article presents a preliminary framework designed to help international development practitioners in HIV & AIDS work consider the relevance of policy networks to HIV programming. While it promotes network analysis, the paper does not presume to privilege any particular policy network theorist. Rather, this paper seeks to document the potential value of better understanding how institutional, organizational, and individual dynamics shaped around policy networks do or could affect the scope for realizing broader HIV mitigation goals, aligned with commonly advocated service delivery goals.

The underlying premise is that policy network analysis can productively complement the dominantly technical diagnostic work typically carried out by HIV planning and

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implementation practitioners. Specifically, HIV policy planning and implementation processes can benefit from the application of network analysis to better understand the motives that drive a diversity of stakeholders to support or oppose specific initiatives at various stages of the HIV planning and implementation process.

This article establishes a clear understanding of the nature of the policy process and policy making in Papua New Guinea. It draws from the Papua New Guinea National HIV Strategy - 2011-2015 (NHS), which currently guides the implementation of HIV response in the country. The academic discussion of policy networks analysis has largely been confined to the public policy sphere in the United States, Britain, and Europe, with little literature on developing countries and fragile contexts (Kabayakgosi & Mpule 2008). This article offers an opportunity to contest the applicability of policy network analysis to developing countries. It also opens new terrain for understanding the mechanics of HIV policy making in Papua New Guinea. This is particularly relevant given the increasingly complex nature of HIV response with the growth in the number of actors involved and a shift in the structure of the funding sources from a response that is primarily supported by external development partners to one where the government is committing more of its own resources (AusAID 2009). Policy networks and policy network analysis offer specific alignments and opportunities that can be harnessed in the development and implementation of effective policies in HIV response.

Background

Policy network analysis, often the preferred academic approach to understanding the policy making process, has been the subject of a range of journals and studies on decision-making (Klijn and Koppenjan 2000a), interest groups (Jordan 1990; Furlong, 1997; Martino, 1998), sub-government and inter-governmental relations (Rhodes, 1997), and the relationship between the state and civil society (Brinkerhoff, 1999; de Bruijn and Heuvelhof, 1995; Sabatier, 1988; Tantivess and Walt, 2008). The discussion has also grown to address the requirements for network management, and policy making in multi-actor settings (Klijn and Koppenjan, 2000b; Klijn et al, 1995, Lindquist, 1992; O'Toole, 1997). All these themes are relevant to the policy process in Papua New Guinea, and in particular, the complexity of the policy environment across the key sectors including health, education, natural resources, law and justice, and agriculture.

To fully appreciate the role of policy networks in the policy process, it is crucial to understand networked responses. Central and bureaucratic institutions do not have an exclusive advantage over the direction of policy processes (Curtis 2004), meaning that other societal responses are necessary, resulting in "individual, market or networked

responses as well as risk or responsibility sharing arrangements" (Ibid). The responsibility for citizens' wellbeing is thus borne not only by the state but also by other non-state entities.

In Papua New Guinea, the HIV response necessarily involves a key role for the government. However, the response is also comprised of individuals, advocacy groups, community groups, civil society organizations, and external development partners. As such, policy network analysis serves as a useful tool to understanding networked responses to policy making in developing nations, where a multiplicity of actors exists and new forms of governance are taking shape.

Overview of the HIV Epidemic in Papua New Guinea

In 2004, Papua New Guinea became the fourth country in the Asia-Pacific region to be classified with a generalized epidemic when HIV prevalence rates among women attending antenatal services at Port Moresby General Hospital rose above 1% (NACS 2010a). The rate of HIV prevalence is defined as "the proportion of the population that has the disease at a particular time or averaged over a period of time" (Whiteside 2008, 4). Currently, the national HIV prevalence among adults is estimated to be 0.91% and rising (NDOH and NACS 2010). At the end of 2009, there were an estimated 34,100 people living with HIV (PLHIV) in the country, with a total of 5,084 people tested positive for HIV in the same year. This represented an increase of 36% since 2006 (Ibid).

The majority of people who have tested positive for HIV have been diagnosed in the capital city of Port Moresby and other urban and peri-urban areas. The numbers have also been concentrated in provinces along the main highway that link the coast to the more densely populated inland provinces. Seven out of the country's 20 provinces accounted for approximately 94% of all new cases confirmed in 2008 (NACS 2008). However, available data indicates that the epidemic has spread to every province in the country, reflecting the highly mobile nature of the population (NACS 2010a).

Dynamics of the Epidemic

HIV transmission in Papua New Guinea is influenced by a great diversity of sexual cultures with different values, norms, beliefs, and practices (Eves and Butt 2008). The potential for sexual transmission of HIV is heightened by early sexual debut, often in situations of coercion and abuse; multiple and concurrent sexual partnerships, including polygamy, extramarital sexual partnerships, and inter-generational sex; the exchange of sex for cash, goods, and services; low and inconsistent condom use; high levels of sexual violence and rape; and increased mobility (NACS 2008).

The use of marijuana and alcohol, which are both readily available and frequently used throughout the country, is also closely associated with unprotected sexual activity and acts of sexual violence (NACS 2008). Intravenous drug use is not yet recognised as an important factor in the transmission of HIV in Papua New Guinea. However, recent bio-behavioural surveys are reporting cases of intravenous drug use among a number of groups (Ibid). Stigma and discrimination continue to be major barriers to an effective prevention of HIV transmission with severe manifestations resulting in human rights violations, rejection, violence, and even death.

Key Organizational and Institutional Actors

A useful way of visualising actors in Papua New Gineo's HIV response is through graphics that "Compactly display the relevant actors in a network and how these relate to each other" (Brandes et al 1999, 75). Figure 1 (all figures and tables appear at the end of the article) is a simplified financial links diagram adapted from Fowler (2000), which presents the main actors in the response. The choice of this visualisation is based on its recognition of financial and technical resources as a key determinant in the power relations between various actors in the HIV response.

In broad terms, the main actors in the HIV response can be divided into three categories: those providing funding; intermediaries who access and utilise the funding; and the beneficiaries of funding, comprised of individuals, members of households, community-based organizations, and other specific groups. The key sources of funds in Papua New Guinea's national response are bilateral donor agencies with the Australia Agency for International Development (AusAID) accounting for the largest proportion. Others include the United States Agency for International Development (USAID) and New Zealand Aid Programme (NACS 2010b). These actors participate in the planning and policy process and directly or indirectly fund key service providers, including UN agencies, the Asian Development Bank (ADB), and non-governmental and faith-based organizations.

The natural intermediaries for private donors tend to be international and domestic NGOs (Fowler 2000). In Papua New Guinea, civil society organizations "play an important role in compensating for weak government service delivery, particularly in rural and remote areas" (AusAID 2010b, 3). Non-governmental organisations, churches, and the private sector remain key service providers in HIV prevention, treatment, care, and community support (NACS 2010b). They provide the link with community organizations, households, and individuals: groups that are on the front line of the national response.

The National AIDS Council (NAC) is the government's principal agency in coordinating the HIV response. Supported by the National AIDS Council Secretariat (NACS), the two organizations are responsible for the "formulation, review, and revision of the national policy for monitoring and coordinating the implementation of the national response" (Ibid, 57). Provincial AIDS Committees (PACs) act as the agents of the NACS and are responsible for coordinating all stakeholder activities at the sub-national level.

Modelling Policy Networks

Having presented a picture of the key actors in Papua New Guinea's HIV response, this article will now use two models of policy networks to map out the alignments and groups in the response. These are the Marsh and Rhodes model, which presents dimensions of networks in terms of their membership, integration, resources and power; and the Wilks and Wright (1987) variant, which emphasises interpersonal relations and the disaggregated nature of policy networks.

Rhodes and Marsh: Assessing Degrees of Integration

According to Rhodes and Marsh (1992a), policy networks can be placed along a continuum from highly integrated policy communities to loosely structured issue networks. Rhodes and Marsh's use of the term "policy network" is generic, and encompasses all types of relationships that exist along the continuum. At one end of the continuum are policy communities, described as a tight-knit set of policy actors with a shared framework (Pross 1986, in Atkinson & Coleman 1992). Rhodes and Marsh characterize policy communities as having a limited number of participants (Rhodes & Marsh 1992a). On the other end of the continuum there are issue networks, which are characterized by a large number of participants with limited interdependence.

The primary focus of policy actors in Papua New Guinea's HIV response is on health and HIV outcomes. This shared framework is a characteristic of a tight-knit network and to that extent, these actors constitute a policy community according to the Rhodes and Marsh typology. The highly participatory engagement among these actors in the development and current implementation of the Papua New Guinea National HIV Strategy - 2011-2015 (NHS) also adheres to the Rhodes and Marsh model (NACS 2010b).

A characteristic of policy communities in the Rhodes and Marsh typology that is not conspicuous in Papua New Guinea, however, is the conscious exclusion of certain groups from the community. There exists a dominant professional interest within and amongst the actors of compatible and convergent objectives. These are the starting point of any network (Brinkerhoff 1999). This is reflected in the overarching goal of the NHS, which is "to reduce transmission of HIV and other sexually transmitted infections and minimise their impact on individuals, families, and communities" (NACS 2010b, 1).

Another defining characteristic of the Rhodes and Marsh typology that is not evident in Papua New Guinea's HIV response is the consistency of values amongst all actors. This is vividly illustrated by the rights-based approach adopted in the NHS. The NHS recognizes the need to address the concerns of female sex workers (FSWs) and men who have sex with men (MSMs). In most cases, values that support the advocacy of FSWs and MSMs are not in sync with those of the faith-based organizations delivering many key services in the HIV response. Efforts to repeal Papua New Guinea's criminal law on sex work and MSMs continue to face opposition from faith-based organizations, despite research highlighting the plight of FSWs and MSMs and the need for their rights to be protected, as they are a target group for reducing HIV prevalence. This discrepancy suggests that it is prudent to classify the cluster of actors representing "opposing" values as professional networks with restricted membership and limited horizontal articulation (Rhodes and Marsh 1992a). While neither group undermines the overall goals of the national HIV strategy, these groups express particular interests and "manifest a substantial degree of vertical independence whilst insulating themselves from other networks" (Ibid, 183).

The most significant exchange relationship that exists amongst actors in Papua New Guinea's HIV response is the financial and technical support provided by bilateral and multilateral donors to the government and non-governmental organizations. This position is supported by the fact that external funding, particularly Australian aid, supports the vast majority of initiatives in the response. The distribution of these resources is thus hierarchical, with donor agencies at the top of the apex. Viewed horizontally, Figure 1 illustrates this. From a financial flows perspective, this suggests a much higher degree of vertical interdependence between the different policy networks than is acknowledged by Rhodes and Marsh.

The characterisation of issue networks and the role of civil society actors in the HIV response offers several interesting insights. Civil society organizations, and in particular local and international non-governmental organizations, occupy a pivotal role as service providers in Papua New Guinea. As a distinct entity, they can be placed at the opposing end of the Rhodes and Marsh model and treated as issue networks, as their interactions primarily involve policy consultations with limited, if any, shared decision-making (Rhodes and Marsh 1992a). However, the lack of shared decision-making is not attributed to differences in their understanding of the epidemic, but rather competition for

resources from donors. In the implementation of the HIV response, donors are calling for less bargaining and increased consultation and collaboration between civil society organisations and other stakeholders. However, there is an unequal power relationship between national and international NGOs. International NGOs have historically been able to attract more resources, and as a result implement larger programs compared to those implemented by the nationally registered NGOs.

Perhaps the biggest weakness in applying the Rhodes and Marsh typology to an analysis of policy networks in Papua New Guinea is that the model conflates two separate dimensions (policy communities and issue networks) that value integration and stability over the personal and professional interests of the actors. In reality, the HIV response continues to be informed by the particular interests of faith-based organisations, PLHIV, government agencies, and external donors. These actors have specific agendas, and their influences in the policy formulation and implementation process are largely lost in the structural approach of the Rhodes and Marsh model. The Wilks and Wright typology addressed below, however, places much less emphasis on structure and more on interpersonal relations.

Wilks and Wright: A Societal-Centred Approach

HIV presents a challenge not only to our understanding of a disease's medical implications but also to our understanding of how society operates (Curtis 2004). For this reason, Wilks and Wright's (1987) societal-centred approach to policy networks, with its emphasis on interpersonal rather than structural relations, is useful in an analysis of policy networks within the HIV policy landscape.

In contrast to Rhodes and Marsh, the Wilks and Wright typology emphasises the disaggregated nature of policy networks. By focusing on industrial policy, Wilks and Wright argue that sectors are disaggregated and are "neither monolithic nor homogenous," while government is "fragmented, differentiated, and fissiparous" (40). In relation to the Papua New Guinea HIV response, the fragmented nature of government is evident in the relationship between the NACS and the National Department of Health (NDOH). This fragmentation supports Gelu's (2006) description of the unpredictable nature of Papua New Guinea's policy processes. The frosty relationship continues to undermine the need to approach HIV work within a broader framework of a national health response (AusAID 2010a) and highlights the need for policy makers and scholars to employ a more incremental and disaggregated approach (Lindblom 1959) in analyzing the significance of policy networks in Papua New Guinea.

The personal and official interactions between bilateral and multilateral aid agencies suggest that the interlocking relationships between various actors in the HIV response “do not conform to administratively imposed boundaries” (Ibid 41). The membership of the NAC and the NHS Steering Committee comprises individuals who interact regularly on the national response and broader development issues in Papua New Guinea beyond the strictures of the NAC mechanisms. These interactions continue to shape and define discussions between various actors: primarily those between the donors and the NACS, but also between NACS and other government agencies and provincial authorities (AusAID 2010a).

Similarly, the relationships amongst various non-governmental organizations have aided them in coalescing around common issues that are reflected in the NHS. Igat Hope, the national umbrella body for associations of PLHIV, in concert with Save the Children Australia and FHI 360 (international NGOs supporting the HIV response) played a pivotal role in ensuring that the key strategic priority of expanding treatment, care, and support services for people with HIV, are included in the NHS. This move was instrumental in fighting stigma and discrimination in the HIV response.

Interesting insights are produced when the distinction between the policy universe, policy networks, and policy communities offered by Wilks and Wright are applied to the Papua New Guinea context. According to Wilks and Wright, the policy universe consists of “the large population of actors and potential actors [who] share a common interest [...] and may contribute to the policy process on a regular basis” (41). All the actors presented in Figure 1 constitute a policy universe. Wilks and Wright refer to policy communities as “a more disaggregated system involving those actors, and potential actors, who share an interest [...] and who interact with one another, exchanging resources in order to balance and optimise their mutual relationships” (41). Accordingly, each of the three broad categories of actors presented in Figure 1–sources, intermediaries, and beneficiaries–are distinct policy communities. Policy networks then become a linking process, and the outcome of those exchanges exists within a policy community or between policy communities. Table 1 attempts to illustrate this in relation to the HIV response in Papua New Guinea by narrowing it down to the access to anti-retroviral therapy (ART) for PLHIV.

From Table 1, it is evident that the Wilks and Wright approach recognises that not all the same policy issues in the same policy sub-sector are handled in the same network; and that members of a policy network may be drawn from different policy communities within the same policy area, or even from different policy areas. Given the complexity of the HIV response in Papua New Guinea, this characterization is particularly relevant.

Analysis: Structure vs. Interpersonal Relations

In analyzing policy networks in Papua New Guinea, the two typologies presented above have diagnostic utility. The HIV policy area cannot conform exactly to either of the characteristics presented by the two models, but the retention of the term policy networks as a generic description remains valid. What is important for practitioners and policy makers is to monitor the trends in HIV policy and the emergence of new actors in order to continually explore which actors are becoming integrated and what interests are increasing or decreasing in prominence.

The Wilks and Wright model highlights both disaggregation and the significance of interpersonal relations. Given the limited empirical investigation to date on policy networks in Papua New Guinea and the complexity of the HIV environment, looking forward an analysis at the sub-sectoral level (as implied by Wilks and Wright) would be relevant. However, it is difficult to ascertain through the model whether an analysis at that level would conclusively explain the roles of various actors. There may be a need for further analysis at other levels; Butcher (2007), for example, has acknowledged that interpersonal relations are important in Papua New Guinea’s HIV response.

Conclusion

This article has presented the policy network approach as a useful way of describing and understanding the nature and character of policy making in Papua New Guinea’s HIV response. Policy network analysis also encourages the exploration of the interaction amongst sectoral networks. The Wilks and Wright model is seen as a potentially useful framework in the Papua New Guinea context. Policy network analysis can compliment studies which otherwise tend to over-estimate the individual power of actors (Golub 1996). However, the potential shifting of resources between the various networks and the relationship on conflicting outcomes is an area that requires further exploration. Nonetheless, through an examination of the horizontal link between the sources of funds, intermediaries, and beneficiaries and the interaction between national and international actors, the policy network approach encourages an exploration of the interaction among sectoral networks in the HIV response in Papua New Guinea. These interactions can have significant consequences for HIV policy making in developing countries.

If the policy network approach is to gain deeper reverence in HIV policymaking and articulation, it requires further modification, research, and testing. The application of issue networks needs to be clarified and capture additional characteristics relevant to HIV responses. Previous analyses of issue networks (Heclo 1978; Jordan & Schubert 1992; Rhodes and Marsh 1992b) suggest that networks exist only in policy areas of secondary interest and where the interests of various groups are not under any threat. However, issue networks emerge in sub-sectors where there are conflicting interests and values, such as those present in the HIV response.

In addition, a thorough application of the policy network approach to the HIV policy context would require more attention on the activities of the sectoral networks at the national level, particularly those in the health sector. This could partially explain the complex interaction between domestic developments and the broader global HIV policy agenda, and also aid in exploring the vertical interaction between global and national health networks. In addition, it would also be valuable to address to role of sectoral networks in education, transport, commerce, and other sectors that contribute to any multi-sectoral approach to HIV policy making and implementation.

Furthermore, additional research is needed on the issue of coordination amongst global, national, and sub-national networks responsible for implementing HIV policies. National and sub-national authorities are increasingly responsible for the attainment of results in HIV programmes at the grassroots level. Further study is needed to make explicit how decisions are coordinated–not just across different policy sectors, but also between levels of government through policy networks.

This article has demonstrated that policy network analysis provides a useful framework in describing and understanding the nature and character of HIV and AIDS policy making in Papua New Guinea. Through the actions and interactions of various actors in the national response, policy networks analysis can aid in influencing policy and implementation processes. However, there is the need for further research if policy network analysis is to carve out a specific niche in the understanding of HIV responses in developing country contexts.

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Figure 1: The Aid System – Highly Simplified Financial Links and Flow
(Source: Adapted from Fowler 2000, 4)

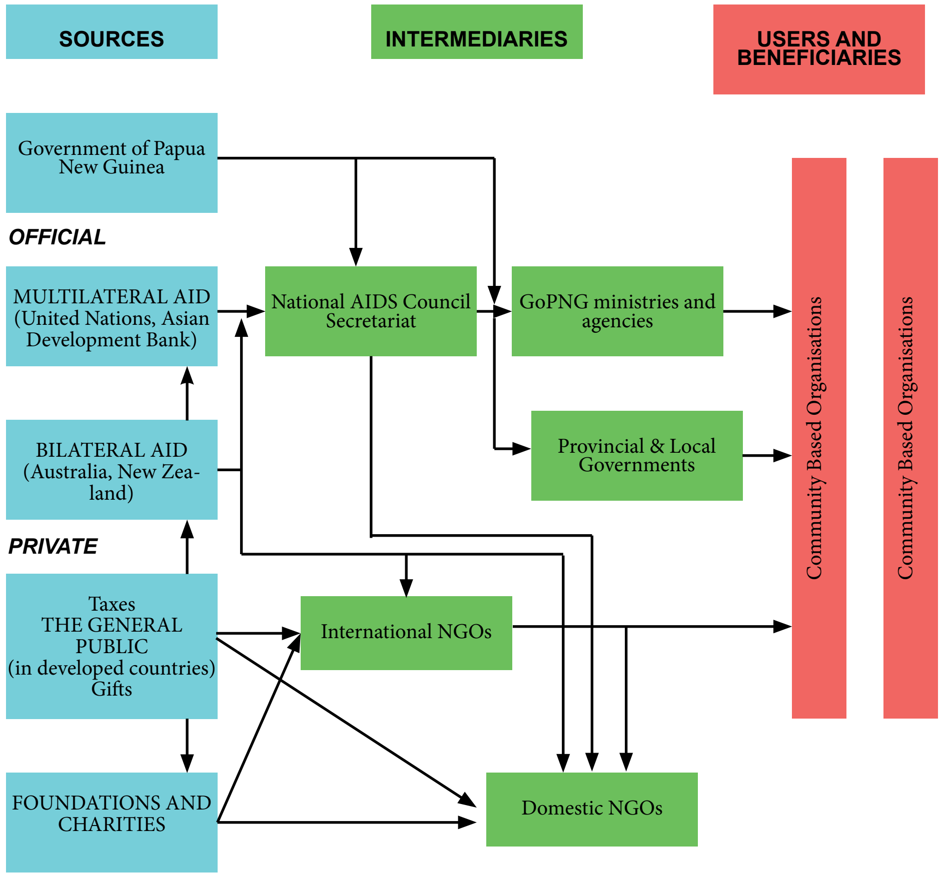

Table 1: Representation of the Wilks and Wright typology

(Source: Adapted from Wilks and Wright 1987 in Rhodes 1997, 41)

Policy Level	Example	Policy actors
Policy area	Health	(Policy Universe) International donors, GoPNG, Health care providers
Policy sector	HIV & AIDS	(Policy Community) All of the above, NGOs, CBOs, special interest groups
Policy sub-sector	Care and Treatment	(Policy Network) FBOs and Go-PNG services providers, PLHIV groups, international donors (Global Fund), NDOH
Policy issue	Access to ART	PLHIV groups, NGOs, individuals and communities

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Disease & Health

The Commodification of Trust and Ethics: Local Foods and Neoliberal Environmental Governance

Cayla Albrecht

Local Food Systems (LFS) in the developed world context are often considered an alternative to industrial agriculture, offering consumers and producers a different way to engage with food production and consumption. Buying food locally has, for consumers, become a way to resist or oppose the conventional food system and its associated negative environmental, social, and health effects. This paper will discuss how both conventional agriculture and LFS adhere to certain neoliberal constructs such as commodification in order to illustrate that the two are not as oppositional as often assumed. It will argue that although LFS may not be entirely 'anti-conventional,' they can still offer new ways to think about and carry out food policy and agriculture and food related governance.

Introduction

Local foods have emerged in the last 10 to 20 years as an alternative food choice for Western consumers and as a way for both producers and consumers to engage differently with agriculture and the environment. Local food systems (LFS) are often presented in opposition to the wide array of negative environmental, social, and health effects associated with conventional agriculture. However, a closer look at how local food initiatives function forces us to ask what it means to oppose conventional agriculture. This paper asserts that although direct farmer to customer relationships enable commodification in LFS and indicates adherence to neoliberal constructs, this does not necessarily undermine the notion that local foods are a rejection of conventional agriculture. Instead, in both adhering to certain neoliberal constructs while rejecting

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others, local foods are neither entirely anti-conventional nor neoliberal in nature, but some sort of partial neoliberal-environmental governance structure that simultaneously seeks to oppose conventional agriculture through more ecologically mindful commodification schemes. This paper will first provide a short overview of conventional agriculture as embodying neoliberal processes such as commodification, followed by an analysis of the commodification of territoriality and ethics in LFS.

Conventional Agriculture as Neoliberal in Nature

Neoliberalism is a "powerful ideological and political project in global governance," yet it is not hegemonic in any way (McCarthy and Prudham 2004). Rather, neoliberalism can be conceived of as multiple combinations of a few characteristic processes, one of which is commodification. Commodification (Heynen et al. 2007), marketization (Castree 2008; 2010), and valuation (Heynen and Robbins 2005; Bakker 2005) all refer to the same type of process in which "phenomena that were previously shielded from market exchange" (Castree 2008, 142) are assigned prices and values and "invaluable and complex ecosystems are reduced to commodities through pricing" (Heynen and Robbins 2005, 6).

Conventional agriculture has become synonymous with industrial capitalist agriculture and with globalized neoliberal processes. Since the 1970s, conventional agriculture has been characterized by "unprecedented deregulation," "export-oriented neoliberal development strategies" (Watts and Goodman 1997, 1), increasing trade liberalization, and the promise that the market will "facilitate the best distribution of resources and the greatest accumulation of wealth" (Rosin et al. 2012, 8). A growing critique of conventional agriculture asserts that the pursuit of profits through agricultural trade and the reliance on markets for regulation undermines and degrades the environment upon which agriculture and food production relies. Soil degradation, deforestation, biodiversity loss, and air and water pollution are among the environmental consequences of business-as-usual "profit-driven agricultural industrialization" (Guthman 2004, 3).

In addition to deregulation and trade-liberalization, the full commodification of food is an integral part of conventional agriculture. Conventional agriculture attempts to, through intensification, specialization, and concentration, "speed up, enhance, or reduce risks of biological processes" (Guthman 2004, 65) in order to reduce complex natural and environmental systems to standardized, reliable commodities. Specialized mono-cropping, increased use of machinery and chemical fertilizers to intensify production, and the concentration of production to only the largest farms has stabilized the food supply, but at a significant cost. These innovations are at the root of conventional agriculture's negative environmental impacts.

Scholars have also noted significant detrimental social and economic consequences of conventional agriculture. As "traditionally protected markets are opened up to global trade liberalization," (Ilbery et al. 2005, 117) and as large food processors, manufacturers, and retailers play more prominent roles in food distribution, farmers face decreasing revenue from their products. As costs of production (fossil fuels, machinery, and chemical fertilizers) rise, farm incomes decrease and farmers experience what Marsden and Smith (2006) refer to as the "cost-price squeeze." These economic pressures have created an agrarian context in which farmers struggle to compete in an increasingly globalized market and have less control as "the neoliberal model is likely to further increase the influence of multi-national companies over food" (Watts et al. 2005, 25).

Canadian food policy specifically has, since the 1970s, focused on "industrialization throughout the food system" and on the "production of [food] commodities for export" (Kneen 2012, 1). More recently, the Conference Board of Canada's assessment of food policy continues the trajectory of industry support, with Loblaws, McCain Foods, PepsiCo, Heinz, Cargill, Maple Leaf, and Nestlé acting as key members of the process (Bronson 2012). One of the conclusions in the report states that "Canada's approaches to genetically modified foods, country-of-origin labeling, and food additives are generally sensible and, for the most part, balance regulatory needs with industry sensitivities" (Bloom, Grant, and Slater 2011).

This focus on industry as the group that needs the most protection, or that carries the most sway, excludes other concerns such as hunger (Bronson 2012), agricultural sustainability, the decline of family farming, and food insecurity, especially in Indigenous communities (Bronson 2012; De Schutter 2012). Groups such as Food Secure Canada (FSC) have grown out of a policy context in which these types of concerns are not present. Food sovereignty, hunger and poverty, and sustainable (both environmentally and socio-economically) agriculture have thus become the cornerstones of FSC and other grassroots food organizations. While the Conference Board of Canada focuses their assessment of food policies in Canada on "food additives, genetically-modified foods, health benefit claims, country of origin labeling, inspection, and international trade" (Bloom, Grant, and Slater 2011) and their effects on the food industry, the FSC strives to move food sovereignty, hunger, and sustainable agriculture to the forefront of policy discussions.

According to Kneen (2012) the "growing neoliberalism in public policy" and the exclusion of social and environmental issues from the food policy agenda have spurred an individualist response. Even as neoliberalism in policy has supported the growth of the food industry and capital-intensive farming in Canada, it has also "encouraged a tendency to seek personal food solutions" (Ibid) as consumers become more aware of health issues related to industrially-produced foods and their own ability to demand food from sources they trust and production methods they wish to support. While formal groups such as the FSC seek to pursue change through policy and advocacy at a governmental level, the type of individualist responses to Canada's inadequate food policy that Kneen points to can be seen best in informal clusters of local food initiatives.

Local Foods: Opposing Conventional Agriculture and Embracing Neoliberalism

Although the perception of localization as the "neat antithesis to globalization" is arguably an exaggerated dichotomy (Hinrichs 2003, 33), LFS are often seen as a partial solution to environmental and social problems associated with global conventional agriculture. They represent ecologically sound food production methods, social and economic justice, and better food quality (Born and Purcell 2006, 200). The term "local food" usually refers to more than just food produced within a certain physical proximity. Typically a whole host of meanings are attached to LFS, ranging from high quality food for consumers to sustainable production methods and small-scale production. These embedded meanings have increasingly been questioned in alternative food systems scholarship and contribute to what Born and Purcell term the "local trap"–the assumption that because something is local, or produced at a local scale, it will necessarily embody these preconceived characteristics (Born and Purcell 2006). Although there is growing recognition that none of these characteristics are necessarily guaranteed when one purchases local foods (Hinrichs 2003; Smithers and Joseph 2010), LFS are still predominantly seen as a rejection of conventional agriculture (Dupuis and Goodman 2005).

Building on Born and Purcell's local trap warning, it is important to recognize that while local food initiatives seek to oppose conventional agriculture, and while conventional agriculture is inextricably tied to neoliberal faith in markets and commodification processes, we cannot assume that local food production necessarily also opposes neoliberalism as a whole. Indeed, there are many indications that local food systems adhere to processes of commodification and faith in markets and consumer dollars, while also opposing the environmental and social degradation associated with conventional agriculture. The following analysis on the commodification of territoriality and ethics attempts to offer a more precise indication of what local foods actually oppose, and what they may embrace in terms of neoliberal environmental governance.

Commodification of Territoriality and Ethics in Local Foods

Instead of assuming that commodification (which is part and parcel of neoliberal processes and capitalist agriculture) necessarily leads to environmental degradation, I wish to begin with the premise that "local" is a place for reassembling resources and value and for "evolving new commodity frameworks and networks" (Marsden and Smith 2005, 442). LFS do not do away with the neoliberal process of commodification, nor should

they. Rather, they engage in a different sort of commodification: one that attempts to reassemble how we value our food by being more ecologically and socially (as opposed to only economically) mindful of production costs and effects. Similar to Guthman's description of organic farming, local food provisioning "incorporates and builds upon complicated natural systems" instead of oversimplifying or attempting to standardize biophysical processes (Guthman 2004, 3). Local food movements resist reductionist commodification schemes characterized by industrial agriculture and seek to engage with, rather than attempt to intervene upon, ecological and social processes.

Dupuis and Goodman (2005) discuss one such form of commodification and valuation, arguing that local foods market the idea of territoriality as an indicator of quality. By assigning value to specific regional characteristics, territory "becomes a commodity in itself" (Buller and Morris 2004, 1078). European Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) schemes, or Canadian initiatives such as Foodland Ontario or Buy British Columbia (Ilbery et al. 2005) represent the creation of a market indicator for a specific place–something previously not marketized in such a fashion. Local farmers' markets, agri-tourism, community-supported agriculture (CSA) programs, and direct-sell strategies, though less institutionally organized, also operate with the same intent in mind. They appeal to the idea that regionally produced food is more desirable than "placeless" conventional food products.

Not only is territory marketed, but ethical practices are also given a new and important valuation. These embedded ethical ideas can refer to ecologically-friendly production practices (Guthman 2007), a desire to support local farms and communities (Marsden and Smith 2005), and concerns over animal welfare and human health (Renting et al. 2003). They may also represent more ambiguous ideas of "local empowerment" (Eaton 2008, 998), romanticized traditional food production, and "pastoral symbolism" (Eaton 2008, 1003). Whatever the specifics, the ethics and morals of food production have become powerful selling points and commodities in LFS.

Moreover, farmers themselves are becoming a part of the embedded ethical commodity, insofar as they must establish and maintain consumer trust that certain production methods have been used (Marsden and Smith 2005) in emerging direct-marketing strategies. Even though ethical practices may in theory underlie consumer motivations for buying food directly from farmers, in practice and in places like farmers' markets, "trust seems to trump the need for details" (Smithers and Joseph. 2010, 244). In her discussion of voluntary food labeling schemes, Guthman argues that by placing monetary value on ethical ideas, food labeling concedes to neoliberal reform processes rather than opposes them (2007). Similarly, the value placed on trust and the commodification of the farmer who can convey trustworthiness is an integral part of direct producer-consumer interactions in local food systems and indicates adherence to certain neoliberal processes.

According to Guthman (2007), “Commodities that embed ecological, social, and/or place based values have been posed as an important form of resistance to neoliberalization” because they are meant to protect land and people from the “ravages of the market.” Similarly, Eaton argues that the turn to “quality local food production” can be seen as a method of “coping with processes of neoliberalization” by offering producers protection from global markets (2008). What local food initiatives oppose, then, is conventional agriculture’s exploitative use of land, resources, and labour, but not simply neoliberal processes. It is by creating marketable products based on certain territorial or ethical considerations, and attaching “economic values to ethical behaviours” (Guthman 2007, 457), that these exploitations are purportedly opposed. Thus, the strategy for opposing certain neoliberalization processes in agriculture actually further commoditizes nature, as well as farmers, indicating an adherence to certain other neoliberalization processes. Viewed in this light, “re-localization” schemes in local food systems appear “to be not so much in resistance to neoliberal globalization as an intrinsic part of it” (Dupuis and Goodman 2005, 367). In light of this discovery, can LFS offer a viable form of resistance to environmental and social ills associated with neoliberal conventional agriculture if they utilize commodification schemes to do so?

Neoliberal Reform and Resistance to Conventional Agriculture

Commodification schemes in LFS mean that consumers can choose to value certain environmental, social, or ethical food production attributes using their food dollar. This type of consumer choice is reminiscent of how Anderson and Leal (2001) describe free-market environmentalism. They argue that as soon as an individual participates in the market, where they spend their money provides an “objective measure of these subjective values because bidders must give up one thing of value to obtain another” (15). A consumer who chooses to place trust in an individual farmer, or decides to pay more for their food based on location, is doing just that: giving up one thing of value (money) for another (ethical practices in food production). Putting faith in the market and in consumer dollars is a somewhat uncomfortable, or at least unexpected, place for the local food movement to find itself. It doesn’t have to be, though, if those markets value environmental and social costs in new ways. The simple dichotomy of trying to place local foods squarely as resistance or adherence to neoliberal processes and conventional agriculture takes away from what could be a more productive discussion of how local food initiatives might embody some neoliberal reform and still resist conventional agriculture.

If commodification is understood as the process in which a good is rendered stable for market exchange, and conventional agriculture’s associated environmental problems

stem from the attempt to turn food into a stable market commodity (thus alienating it from nature), then it seems logical that the goal of local foods would be to de-commoditize food and restore the connection between food and the natural environment. However, if commodification is also understood as the process in which new values are attached to goods previously outside the reach of the market, then many local food systems further commoditize food in the sense that they place new meanings and add new market values to certain types of food or certain conditions of production, and in turn, make consumers responsible for choosing to value those conditions. Unlike conventional agriculture, local food systems strive not to abstract food from its biophysical context but to reattach that context to the product in the form of ethical environmental and social values. In this way, local foods continue the process of commodification, but do so in a way that takes environmental and social concerns into consideration.

Conclusion

While it remains unlikely that we can do away with treating food as a commodity, by engaging with nature, the environment, farmers, and the commodification process differently, local foods can still offer new ways for thinking about environmental governance as it relates to agriculture. Perhaps like neoliberalism, local foods are not entirely unified or coherent as a structure. Instead, local food systems are somewhat malleable and varied. They need not be thought of as clear opposition to neoliberal processes, but as a potential space for some form of partial neoliberal environmental governance. Most importantly, LFS offer new forums within which to construct food policy that can speak more meaningfully to the intersection of agricultural, social, environmental, and economic agendas as experienced by farmers and consumers, not just industry and business.

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PP+G REVIEW

Municipal Governance

Neoliberal Urban Governance and the Amalgamation of Toronto

Christopher Lawson

The 1997 Ontario Government decision to amalgamate the six boroughs of Metropolitan Toronto into a single-tier megacity continues to have a profound impact on the politics and governance of Canada's largest city. After briefly reviewing the history of the megacity, this essay will place amalgamation within the context of the ideology espoused by the Mike Harris Progressive Conservatives. It will argue that amalgamation was a key piece of the PC's neoliberal agenda and was justified to the public in neoliberal terms. The essay will also show how the megacity reshaped Toronto's political geography, making it more respective to neoliberal policy and urban governance.

Introduction to the Focus on Neoliberal Ideology

For many Torontonians, the two-tiered government of Metropolitan Toronto (commonly referred to as Metro) is little more than a distant memory, which lives on only in the names Etobicoke, Scarborough, and North York. However, the legacy of Metro continues to shape the political geography of the city, and the 1997 provincial government decision to amalgamate Toronto into a unified single-tier megacity stands out as one of the seminal moments in its political history.

As befits the political and social importance of the event, the debates which surrounded amalgamation have been the subject of considerable academic study over the last 15 years. Authors such as Isin, Boudreau, and Horak have all attempted to identify why different groups supported or opposed amalgamation, how each side organized their campaign, and what the failure of the anti-amalgamation forces tells us about the human geography of Toronto (Siemiatycki & Isin, 1998; Boudreau, 2000; and Horak, 1998). A particular focus has been placed on the ethnic and social make-up of the competing sides and especially on the white, middle-class nature of the anti-amalgamation campaign

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group, Citizens for Local Democracy (C4LD). Several authors have pointed to C4LD's social exclusivity and inability to attract minorities and the working class as reasons for the movement's failure (Siemiatycki & Isin, 1998 and Horak, 1998). For these authors, the story of amalgamation is first and foremost a story of two different socio-economic groups struggling over two different visions of the city they call home.

Instead of following Isin and others in focussing on class and ethnic divisions and the white middle-class dominance of C4LD, this essay will focus on the ideological foundations of the debate and particularly the ideology of the provincial government of the time. The debates, which took place in informal spheres during the first months of 1997, provide an interesting insight into ethnic divisions and the changing social geography of the city. However, as amalgamation was an initiative of the Progressive Conservative (PC) provincial government, it can only be understood in the context of the neoliberal ideology espoused by that government. Isin and others have pointed out the neoliberal nature of amalgamation and have noted that, as a unilateral provincial action, it revealed the political weakness of Canadian municipalities. However, no author has completed a focussed study placing amalgamation in the wider ideological and political context of the 'Common Sense Revolution' (CSR).

This essay will attempt to accomplish this important task, analyzing to what extent amalgamation was a part of the neoliberal CSR agenda and exploring the implications of this ideology for Toronto's political geography and urban governance. The first third of the paper will contextualize the analysis, first by outlining the contours of the amalgamation debate and the ways in which it was fought out on the urban political landscape, and next by turning to explain the origins of neoliberalism in Ontario. The essay will then study the rhetoric used by the PC government inside the legislature to defend amalgamation in order to understand how the proposal represented their neoliberal agenda was applied to urban governance. Finally, it will explore the amalgamation debate and subsequent political developments in the unified city to reveal how amalgamation has allowed neoliberalism to gain newfound influence in the governance of Toronto.

Amalgamation: the Issue and the Actors

Before studying the ideological foundations of the amalgamation proposal and its impact on urban governance in Toronto, it is important to first clarify the purpose of the amalgamation proposal, and to highlight the key groups on both sides of the debate. Bill 103, also known as the City of Toronto Act, was tabled in the Ontario Legislature on December 17, 1996 by Al Leach, the Minister for Municipal Affairs in Mike Harris' PC government (Hansard, 17 December 1996). The bill sought to bring an end to a governance structure that had persisted since the creation of Metropolitan Toronto in 1953, with six (originally more) lower-tier governments handling local services and planning while the Metro government coordinated major services such as transit, police, and housing across all the municipalities. Bill 103 proposed to merge these six municipalities–Toronto, York, East York, Etobicoke, North York, and Scarborough–into a single-tier megacity governed by a mayor and council of 44 members (Isin and Wolfson, 1999). Bill 103 was the culmination of several months of debate within the PC government, and the preferred option of amalgamation had been leaked to the press in late October (*Toronto Star*, 1996, A1). Although there had been debates in the past about the future of the rather complex two-tier system of government, the proposal still came as a shock to most, as it was assumed that it would be the distant and unloved Metro government which was likely to be eliminated (Hansard, 16 January 1997).

Opposition to the bill formed almost immediately, and was expressed through both formal and informal political channels. The political leaders of the lower-tier municipalities, especially Mayor Barbara Hall of Toronto, were some of the first to organize opposition to a bill that would redraw the political geography of their cities. Their struggle culminated in a series of referenda organized in early March which showed a large majority of respondents opposed to amalgamation (Boudreau, 2000). However, the strongest opposition was expressed through C4LD, a campaign group working outside formal political channels, which organized large protest meetings and marches throughout the winter of 1997 (Horak, 1998). As previously stated, many authors have highlighted that C4LD was a predominately white, middle class organization, which drew its membership primarily from educated professionals living in the old City of Toronto. This was also the social and geographic group most strongly opposed to the megacity (Isin, 2000).

The formal political opposition inside the provincial legislature drew heavily on the rhetoric and actions of C4LD and used the size of the informal protests and the 'no' vote in the referenda as justification for their opposition (Hansard, 1997). Thus opposition to the megacity was launched on a number of different spatial scales and conducted through both formal and informal channels. Supporters of amalgamation were much less vocal, but they did include a number of right-leaning suburban councillors (Ibbitson, 1997). In the end, however, it was the provincial legislature that would decide the fate of the government's proposal, as in the Canadian federal structure the provinces have full control over municipalities (Isin, 2000). The New Democratic Party (NDP) did lead a massive filibuster that delayed the final passage of the bill until late April, but the PC's majority in the legislature meant that its eventual passage was assured and the amalgamated City of Toronto came into existence on January 1, 1998. To understand why the provincial government would expend so much political capital on a seemingly arbitrary and intrusive change to the governance of Toronto, one must first explore the ideology that the PCs brought to Queen's Park.

The Origins of Neoliberalism in Ontario

The PC government elected in 1995 is seen as the first truly neoliberal government in Ontario history. Neoliberalism is a political ideology that first gained wide currency in the developed world in the late 1970s, and brought about a fundamental change in the relationship between governments and their citizens. Ronald Reagan and Margaret Thatcher are widely seen as having led the first successful neoliberal governments,

and both oversaw large tax cuts, reductions in social spending, and the privatization or deregulation of major industries. However, some, such as William Tabb, argue that the first shift actually took place at the municipal level, in the 1970s budget crisis in New York City, which saw the city taken over by an Emergency Financial Control Board (EFCB) led by financial institutions and the state government. The EFCB mandated significant layoffs and massive cuts to education and local services, causing serious social dislocation in poor minority neighbourhoods such as the South Bronx (Tabb, 1982). Tabb points to the EFCB as the beginning of a new political geography and form of governance, the 'neoliberal state,' where political leadership is focussed on the needs of large corporations and residents are seen as consumers rather than citizens, often forced to pay user fees for services that had previously been universal.

Neoliberal governments are modelled on the corporations they seek to serve, with efficiency and competitiveness being the new watchwords (Keil and Boudreau, 2005). At the scale of municipal politics, this naturally leads to a new form of urban boasterism, where the civic leadership uses local government as a tool to achieve growth at all costs. Although civic boasterism has existed for hundreds of years, it has taken on a new form and intensity in the globalized, neoliberal world of the last thirty years, where cities are competing across international borders to attract business and investment (Logan and Molotch, 1987). The need to compete with other 'world cities' is often used by neoliberal local politicians as an argument for cutting services, reducing taxes, and putting the interests of businesses ahead of those of the city's residents (Keil and Boudreau, 2005).

From 1943-1985, the Progressive Conservative Party of Ontario governed the province for 42 consecutive years under the leadership of a series of moderate progressives such as Leslie Frost and Bill Davis. Under Frost and Davis, the PCs had routinely won a plurality of seats in central Toronto (Ibbitson, 1997). However, David Peterson's Liberals successfully captured the middle ground of Ontario politics in his 1985 and 1987 victories. Meanwhile, the right-wing Mike Harris got the PCs to endorse a new neoliberal direction by winning the 1990 leadership convention. Supported by a number of young neoliberal ideologues, Harris got to work crafting a political vision built around smaller, more efficient government, individual responsibility, and reduced taxation (Ibbitson, 1997). They entitled their platform the Common Sense Revolution (CSR), and were able to feed off public frustration with Bob Rae's NDP government to win a landslide victory in the 1995 election.

However, the neoliberal message faced some resistance in the City of Toronto, with the Conservatives finishing third in many downtown ridings, breaking with historical patterns (Boudreau, 2000). The new government immediately went to work reforming welfare and cutting public sector pay, leading to massive protests and a government-wide strike. The civic leadership in the City of Toronto played a major role in this opposition, resisting the cutbacks and supporting the striking workers (Ibbitson, 1997). Unlike the suburban municipalities, many of which were led by PC supporters and had already shifted to a New York City style neoliberal focus, Toronto City Council had been dominated by progressive reformists since the early 1970s (Ley, 1996). The unique political geography of the old City of Toronto, which had allowed this reform to flourish despite the rightward turn elsewhere in the Greater Toronto Area, was a frustration to the PCs, and the City increasingly became a target of their neoliberal agenda. Amalgamation would become a tool of the provincial government to bring neoliberalism into this last bastion of progressivism.

The Neoliberal Arguments for a Toronto Megacity

To understand how amalgamation fit in with the PCs neoliberal agenda to reform urban governance, the records of the debates on Bill 103 in the provincial legislature, where government ministers put forward their unfiltered arguments in favour of the megacity, must be examined. On January 14, 1997, Minister Leach introduced Bill 103 for second reading with a short speech outlining the government's arguments in favour of amalgamation. The argument had two major foci, both drawn straight from the playbook of neoliberalism: a more efficient delivery of services, and a government that would make Toronto competitive with the other major cities. To make his argument about cost savings, Leach cited a study by the consulting firm KPMG suggesting that Metro Toronto could save $350 million annually through the elimination of duplication in service delivery and administration (Hansard, 14 January 1997). His choice of this consultant report is telling, as there had been other less optimistic studies, such as the Golden Report commissioned by former Premier Bob Rae, which Leach and the government repeatedly chose to ignore (Ibbitson, 1997). A common theme in neoliberal governments has been to put weight on the advice of outside experts rather than on the work of public officials, as the private sector is seen as more efficient (Isin, 2000). It has become clear that this decision to ignore the other reports was the result of ideological blindness, as studies since 1998 have concluded that the merger did not reduce the cost of delivering services or save taxpayers' money through the elimination of duplicate administration (Schwartz, 2009, 485-6).

Leach also employed the 'government is too large' rhetoric, which is common among neoliberals, using general public distaste for politicians to justify the megacity. He specifically mentioned that the megacity would result in a smaller number of councillors and a clear line of responsibility down to the individual voter (Hansard, 14 January 1997). Leach and the other members of the PC government would repeat these themes over the following weeks. On January 16, Scarborough Centre MPP Dan Newman (PC) again cited the KPMG report and made further arguments highlighting the increased efficiency, including the harmonization of municipal bylaws, which would result from amalgamation (Hansard, 16 January 1997). Several other MPPs also pointed out that their constituents wanted lower taxes and more efficient government above all else, and stated that the primary goal of amalgamation was to achieve these aims (Hansard, 3 March 1997). Thus amalgamation was repeatedly framed by the PCs as an improvement in the efficiency of government, a seductive call that had been used repeatedly in the building of other aspects of their neoliberal project.

The amalgamation of Toronto was also only one piece of a larger struggle to improve the efficiency of local government through reorganization and downloading. Although the PCs repeatedly tried to present the amalgamation proposal as separate from their disentanglement legislation, which called for the merger of dozens of school boards and the downloading of welfare expenditure, it was not a coincidence that these items all came up for debate during the same week in January 1997 (Ibbitson, 1998). The disentanglement bills were a key part of the CSR and an attempt to force the neoliberal agenda on to local governments across the province (*Toronto Star,* 1997). Amalgamation would help to facilitate this 'disentanglement' and be a model of the efficient, neoliberal local government the PCs hoped to create. The amalgamation of Toronto would be just the first of many mergers which would be forced upon communities large and small across the province in the name of efficiency (Kushner and Siegel, 2005). Amalgamation demonstrated the weakness of municipalities in the Canadian system of government and the power of the provincial government to shape urban political geography to suit its needs and ideology.

The other major argument put forward in the legislature was based upon another key neoliberal principle–that of improving the competitiveness of all levels of government. In the municipal context, this was closely tied to the civic boasterism discussed earlier; only in this case the boasting was being done by the province on behalf of Toronto, again revealing the shallowness of municipal power. On January 14, Al Leach pointed out that Toronto faced global competition and that only amalgamation would give it the tax base and international stature to thrive as a truly world-class city (Hansard, 14 January 1997). MPP Newman later reiterated this point, suggesting that only a unified Toronto would have the modern economic and political infrastructure necessary to continue to be a major international centre (Hansard, 28 January 1997).

The government would repeatedly bring up the importance of creating a municipal structure that would bring the growth and investment to Toronto that the city needed to be successful. This argument has been made in cities across the world over the last 30 years as the neoliberal logic of competitiveness has become the norm (Logan and Molotch. 1987). However, the reform progressives who led the old City of Toronto had resisted this logic to some extent, focussing more on quality of life issues and attempting to avoid the 'growth at all costs' mentality when possible (Ley, 1996). The PC clearly sought to end this resistance through amalgamation and hoped to encourage the entire City to adopt the focus on economic competitiveness that a unified city would help to facilitate. Thus, it is clear from the pro-amalgamation rhetoric of the PC ministers, which focussed on increased efficiency and competitiveness, that the megacity was an integral part of the provincial government's neoliberal agenda for municipalities.

The Geographic Impact of Neoliberalism in Toronto Post-Amalgamation

The megacity debate itself and subsequent political developments reveal the extent of the ideological clash in the unified city and demonstrate how amalgamation has allowed neoliberalism to gain newfound influence over the governance of Toronto. Despite the amalgamation referenda showing 70% of Metro residents opposed the megacity, a poll taken by the City of Toronto at the height of the anti-amalgamation protests showed that 42% of residents across the city supported amalgamation while only 49% were opposed (*Toronto Star*, 1997). This supports the arguments of Siemiatycki and Isin (1998) which suggest that the vocal, predominately white and middle class leadership of C4LD was not reflective of the wider population of Toronto, which was much more ambivalent about the megacity. There were numerous indications that this support for amalgamation came primarily from the suburban municipalities, which were significantly more receptive to the arguments of efficiency and competitiveness than the downtown progressives (Ibid). In addition to electing more neoliberal local administrations, the suburban municipalities had increasingly diverged politically from the old City in recent provincial and federal elections, electing a majority of neoliberal MPPs in 1995 (Walks, 2004; Boudreau, 2000). Thus the urban-suburban geography of the amalgamation conflict went beyond the socio-economic division highlighted by Isin and was also driven by a growing ideological divide between urban and suburban residents.

The 1997 elections for the amalgamated city further demonstrated this ideological division and showed how amalgamation had given neoliberalism an opening to shape the politics of the entire city. Amalgamation was not a major issue of debate in this first municipal election, as both leading candidates for mayor of the megacity, former North York Mayor Mel Lastman and former Toronto Mayor Barbara Hall, accepted the finality of the provincial government's change. However, the two candidates did put forward starkly different visions for the city, with Lastman running on a more neoliberal platform of a tax freeze and a law and order based approach to the problem of homelessness (Stanwick, 2000). The fact that Lastman was elected with a slim majority city wide, based entirely on strong victories in North York, Scarborough, and Etobicoke, can be seen as showing the strength of neoliberal ideology in suburban Toronto, an ideology that could now overwhelm the liberalism of the downtown.

It is tempting to suggest that Lastman's victory was less about ideology than it was about an ethnic divide, with Lastman capturing the predominantly minority suburbs while Hall was limited to the same white middle class groups that had dominated C4LD (Siemiatycki and Isin 1998). However, a quantitative study of the election results by Hannah Stanwick shows that, overall, the proportion of immigrants in a ward had little impact on the election results. Although immigrants make up a higher proportion of the suburban population, turnout among immigrants appears to have been much lower than among whites, with Lastman's victory likely coming primarily from conservative suburban white voters (Stanwick, 2000). The 1997 election reveals that neoliberalism versus progressivism was now the key political divide in the new city, and that amalgamation had made possible neoliberal governance across all of Toronto.

Amalgamation has not only brought the ideology of neoliberalism into the politics of old Toronto, it has changed the way that local services are administered. Deborah Cowen has found that, since amalgamation, recreation policy has been standardized across the city based upon the neoliberal model. User fees have been implemented at city pools and summer camps in the old City of Toronto, which previously were universally available to all citizens free of charge (Cowen, 2005). Usage of central city facilities dropped in the years after the implementation of fees as they became unaffordable for lower income residents (*Toronto Star*, 2005). The new political geography of the unified city allowed the neoliberalism of the suburban majority to overwhelm the previously strong progressivism of the urban core and has begun to reshape local administration.

Recent political developments indicate that the neoliberal influence of the suburbs has not weakened, and the amalgamated city continues to be riven by an ideological divide with a clear spatial form. Current Mayor Rob Ford was elected on a platform of cost-cutting, reducing taxes, and eliminating wasteful bureaucracy similar to that of the Mike Harris and Mel Lastman. The spatial distribution of his support, not surprisingly, maps on to the same urban-suburban divide seen in the Harris years, with his strongest supporters in the suburbs and fiercest opponents in the core. His term in office has seen the further expansion of neoliberal administrative practices into the core of the city, such as privatized garbage pick-up modelled on the system used in pre-amalgamation Etobicoke. The events of the last 15 years have made it clear that, through amalgamation, the Mike Harris government succeeded in creating a new City of Toronto where neoliberal ideology could be successful.

Conclusion

The creation of the Toronto megacity was an important piece of the neoliberal agenda of the Harris PCs which has reshaped the political geography of the city, making it more receptive to neoliberal urban governance. Although amalgamation was manifestly a struggle over the political geography and governance of Toronto, which led to cleavages in the urban community along social and ethnic lines, it was driven first and foremost by the ideological considerations of provincial politicians. Thus it can be argued that a study of the competing ideologies of the amalgamation struggle and the insights they provide into urban governance in Toronto can be even more valuable than a study of ethnic and social divisions. To that end, a focussed study of the progressive ideology of the megacity's opponents would also be a highly welcomed addition to the literature.

The provincial government's decision to amalgamate continues to have serious implications for Toronto's governance. Toronto is a city with two distinct ideological traditions which has seen numerous neoliberal reforms in recent years, most of which are strongly opposed by much of the urban core. Torontonians are made aware on a daily basis of the ideological divisions in our city and the challenges that they pose for the administration of our urban community. Whether we can make the next 15 years of the Toronto megacity work any better than the first 15, only time will tell.

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PP+G REVIEW

Municipal Governance

Getting What You Pay For: Could an Income Tax Fix Toronto's Finances?

Jonathan Bright

Canadian urban municipalities are playing an increasingly important economic role, relative to their rural counterparts, and yet they remain beholden to higher levels of government because of an inability to raise sufficient revenues to cover operative costs. Toronto, in particular, as the fourth-largest city in North America, is in a position in which it desperately needs to develop new ways to generate revenue. Is a municipal-level income tax an appropriate solution for this problem? This article discusses the extant commentary and scholarship on the issue, together with a number of successful and not-so-successful examples of municipal-level taxation regimes from which Toronto policy-makers and municipal leaders can draw lessons with regard to design and implementation of such a regime.

Introduction

The City of Toronto recently became the fourth-largest city in North America behind such municipal behemoths such as Mexico City, New York City, and Los Angeles. However, despite its pre-eminent size and resulting contribution to the Canadian economy, Toronto remains beholden to its provincial and federal counterparts because it is unable to raise sufficient revenues to cover its operating costs without transfers. Why does the fourth-largest city in North America have its hands tied when it comes to raising revenue? What are some of the ways in which Toronto and Ontario policy-makers could solve this problem?

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This paper will examine the historical reasons behind Toronto's inability to raise sufficient revenue, discuss what pre-eminent commentators and scholars have to say about the matter, and contrast Toronto with comparable municipal and regional jurisdictions to learn about how to move forward. The Philadelphia model shows how useful the imposition of a municipal income tax can be in the short term, and how successful it can be in the long term, and the Swedish model demonstrates that because social services are best administered at the local level, the revenue required for those services should also be raised at that level. Through this analysis, I hope to stimulate debate surrounding the possibility of a municipally-administered income tax regime in Toronto as a way to help solve the financial instability currently felt by the City of Toronto.

Taxation and Municipalities

Two of the most well-known and closely-studied sections of the Constitution Act of 1867 distinguish between the policy areas in which the provincial and federal governments are permitted to exercise their legislative powers. Under Section 92, the provinces were given the authority to pass legislation that affects property and municipalities within their respective borders. Quite simply, this means that any decisions taken by municipal government are, by definition, reviewable by the government of the province in which the municipality in question is located. This is particularly true in Ontario, in which the Ontario Municipal Board, which reports to the Ministry of the Attorney General, has numerous powers, including the ability to hear appeals from Council decisions relating to municipal or land use law and to hear appeals arising from municipal financing proposals made under the Planning Act (MMAH, 2003). Essentially, when it comes to raising money, local governance decisions can be appealed to a representative of the Province of Ontario, putting the Province in the position of final arbiter of all municipal matters.

An example of the oversight exerted by the Province over municipal financing issues is the recent experiences of Toronto policy makers surrounding funding for planned transit developments in the Sheppard Avenue corridor. A plan put forward by the Mayor and several supporters included using tax-increment financing (TIF) to raise a portion of the capital needed to fund the project. According to the Toronto Board of Trade, there are two particular Toronto neighbourhoods that have been designated for TIF pilot projects by the provincial government: "The areas around the University-Spadina subway line from the City of Toronto into York Region, and the West Don Lands brownfield redevelopment initiative [part of the waterfront revitalization]," (Toronto Board of Trade, 2010). In a recent *Globe and Mail* examination of the issue, John Lorinc and Kelly Grant lamented that, although "TIFs allow municipalities to borrow to build infrastructure and then pay down the debt with increased tax revenues generated by redevelopment, [in Ontario] TIFs can only be used with provincial approval," which, by virtue of the added layers of bureaucracy that accompany Provincial oversight, significantly reduces the rate of development (Lorinc and Grant, 2012).

Still, the City of Toronto is unique among Ontario municipalities. In 1997, the Province of Ontario passed the City of Toronto Act, 1997, S.O. 1997, c. 2 and City of Toronto Act, 1997 (No. 2), S.O. 1997, c. 26, in a move that amalgamated the six then-existing Toronto boroughs into what is now called the City of Toronto, governed by one City Council. Almost a decade later, the Province of Ontario passed the City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A, which granted the City of Toronto a level of autonomy and authority that eclipsed the powers enjoyed by any other municipality in Ontario and by any Toronto municipal government since the City's incorporation in 1834.

In a speech made at the time, then-Mayor David Miller said that the new Act "sets the stage for the long-term, multifaceted package of reforms that the City will need to develop in partnership with the provincial and federal governments to resolve the City's systemic fiscal imbalance." However, he also stressed that "the Bill's new revenue powers will not address the City's fiscal challenges, nor does it deal with the inappropriate burden of provincial social programs on the property tax base. Modern cities need access to broader revenue sources, such as income...taxes that grow with the economy" (Miller, 2006). Currently, Toronto does not levy income taxes even though, along with fuel, occupancy, and property taxes, they are part of the income-raising regimes of many comparable cities around the world.

That said, Canadian municipalities have not always been strangers to income taxation; almost a century prior to the first imposition of federal income tax in 1917, provincial and municipal governments levied income taxes on their residents (Silver, 1968, 398-99). According to municipal economics expert Harry Kitchen, by the end of the 1930s, municipal income taxes were ubiquitous in every province. However, since the provinces entered into various tax rental agreements with the federal government during the Second World War,[1] no municipality in Canada has regained their right to levy income tax (Kitchen, 2003, 17). Still, there are several commentators and scholars who advocate for the imposition of an income tax at the municipal level for various reasons.

Arguments for a Municipal Income Tax

The history of municipal income tax in the U.S. was summarized masterfully by Elizabeth Deran in her 1968 evaluation of the effectiveness of taxes after several years of implementation (1968). Deran begins with the introduction of the municipal income tax in Philadelphia in 1939, and the characteristics that were adopted by most contemporaneous

1 The Dominion-Provincial Tax Rental Agreements Act, 1947, c. 58, s. 3; P.C. 331, Jan. 30, 1948 as amended by P.C. 952.

municipal income tax regimes: a low flat rate that applied, without personal deductions or exemptions, to income from employment but not to income from property (1968, 21). Furthermore, a majority of the large cities in the U.S. with an income tax in 1968 also taxed income earned in the city by non-residents, tempering the tax burden with tax credits available for those workers whose city of residence also taxed income (Deran, 1968,t 21-22).

It was not until the 1960s, however, that municipal income tax began to look more like it does today in many American cities. In 1964, the state of Michigan passed the Michigan Uniform City Income Tax Act, which extended the Philadelphia model to income from property while also introducing a $600 exemption for every taxpayer and each of his or her dependents. Two years later, New York City introduced a tax that was built on the Michigan model by allowing similar exemptions to the tax, but made the tax rate more progressive: "[The New York tax ranged] from 0.4% on the first $1,000 of taxable income up to a marginal rate of 2% applying to taxable income in excess of $30,000" (Deran, 1968, 22). There was not, however, a universal acceptance of the need for municipal income tax. As Leonard Kirschner's 1951 examination of municipal income tax demonstrates, even more than a decade after Philadelphia's introduction of income tax, the debate about its necessity was very much alive and well.

In "The Municipal Income Tax," Kirschner asserts that "It is undeniable that the wants of the public and the cost of governmental services have increased substantially, and presumably will not diminish" (1951, 348). In the immediate post-war period, many municipalities across the U.S. were in a similar position; Philadelphia, in fact, was facing almost certain bankruptcy (Deran, 1968, 24). Kirschner's contribution to the field, therefore, was in putting forward many of the now widely-accepted arguments in favour of the imposition of an income tax at the municipal level. More than half a century later, Toronto's financial outlook appears to fit Kirschner's mold: without some kind of infusion of funds, Toronto may soon reach a point at which financial sustainability is impossible.

Kirschner acknowledged that a tax on the ownership of property within a municipality should be the first source of revenue that municipalities look to. However, he also suggests that the relatively unresponsive nature of property tax precludes municipalities from being able to rely on it when city expenditures spike unexpectedly, or if there is a rapid and constant increase in the cost of service provision over a relatively small number of years (1951, 346-347). Furthermore, a municipality that only levies a property tax places a significantly higher tax burden on property owners, even though many residents of a given city may not own real estate and still benefit from city services. The result is that "the wage earning homeowner supports the city government; whereas, the renter supports the government only indirectly, if at all, irrespective of relative earnings," (Kirschner, 348).

Kirschner's arguments in this regard are applicable to the City of Toronto, as its only source of tax revenue is property ownership.

Kirschner's final argument in favour of municipal income tax rests on the idea that, in many large city-hubs, a remarkable proportion of the workforce commutes into the city, using the city's services and facilities but paying property taxes to the municipality from which they commute. This is a particularly dire problem in Toronto, where reports increasingly show an unwillingness among residents of municipalities just outside of the City to pay any amount of added tax "if the revenue is devoted primarily to Toronto" (Kalinowski, 2013).

There are several arguments against the imposition of a municipal income tax. Two Canadian scholars have recently raised the notion that a flat tax rate, such as the income tax originally instituted in Philadelphia, places a greater burden on "the man who earns less than on the person with a large income" (Mintz and Roberts, 2006, 10). As a crude example, a resident with an income of $10,000 who pays $100 in income tax is in a much better position than a resident who pays $10 in income tax, but only has an income of $1,000. That this is a classic argument against a flat tax does not make it any less persuasive; in fact, Kirschner himself advocates for protections to be placed on the income of those who genuinely cannot contribute (1951, 350).

In addition to Deran and Kirschner, there is a significant amount of recent Canadian scholarship on the question of whether cities such as Toronto need a municipal income tax. In Harry Kitchen's 2003 special study for the *Canadian Tax Journal*, he concludes that, although it is easier, and often cheaper, for the Province to administer an income tax on behalf of municipalities, "unless municipalities are given [the freedom to do this themselves]--even if it means they make mistakes--truly accountable and responsive municipal government can never be a reality" (Kitchen, 2003, 10). According to Kitchen, accountability is elusive when two or more levels of government have a responsibility for funding or providing the same service. For instance, most spending decisions with regard to the provision of services happen at the municipal level, but it is the provincial government that typically raises the revenues that pay for the municipally-provided services through transfers to the city. In Kitchen's words, "No one has much incentive to be efficient when someone else is responsible for funding" (Kitchen, 2003, 50). As a result, municipal governments are much more accountable to the people they govern if they are raising the revenues to pay for their own expenditures.

Kitchen also echoes Kirschner's concerns about commuters by suggesting that "a rationale for a local income tax deducted at source (place of employment) is that it would allow the municipality to tax commuters for benefits they receive from local public

services (roads and streets, parks and libraries, sidewalks and streetlights, police and fire protection, and so on)" (Kitchen, 2000, 34).

While there is significant scholarly support for the notion of municipal income tax, could such a tax could work in the City of Toronto? Since there are cities similar in size and scope to Toronto that have implemented local income taxes, an evaluation of the successes and failures of those projects can help determine the effectiveness of such a tax system.

Case Study: Philadelphia

Philadelphia was one of the first municipalities in North America to institute a municipal income tax in the 20th century (Roeskin, 1946). Toronto and Philadelphia are relatively similar cities: the population of Toronto's urban area in 2011 was approximately 5,132,794 (Statistics Canada, 2011) and the population of Philadelphia's urban area as of 2010 was approximately 5,325,000; the two cities are also both centres for medical research[2] and legal services.[3] In one important way, Philadelphia and Toronto are dissimilar: in 2009 the median family income for each city was approximately $45,000 USD (USCB, 2009) and $68,000 CDN (Statistics Canada, 2012) respectively. Therefore, a local income tax in Toronto could be set at a significantly lower rate than that of Philadelphia to raise the same amount of revenue.

Lessons from Philadelphia

In the late 1930s, Philadelphia became the first major city in the United States to adopt and implement a local income tax (Roeskin, 1946). In the following decade, Philadelphia had a balanced budget each year, after almost two decades of continuous annual deficits (Kirschner, 1951, 346). Through the 1940s, the amount of revenue raised by the introduction of the tax was such that Philadelphia was able to reduce the local tax rate in 1942 from 1.5% to 1% for business income, and in 1945 from 1.5% to 1% in 1945 for employment income (Ibid, 345). In the first year alone the tax raised $16,283,820 for the City of Philadelphia (Carter & Shils, 1941, 482-483), which, in current terms, is equivalent to approximately $250 million. One of the particularly important benefits for the City at the time was that it was able to significantly save on its interest payments, which, given that the city was tottering on the precipice of bankruptcy (Deran, 1968, 24), was both profoundly necessary and timely (Kirschner, 1951, 346-347). By the end of 2010, the

2 The cluster of hospitals and pharmaceutical companies that are centered around the University of Pennsylvania's University Hospital is very similar in scope and size to that of the University Health Network in Toronto, affiliated with the University of Toronto.

3 Philadelphia is home to six law schools, including the high-ranking University of Pennsylvania and Rutgers, and is the location of the American Law Institute headquarters as well as the Third Circuit Court of Appeal. Toronto is the home of the Ontario Court of Appeal, the Law Society of Upper Canada, and two law schools that are perennially ranked at the top of Canadian law school rankings.

net debt of the City of Toronto was at $4.4 billion, a 20% increase from the year before. While Toronto is not in the vicinity of insolvency, the City is in a position wherein an implementation of such a tax could prove to be both necessary and timely.

In that first year of operation, the income tax in Philadelphia amounted to approximately 25% of the property taxes, allowing the City to reduce taxes levied on property owners (Kirschner, 1951, 346). As of 2011, the City of Toronto recognized that it does not have the same growth in property assessment as neighboring municipalities (City of Toronto, 2011, 1). Sharp increases in the cost of services, therefore, will become increasingly difficult to fund on the basis of property taxes. Since the City of Toronto collected $3.7 billion in property taxes in 2011 (Ibid), an income tax that raised 25% of that total would provide an enormous amount of revenue for Toronto's operating budget.

The first few successful years of Philadelphia's income tax regime could provide some particularly helpful lessons for Toronto policy makers. Harry Kitchen has suggested that in 2003, the pre-amalgamation old City of Toronto could have increased revenue by almost $45 million with an income tax rate of 1%, without more than a $30 increase in personal income tax liability for a single taxpayer with $50,000 of taxable income (Kitchen, 2003, 20). Scaled for the post-amalgamation increase in population, Kitchen's prediction would skyrocket.

In 1958, Jewell Cass Phillips, a University of Pennsylvania political science expert, suggested that the primary reason that the Philadelphia local income tax was able to contribute between a quarter and a third "of all the city's general revenues since 1941," was because "a significant portion of the total revenue from the income tax [was] contributed by non-residents" (Phillips, 1958, 250). This demonstrates a particularly positive outcome, given how central the notion of capturing non-resident contributions is to the scholarship that supports the introduction of municipal income taxes.

More recently, Koleman Strumpf's 2001 investigation into why certain groups of Pennsylvania taxpayers do or do not support the notion of local income tax revealed that a significant number of municipalities surrounding Philadelphia have also instituted local income tax regimes based on Philadelphia's success. This has led to Philadelphia's taxation regime being significantly more complicated by a network of exemptions that take into account the existence of additional income taxes (Strumpf, 2001, 164-165). For a city such as Toronto, this could prove to be the most important lesson to learn regarding municipal income taxes, as Toronto is surrounded by a ring of municipalities whose residents could decide to seek employment in Toronto.

A complex system of exemptions that takes into account potentially disparate municipal income tax rates throughout the Greater Toronto Area could increase the administrative costs of a local income tax enough to significantly limit its productivity. Furthermore, Kirschner has suggested that, without these kinds of credits, workers could be subject to double taxation if they end up having to pay income tax where they live and where they work (1951, 351-352). Currently, however, this is a purely academic problem, as none of the municipalities in the GTA--including Toronto--are constitutionally able to raise revenue in the form of an income tax. In order for the policy makers in the City of Toronto to even consider any of the lessons learned in Philadelphia, they need to be given this kind of power.

Potential Constitutional Change

Philadelphia was partially able to levy income taxes due to the Sterling Act of 1932, which granted Philadelphia the power to tax anything that the State of Pennsylvania was also taxing, with several limits (Phillips, 1958, 244). In Ontario, no such statute exists. Sweden, however, whose private and public sectors are similar in nature and scope to those of Ontario, has granted its municipalities sweeping powers of taxation. In Sweden, municipalities have a constitutional "right of self government" (Edmark and Ågren, 2008, 850). This means that Swedish municipalities can make decisions about service provision within the municipality and about the local income tax rate (Ibid), which is very different from the constitutional rights granted to Ontario municipalities. Furthermore, property taxes in Sweden are set at the federal level, as opposed to the municipal level, as in Ontario.

Like Ontario, the Swedish public sector is organized into three layers of government. Instead of provincial governments, however, Sweden's intermediate level of government rests at the County. Municipalities are responsible for a significant proportion of service provision, including education and social assistance. Medical coverage is provided, as in Ontario, at the intermediate level of government (Edmark and Ågren, 2008, 850). In Sweden, almost all income tax is handled at the municipal level.

While there are substantial differences between Sweden and Ontario from a constitutional perspective, Stockholm and Toronto have similarities that make Sweden a suitable comparison. Both cities are financial centres: four major Swedish banks are headquartered in Stockholm, and the five major Canadian banks are headquartered in Toronto.[4] Furthermore, each city is home to its country's primary stock exchange.[5] From

4 In Stockholm: Nordea, Swedbank, Handelsbanken, and Skandinaviska Enskilda Banken; in Toronto: Toronto-Dominion Bank of Canada, Royal Bank of Canada, Bank of Montreal, Bank of Nova Scotia, and the Canadian Imperial Bank of Commerce.
5 The Stockholm Stock Exchange, and the Toronto Stock Exchange respectively.

a demographic standpoint, a significant proportion of each city's population is currently between the ages of 15 and 64 (City of Toronto, 2012). One significant difference, however, is that Stockholm levied a 29.58% income tax in 2012, and Toronto did not (Global Expat Partners, 2012).

Still, there are drawbacks to the City of Toronto implementing a marginal municipal income tax. Since the federal and provincial governments have centred their income tax policies on international corporate competitiveness, a direct municipal income tax may "offset, or partially offset, federal and provincial initiatives and make it more difficult for businesses to compete" (Kitchen, 2002, 21). Another potential problem is that residents of Toronto could easily avoid the tax by structuring their employment so that they receive "labour compensation through dividends from incorporated businesses" (Mintz and Roberts, 2006, 19). Kirschner's fear about double taxation, and the added administrative costs associated with limiting it, could very well come to fruition.

However, were a municipal income tax levied across all provinces at a rate of 1% today, it would raise more than $6 billion in total (Mintz and Roberts, 2006, 19). This significant sum of money would be of great assistance to municipalities, especially those that, like Toronto today and like Philadelphia in 1939, are in a position of financial vulnerability.

Next Steps

Due to limited resources, this paper has not been able to address the differences between the electoral systems, political processes, and levels of voter interest and apathy present in each of the municipalities in question. More scholarship is certainly warranted on the impact that electoral design and voter engagement have on the nature and effectiveness of municipal income tax. Furthermore, while a wholesale reform of the Canadian constitutional landscape to account for the increasingly costly nature of municipal service provision is desirable, the traditionally slow nature of constitutional reform in Canada means that such an outcome is distant at best. Still, there are several scholars and commentators currently calling for municipal tax reform, many of whom have been cited in this analysis and to whose voices this author hopes to add his own. For Toronto, reform needs to happen sooner rather than later, and the more people that are informed and engaged in the debate about municipal income tax, the higher the likelihood that change will come.

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Natural Resources

Commodity Price Fluctuations and Northern Ontario's Mining Sector

Wesley Anam

Although Ontario is a leading producer of metals and minerals, fluctuations in the prices of commodities can have consequences on its mining sector. A commodity price index constructed by the World Bank demonstrates that prices are not only volatile in nature but are also correlated with Ontario's employment (correlation coefficient of 0.88), capital investment (0.83), labour productivity (0.82), and exploration expenditures (0.81). The relatively strong correlation between prices and these four variables presents challenges for sustained growth in the province's mining sector. Moving forward, a potential policy option to mitigate such challenges involves creating a mining fund that borrows concepts from Alberta's Sustainability Fund and Ontario's Risk Management Program.

Introduction

Canada thrives on its abundance of natural resources, which provides the economy with a competitive edge in the international market. Mining is the leading commodity sector in Ontario, which is Canada's largest producer of metals. Mines are concentrated in Sudbury, Timmins, Thunder Bay, and other northern communities.

Ontario produces almost \$6 billion worth of minerals a year and employs over 22,000 workers. In 2009, the province produced over \$1.8 billion of gold, \$0.75 billion of nickel, and \$0.69 billion of copper, accounting for 55%, 34%, and 25% respectively of Canada's total production of each commodity (Ontario Mining Association, 2009).

While the mining sector has seen recent growth, volatile commodity prices can inhibit future growth and value of production. Prices can fluctuate depending on global market

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forces, affecting the profits of mining companies and influencing their day-to-day business decisions.

This report will discuss the volatility of commodity prices and investigate the effects on northern Ontario in four areas: employment, capital investment, labour productivity, and investment in exploration activities. The report will then describe approaches to address this issue, examining policy options administered in other jurisdictions.

Commodity Prices: Volatility of Prices
Commodity prices experienced a significant increase from 2002 to 2007, followed by a sharp decrease in 2008 due to the recession.

Figure 1 (all figures and tables appear at the end of the article) illustrates commodity prices through the Metals and Minerals price index by the World Bank. The index, which is in 2005 constant U.S. dollars, is composed of metals and minerals that are heavily produced and weighted individually by their overall contribution to production in the mining sector.[1]

From 2002 to 2007, prices increased by 280%, where they reached their peak. From 2007 to 2009, prices decreased by 36%, rebounding by 52% in the following two years. Even though prices followed an upward trend within the 10-year period, it is evident that prices are still very volatile.

While the 2008 recession had a disproportionately large impact on price levels, price fluctuations have existed in mining commodities for decades. Over the 20-year period from 1980 to 2000, prices reached as high as $90 in 1980 and 1988, and as low as $50 in 1986 and 1993.

Challenges to Businesses
Mining firms are price-takers: they cannot control the price as it is internationally determined through market forces. The Ontario Mining Association states that selling price fluctuations are perhaps the single largest source of economic risk in the industry (2009). Prices are also a strong determinant of mining revenues each year. There is a correlation of 0.91 between the metals and minerals price index and the operating revenue in Canada's mining sector.[2]

1 The majority of the metal and mineral prices are from the London Metal Exchange. The index is composed of aluminium (weight of 26.7/100), copper (38.4), iron ore (18.9), lead (1.8), nickel (8.1), tin (2.1), and zinc (4.1). World Bank, 2012.
2 Source: Statistics Canada. 180-0003 - Financial and taxation statistics for enterprises, by North American Industry Classification System (NAICS), annual (dollars unless otherwise noted). Analysis by author.

Price fluctuations also make it difficult for companies to accurately forecast future prices. A survey by the Fraser Institute (McMahon & Cervantes, 2012) interviewed 802 mining executives around the world. One question had the executives forecast future mining prices over the next two years. The results were highly variable (Table 1), as even industry experts were unable to come to a consensus.

Employment
In periods of low commodity prices, companies may look for opportunities to save money. One way of doing this is to reduce the number of employees, as evidenced by a correlation between commodity prices and employment, which studies have found to be strong (Mining Industry Human Resources Council, 2009; Jankowski and Moazzami, 1994).

The Mining Industry Human Resources Council focused specifically on mining employment in Ontario[3] in relation to an industrial materials commodity price index, and found a correlation coefficient of 0.88 (2009). A study in the *Canadian Journal of Regional Science* examined the correlation between commodity prices and exchange rates against Ontario's resource sector employment,[4] and found that roughly 80% of the total variation in employment is explained by innovations in commodity prices and exchange rates (1994).

Implications for the Mining Industry and Northern Ontario
Data analyses from these two papers demonstrate a strong relationship between prices and employment. What does this mean for Ontario and the mining industry?

One might argue that the cyclical nature of employment is simply a normal feature of the mining industry. However, upon closer inspection, there may be some harmful implications for workers in northern regions where there is a concentration of mining developments.

The economic concept of hysteresis refers to the possibility that periods of high cyclical unemployment can increase the natural rate of structural unemployment. For example, periods of low commodity prices decrease profits of mining companies; these companies may respond by laying off a portion of their workforce. The workers that remain employed may bargain for higher wages when the economy improves because the employer's profits have increased. As a result, wages increase, but the level of employment remains the same (Blanchard & Summers, 1986).

3 MiHR examined data from 1997-2007, using Ontario employment figures from NAICs mining classifications.
4 The study used its own custom commodity index to proportionally represent the levels of production for major commodities in Ontario. Employment data in the study is based on location quotient (LQ) indicators, which included mining, forestry, and their related manufacturing industries.

Another example of hysteresis occurs when laid-off workers lose their skills and have difficulty returning to the workforce. This particularly affects the mining industry where the workforce is older than the Canadian average (Mining Industry Human Resources Council, 2010). When older workers are laid off, they may find it harder to find employment, and could decide to retire early if they are already close to their anticipated retirement age.

A decline in commodity prices can have a relatively large effect on the labour market in northern Ontario, where mining activities are more concentrated. For example, mining employment in the Sudbury Central Metropolitan Area (CMA) accounts for 11% of total employment, so a 10% decrease in mining employment can cause a 1.1% decrease in overall employment.[5]

A study by Statistics Canada examined the likeliness of emigration from municipal areas with less than 500,000 residents. Results found that when unemployment in the area decreased by 1% or more within a two year period,[6] residents were 10% more likely to emigrate, compared to other regions where unemployment remained the same (Bernard, 2011).

The effect of emigration is more pronounced in northern mining communities where population growth is already in decline. Data from a CIBC report found that population growth in Greater Sudbury and Thunder Bay was 0.4% and -0.3% respectively in the third quarter of 2011, below the national average of 1.2% (2012). Both regions have had population growth below the national average since 2009, when commodity prices sharply dropped.

Capital Investment

Capital investment is essential for the continual evolution and competitiveness of the mining industry, which relies heavily on machinery and equipment for operations. Although the industry is becoming an increasingly capital-intensive sector, capital investment carries considerable costs and risks. Capital investment has to be done up-front before production revenues are available–typically, one would have to explore the mine and set up all the required machinery and equipment before any resources can be extracted (Ontario Mining Association, 2009). Costs can reach an estimated $16 million in machinery and equipment for an average surface mine that employs 38 labour personnel and extracts 5,000 tonnes of ore per day (CostMine, 2007).

Figure 2 shows the pattern of the metals and minerals price index from the World Bank against capital expenditures in mining, oil, and gas extraction in Ontario. Capital

5 Data from StatCan's monthly Labour Force Survey, as of March 2012. Analysis is by the author.
6 The increase in unemployment by 1% is in relation to the national average.

expenditures are chained in 2002 Canadian dollars based on machinery and equipment in Ontario.

Capital expenditure has a strong positive relationship with commodity price fluctuations as indicated in the co-movement of the two variables over the 20-year period. The correlation coefficient is 0.83, meaning fluctuations in price can explain approximately 83% of the fluctuations in capital expenditure.

The co-movement between capital expenditure and commodity prices occurs primarily because companies do not have the financial flexibility to make large purchases in times of uncertainty and reduced profits, and vice versa.

Implications for the Mining Industry and Northern Ontario

Metals that were previously unprofitable are now worth pursuing because of high prices. This may lead to an increase in exploration activities and mines being opened, triggering more investment in machinery and equipment. Conversely, lower prices and optimism can lead to fewer exploration activities and less capital investment. However, it may not have an adverse effect on existing mining operations where capital and machinery were financed prior to a commodity price decrease.

When mining companies decrease capital investment during harsh financial conditions, it can affect their competitiveness in the long run. Price fluctuations can decrease capital investment, while also putting less profitable mines on hold and hindering the overall production of metals and minerals.

Labour Productivity

Labour productivity is an important measure of how efficiently a business operates and how much they invest in their workers and capital. Since mining producers cannot set their own prices, high productivity can help producers lower their costs (Ontario Mining Association, 2009).

Figure 3 maps out the metals and minerals price index against labour productivity in Ontario in the mining, oil, and gas sector.

The regression analysis for the period of 1997 to 2010 between commodity prices and labour productivity has a correlation coefficient of 0.82. This means that fluctuations in price can explain approximately 82% of the fluctuations in labour productivity. The negative relationship between the variables suggests that when the price increases, labour productivity decreases, and vice versa.

The Centre for Study of Living Standards (CSLS) has theorized that the decline in labour productivity was partially due to the "Ricardian effect." It states, "As prices rise it becomes profitable to increase extraction rates from existing deposits and to extract from marginal resource deposits that were previously unprofitable due to the high costs of extraction" (Bradley & Sharpe, 2009). When prices are high, the firm must make short-term adjustments to switch to more profitable mines. This leads to falling capital intensity because labour is less rigid than capital–labour is more suitable for short-term adjustments in mining due to their mobility and comparatively smaller financial risks (Ibid). However, capital intensity is an integral part of productivity performance.

Implications for the Mining Industry and Northern Ontario

If mining companies continue to act marginally based on the short-term risks of commodity price fluctuations, they may continue to experience falling capital intensity. Choosing labour over capital results in lower labour productivity, particularly in the mining industry where equipment plays a central role in operations.

Productivity can also have an effect on a nation's living standards. Productivity growth is viewed as the source of real wage growth–without it, real wages and living standards can stagnate (Macdonald, 2011). If productivity in the mining sector falls behind competitors, then the standards of living in northern Ontario may also fall behind.

Labour productivity in Ontario's mining sector is estimated to remain relatively low from 2012 to 2020.[7] Labour productivity in 2010 was 73.4, and is expected to grow by 7% to 78.6 in 2020. By comparison, labour productivity in 2002 was 100, and has steadily decreased since then, reaching a low of 71 in 2008. However, this estimation is based on a function of forecasted prices; other factors may increase or decrease productivity in the mining sector.

Exploration Expenditures

Exploration expenditures are a strong indicator of mining activity and how fast mining companies are growing and expanding production. Globally-determined commodity prices can affect the value of metals and minerals that can be extracted from certain mines, and can determine whether new exploration and development projects should continue (Mining Industries Human Resources Council, 2009).

Exploration expenditure, like employment and capital investment, is correlated with commodity prices. Figure 4 shows exploration expenditure on mining in Canada from 1998

7 Estimation on future labour productivity was calculated using: the regression analysis on productivity and prices (using the equation of the line), and forecasted metals and minerals prices from the World Bank, 2012.

to 2009. Exploration expenditure is expressed in 2002 Canadian dollars, using an implicit price index based on gross domestic product in Canada. The correlation coefficient has a value of 0.81, which indicates a relatively strong relationship, where fluctuations in the price can explain approximately 81% of the fluctuations in exploration expenditure.

Other studies have also confirmed the relationship between exploration and commodity prices (McMahon & Cervantes, 2012; Mackenzie, Bilodeau & Doggett, 1989). Researchers at Queen's University found a "high degree of sensitivity of the economics of exploration to metal price uncertainties," where an increase in metal prices can cause a sharp increase in the number of economic discoveries (Mackenzie, Bilodeau & Doggett, 1989).

A survey of mining companies by the Fraser Institute found that optimism for commodity prices forecasts decreased in 2012, which may have led to fewer exploration plans; in the previous year, 82% of respondents expected to increase their exploration budgets, compared to only 68% in 2012 (McMahon & Cervantes, 2012).

When the prices for certain commodities are low, it can become a risk for companies to increase exploration activities. Even if companies find a possible location for mining, it may not turn out to be profitable enough if the deposit is too small or if the price for the particular commodity is too low.

Implications for the Mining Industry and Northern Ontario

High prices create incentives for miners to increase their production. Conversely, low prices can lead to a decrease in production. It is important for mining companies to maximize their production potential and achieve the highest output. Expanding their exploration expenditures leads to the opening of more mines and spurs growth in the capital and employment needed to operate mines.

Mines can be closed down for various reasons: harm to the environment, lack of worker safety, infringement on First Nations land treaties, insufficient profit margins, and depletion of the mined commodity. Although certain mining operations can contribute to large production revenues, these operations are not sustainable over the long term. It is important for mining companies to continually search for new opportunities to further grow the mining sector by investing in the exploration of new mines and opportunities.

Recommendations

Through the discussion of the metals and minerals price index, is clear that its volatility is correlated with employment, capital investment, exploration expenditure, and labour productivity. The next step is to find ways to reduce the potential negative effects of price volatility on mining companies and northern Ontario. Although prices cannot be directly controlled, the negative impact of fluctuations can be partially alleviated through public policy.

How might the Ontario government help the mining industry deal with fluctuations in commodity prices? Possible government policies include compensation in the form of tax relief, subsidies, and interest-free loans. For these policies to effectively offset declines in commodity prices, they would require considerable financial commitment by the government.

Commodity Policies in Canada

Ontario has a Risk Management Program in place for the agricultural industry that helps Ontario farmers offset losses caused by low commodity prices. Payments are made to producers if a crop's market prices fall below the annual level (Agricorp, 2012). This type of program would be ideal for the mining industry to offset volatile commodity prices, but such a program can be costly. The 2012 Ontario budget capped the funding for the Risk Management Program to $100 million, as "the province's demand-driven farm income support programs cannot be sustained in the long term" (Government of Ontario, 2012).

An example of a similar program is Alberta's Sustainability Fund. In 2003, the Alberta government established the Sustainability Fund to "ensure that government spending doesn't rise and fall with volatile energy prices" (Alberta Chamber of Commerce, 2012). Low commodity prices can decrease the profits of companies in the energy sector, which decreases the corporate taxes paid to the government. This ultimately reduces the government's intake of revenue from the energy sector. In contrast with the Ontario Risk Management program, the Sustainability Fund is used to offset losses in government revenues, not the commodity sector. To protect government revenues from commodity price fluctuations, the Sustainability Fund uses a prudent revenue management approach. To finance the Sustainability Fund, $5.3 billion of all non-renewable resource revenues are used for general government expenditures, and the rest is transferred to the fund. Although Alberta's resource-derived government revenue declined by nearly 50% between 2008 and 2010, much of the shortfall was compensated through the Sustainability Fund.[8] However, the program has come under scrutiny for its overuse of funds. The OECD found that the Alberta government transferred $3.6 billion to pay for its deficit in 2010 (Simpson, 2010). Bob Ascah, who heads the Institute for Public Economics at the University of Alberta, criticized the government for using oil and gas revenues

8 The balance of the fund is expected to decline from $16.8 billion in 2008, to $2.8 billion in 2013 (Alberta Chamber of Commerce, 2012).

to create a "fiscal illusion" that the Province could afford everything they had promised (Henton, 2012).

Applying Approaches from the Sustainability Fund and the Risk Management Program to Ontario

Each program has advantages in its approach to addressing the negative effects of volatile commodity prices. The Ontario government could combine the positive elements of each program to create a fund for the province's mining industry. The fund would provide direct support for the mining sector when prices are low (similar to the Risk Management Program), but would minimize costs through a prudent revenue management strategy (similar to the Sustainability Fund).

This new fund should control government expenditures so that they are only spent when certain conditions are met. This means saving when the mining industry is expanding, and spending when the mining industry is contracting. The value of production, government revenue, and other factors (such as employment and capital investment) tend to suffer during commodity busts–this is when the mining industry is in most need of policy intervention. When commodity prices are high, the mining industry has a higher value of production and government revenue increases, meaning the industry is in less need of policy intervention.

Deaton and Mille (1996) observed that governments may squander windfall revenues on hastily executed programs that earn a low return and are irreversible. They may find it more affordable to create costly business support programs when government revenues are higher. When the economy is in a recession and the government needs to save costs by eliminating support programs, however, they draw heavy criticism from affected stakeholders.

To avoid large unnecessary expenditures, the first step is to "de-link" government revenues from government expenditures. Providing support through high spending in periods of economic booms is not necessary; economic growth is already sufficient, and additional assistance to the industry would not be an efficient use of funds. In fact, it leaves fewer funds behind for the mining industry in times of economic busts where support is most needed.

A revenue stabilization fund like the Alberta Sustainability Fund a could be created for Ontario as illustrated in Figure 5, but it would provide support for Ontario's mining industry instead of the government. It would involve taking portions of corporate tax revenue obtained from mining profits and contributing it towards a provincial savings fund when commodity prices are high and the mining industry is growing. When intervention is needed because of low commodity prices, the fund is accessed and the government distributes fiscal support to mining companies, as in the Risk Management Program. This support would help offset the negative effects of low commodity prices.

Why Should the Government Intervene?

For mining companies to manage their own "sustainability funds," they would require additional staff and administrative costs. Although many companies already try to mitigate price fluctuations through hedging options on metal exchanges, this can only provide limited protection, as commodity prices can still fluctuate by over 50% within a year (as experienced in 2008).

Government management of the fund would allow mining companies to operate freely without the added costs of managing a fund. The administrative work required from mining companies would be undemanding–revenues for the fund are simply generated through corporate taxes. From there, the government would handle the management of the fund. Such a program follows basic Keynesian economic principles, where government intervention occurs during recessionary periods or market failures, in this case from low commodity prices.

Accessing Funds

A possible method to determine when to access funds would be to forecast prices for various metals (on a monthly, semi-annual, or annual basis). If the actual price of a commodity drops below the forecasted price, savings from the fund would be used to compensate companies involved in mining that particular metal or mineral. This is similar to hedging options available on futures markets, where producers can negotiate a contract at a set price to reduce risk; however, the futures price of the revenue stabilization fund should be favourable towards mining companies. Otherwise, it would not provide any additional advantages over futures options already existing on other metal exchanges.[9]
It is also important to consider how often the fund would be accessed. The Alberta Sustainability Fund accumulated over $16 billion in revenue by 2008, but more than half of the fund is forecasted to be spent by the end of 2012. A sustainability fund in Ontario could accumulate funds over long periods of time and be accessed only on few occasions.

9 An example of futures options are metal swaps on the London Metal Exchange. Taken from the LME website on Aluminium swaps: *A contract where the difference between the fixed price and the floating Monthly Average Settlement Price is settled financially at the end of the averaging month. The contracts are cash settled against an average price in US dollars per metric ton over the averaging period. Settlement is against the Monthly Average Settlement Price (MASP) which is the average of the daily LME Official Cash Settlement Prices of a relevant metal over the number of business days in the relevant calendar month.*

Alternatively, the fund could take a more short-term approach, providing compensation on more regular basis (monthly or quarterly).[10]

Level of Support

If the fund provides support based on how much the actual price decreases below the forecasted price, it could subsidize the difference in the value of production under each price level. The value of production will vary depending on the quantity of output for each individual producer, which determines the amount of compensation provided (full subsidization may be expensive–compensating a percentage of the difference in the value of production may be more feasible). This should ensure that for each company, the size of their contributions to the fund is reflected in the size of the compensations they receive from the fund.

Potential Risks

The Sustainability Fund was created specifically for the energy sector. Applying the Fund's revenue management approach to Ontario may be difficult, as Ontario's mining sector differs from Alberta's energy sector. The mining industry also differs from the agricultural industry, so applying the direct support approach as utilized in the Risk Management Program may be too costly to employ in the mining sector. The cost of compensation payments for the mining industry will depend on the volatility of prices as well as the level of support the government is willing to provide.

Another issue with creating a fund for Ontario is the possibility of eroding the competitiveness of mining companies. Providing support for miners during commodity price downturns may reduce their incentive to operate efficiently. Although commodity price downturns can be harmful to mining companies, they can often be a driving force towards more competitive and cost-effective means of production. A fund could also make the mining sector dependent on compensation payments. If the program had to be removed or capped a maximum level of expenditure, then the mining industry might contract.

Other risks include the potentially high costs associated with administering a fund, as well as the chance that severely low commodity prices would lead to a deficit in the fund. Creating a fund for Ontario could help alleviate many of the effects of volatile prices, but it is important to consider all of the possible risks in order to provide a balanced assessment of the program.

10 If the fund were to take a short-term approach where it is accessed relatively often, then the price level at which compensation is provided would have to be closer to the forecasted price level, so that the fund could be accessed for smaller price fluctuations. If the fund were to take a long-term approach, the compensation price level would be further from the forecasted price level, so that the fund would only be accessed during more severe price fluctuations.

Conclusion

Data and research has indicated that there is a strong correlation between metal and mineral prices and employment, capital investment, exploration expenditures, and labour productivity. The volatility of commodity prices can have adverse effects on those variables in northern communities such as the Sudbury CMA, where 11% of the labour force is in mining.[11] If public policy tackles the problem of volatile commodity prices, mining companies can potentially improve their operations and maintain higher employment.

Ontario could create a fund to address volatile commodity prices that utilizes principles from Alberta's Sustainability Fund and Ontario's Risk Management Program. However, the management of the fund could create significant administrative costs for the government. It would also require fiscal discipline: in Alberta, the government withdrew significant funds to reduce the overall deficit, which resulted in concerns over the small amount of money that was left behind for the province's future.

Despite the possible challenges of administering a sustainability fund, providing support to the mining sector when commodity prices are low could help companies achieve more stable profits. Commodity prices would no longer be an uncontrollable risk that hinders business decisions and increases uncertainty. Consequently, employment, capital investment, labour productivity, and exploration expenditures would not be inhibited. In addition to allowing businesses to operate at full potential, the program would not pose a large cost to the government if it were accessed only under periods of low commodity prices.

Although mining in Ontario has witnessed a large boom since 2012, history has shown that commodity prices are prone to fluctuations from year-to-year. For the northern region of Ontario, a sustainability fund could provide much needed stable economic growth that would see incomes and employment rise, boost immigration and settlement, and ensure the northern mining industry remains competitive and upholds a high level of production over long periods of time.

11 Data from StatCan's monthly Labour Force Survey, as of March 2012.

Figure 1. Commodity prices (2005 constant U.S. dollars), 2002-2011, World Bank Metals & Minerals

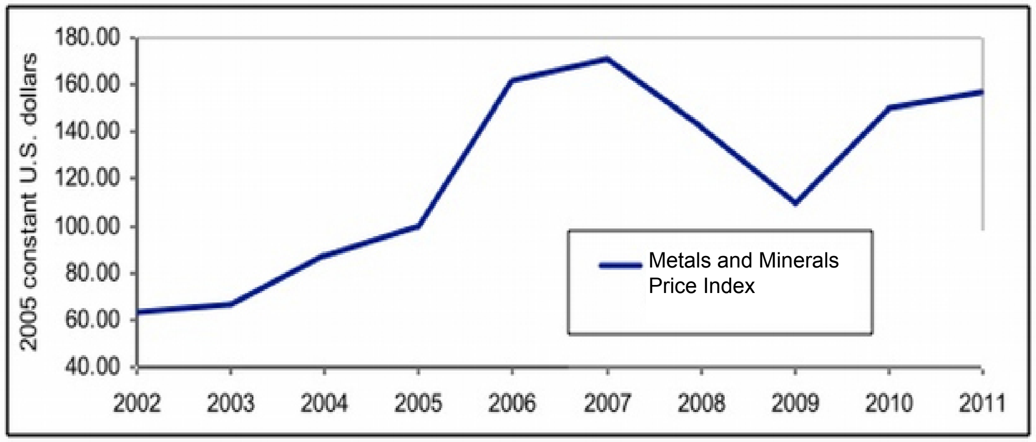
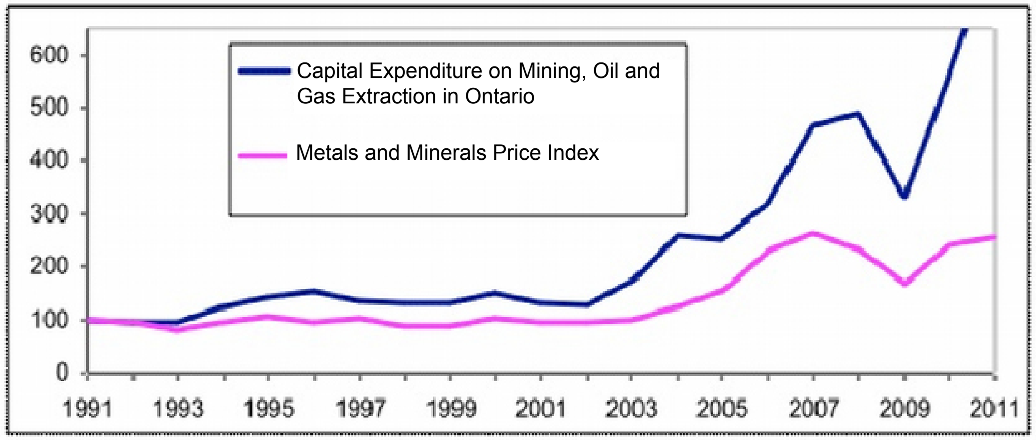


Figure 2. Ontario's capital expenditure (2002 CDN chained) in mining, oil, and gas extraction, versus metals and minerals price index (2005 U.S. constant). Indexed values; 1991 = 100[12]



12 Capital expenditure measures the intentions for capital investment and the expenditures for the previous two years. Source: Statistics Canada. Table 029-0005 - Capital and repair expenditures, by sector and province, annual (dollars), CANSIM (database). Oil and gas extraction are small industries in Ontario and will have negligible effects on overall findings. Oil and gas extraction employment accounted for only 6% (1,700 workers) of total employment in the mining, oil, and gas sector.

Figure 3. Ontario productivity in mining, oil, and gas extraction, versus metals and minerals price index (2005 U.S. constant). Indexed values; 1997 = 100[13]

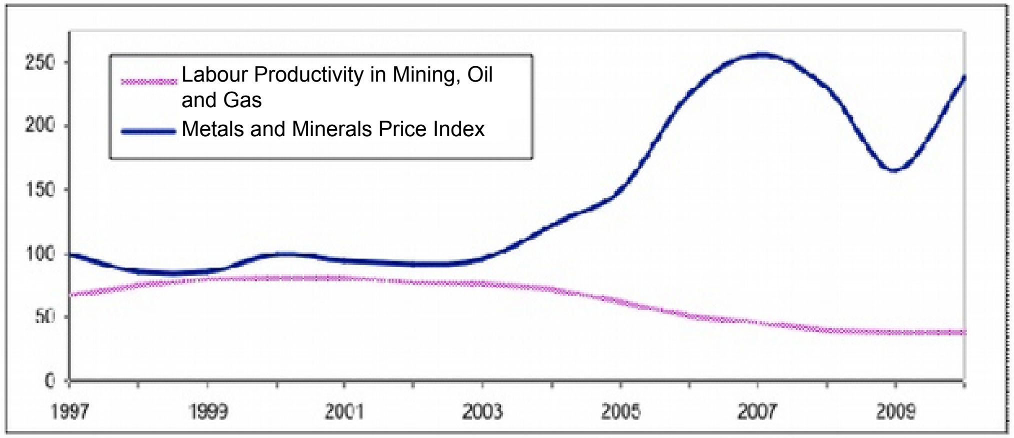
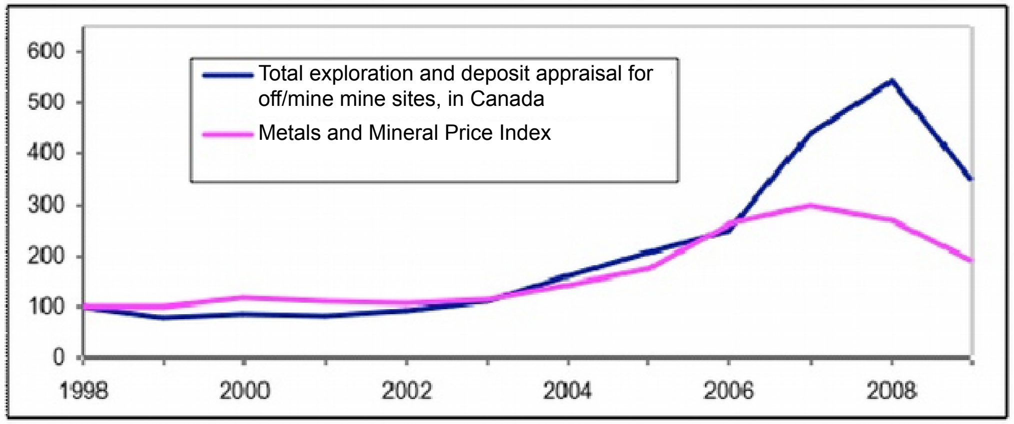


Figure 4. Canadian exploration expenditure (2002 CDN dollars) in mining, versus metals and minerals price index (2005 U.S. constant). Indexed values: 1998 = 100. (Mining Industry Human Resources Council, 2009)[14]



13 Estimation on future labour productivity was calculated using: the regression analysis on productivity and prices (using the equation of the line), and forecasted metals and minerals prices from the World Bank, 2012.
14 Source: Statistics Canada. Table 028-0002 - Industrial capacity utilization rates, by North American Industry Classification System (NAICS), annual (percent), CANSIM (database).

PP+G REVIEW
Volume 5, Issue 1, Fall 2013

Figure 5. Flow of money between mining companies and revenue fund

Table 1: Price forecasts over the next two years, 802 surveyed companies

For the following minerals, prices over the next two years will:

	Increase by over 50%	**Increase by 20-50%**	**Increase by 10% of less**	**Decline**
Copper	16 votes	290	276	75
Silver	36	223	212	70
Zinc	17	121	290	84
Gold	51	302	148	65
Nickel	5	122	296	80

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Report from the Field

The Carrot or Stick Approach: Considerations After the June 2013 IAEA Board of Governors Meetings for the Iranian Nuclear Program

Eric Thomson

The IAEA Board of Governors generally meets five times per year: in March and June, twice in September (before and after the General Conference), and in December. This year happens to be when the Canadian Ambassador to the IAEA, H.E. John Barrett, holds the chairmanship. The author was present at the week-long June meetings to get a first-person point of view of the official statements, diplomatic wrangling, and rhetorical posturing. This report analyzes in particular the emerging diplomatic developments concerning the Iranian nuclear issue. In the context of this meeting and the ongoing negotiations of the P5+1, this article aims to address the sense of urgency surrounding the issue.

The International Atomic Energy Agency's (IAEA) Board of Governors (BoG) convened for the second time this year in Vienna, Austria from June 3 to June 7 to discuss a number of issues. The topics on the agenda included: the strengthening of the Agency's technical cooperation activities; boosting the Agency's activities related to nuclear, radiation, transport, and waste safety; and nuclear verification, including the Application of Safeguards in the Democratic People's Republic of Korea, the Implementation of the NPT Safeguards Agreement and Relevant Provisions of United Nations Security Council (UNSC) Resolutions in the Islamic Republic of Iran, and the Implementation of the NPT Safeguards Agreement in the Syrian Arab Republic (IAEA 2013).

Throughout the week these matters were addressed, with some receiving more attention and spurring more debate than others. No issue was nearly as contentious, however, as the Islamic Republic of Iran's nuclear program. The discussion on Iran produced a

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pronounced diplomatic chasm that remained throughout the week. Diplomats exchanged vitriolic condemnations of each other's perceived manipulation of the facts and accused one another of an unwillingness to negotiate in good faith.

As Iran is currently the Non-Aligned Movement's (NAM) chair, the nation is allowed to speak for the consortium of 120 states (with an additional 17 observer states). Iran's ambassador to the IAEA, Ali Asghar Soltanieh, expressed "sincere appreciation [...] for the indispensable sustainable support of the family members of the Non-Aligned Movement" (Soltanieh, 2013). However, disagreements concerning the voluntary versus compulsory nature of the Additional Protocol (which gives IAEA inspectors greater access) and the role of the IAEA in nuclear disarmament verification have in recent years affected the negotiation of the safeguards resolution (Mukhatzhanova 2013).

Despite the representation of extensive support, the NAM has not been as united in endorsing the actual text of the resolution, with several states abstaining. This is indicative of the Movement's diversity and variety of positions among its members and observers. On highly political and controversial issues, the NAM may not be as powerful a voting bloc as the membership numbers suggest (Mukhatzhanova 2013).

The NAM's chair currently faces an unyielding opposition: specifically, the United States, Israel, Canada, and the European Union, who have accused Iran of breaching six UNSC Resolutions and 12 binding Resolutions of the IAEA Board of Governors, among other condemnations. At the meeting, the accusations were urgent in content and tone. For example, the United States expressed that, "[it is] deeply troubled that Iran claims the IR-40 heavy water reactor at Arak could be commissioned as soon as early 2014," and that, "The window of opportunity [to negotiate] will not remain open indefinitely" (Macmanus 2013).

Judging from the many condemnations throughout the event, one would conclude that Iran is on the cusp of developing enough highly-enriched U-235 for a nuclear bomb at its Fordow enrichment plant in Qom, or weapons-grade plutonium at Arak, within a few months. In the same vein, U.S. Vice President Joe Biden's speech to the American-Israeli Public Affairs Committee this past March, as well as Israeli Prime Minister Benjamin Netanyahu's speech to the UN General Assembly this past October, were centred on the urgency of defusing the Iranian nuclear program. Netanyahu and Biden focussed on Iranian's vast and feverish nuclear effort, narrowing windows of diplomatic opportunity, and the inability of big nations to bluff, making it appear as though Iranian nuclear crisis was approaching its critical mass.

Furthermore, IAEA Director General Yukiya Amano's introductory statement to the BoG

noted that the number of centrifuges installed by Iran also continues to increase, as does the amount of enriched uranium it holds (Amano 2013). These warnings, along with others from the Israeli, American, and Canadian delegations, denoted a fixed impending deadline or a calculable date when the Iranian nuclear program will reach weaponization capacity. In line with the vocal warnings of Israel and the U.S., should the international community expect Iran to become the tenth nuclear-weapon state in the very near future?

Such a conclusion would be hasty in light of recent technical and political developments, regardless of the concurrent brash rhetoric. The nuclear program has not progressed in a linear trajectory, nor does it have to continue in this manner. Because there is no evidence that Iran has built additional covert enrichment plants since the Natanz and Qom sites were outed in 2002 and 2009, any near-term move by Tehran to produce weapons-grade uranium would have to rely on its declared facilities (Kahl 2012). Such developments would provide a newfound level of legitimacy to supporters of a pre-emptive attack on Iran's nuclear facilities. The IAEA would thus detect such activity with sufficient time for the international community to mount a forceful response. As a result, Iran is unlikely to commit to building nuclear weapons until the country can make them much more quickly or out of sight, which could be years away (Ibid).

Until then, the Iranian nuclear program appears to be in a holding pattern of sorts. Although IAEA inspectors who visited Iranian nuclear facilities this summer observed the installation of hundreds of new centrifuges in the two different facilities the country uses to make low-enriched uranium, the facilities had also converted more of their uranium stockpile to a metal form that is all but rendered useless for weapons purposes (Warrick 2013). Moreover, from the IAEA's last Board of Governors Safeguards Report on Iran in February of this year, Iran is appears to be deliberately capping its highly enriched-uranium stockpile, which is the final atomic substance required for a nuclear weapon (IAEA 2013). To be noted, their current level is below the infamous "red-line" presented by Netanyahu at the 2012 General Assembly.

In another possible sign of deliberate de-escalation, IAEA inspectors confirmed that Iran still has yet to begin operating hundreds of centrifuges installed recently at Fordow (IAEA 2013). Iran is currently focused on increasing the volume of its low-enriched uranium production. However, this essentially flatlines the technical development of the nuclear program in terms of reaching weaponization. This does not mean that Iran cannot make a sudden sprint for the last remaining materials necessary for a nuclear bomb, but it does demonstrate a shift in the country's trajectory towards substantial highly-enriched uranium development.

As Matthew Kroenig argues, the U.S. should launch an attack only if Iran takes certain actions, such as expelling IAEA inspectors or ramping up work on its reactor in Arak, that would signal that it had decided to complete the final stages of building a nuclear weapon (Kroenig 2012). Until then, the international community can capitalize on the implications of the slowdown as a result of exogenous pressure. While the Iranian regime can continue to save face by increasing the production of its low-enriched uranium stores, new rounds of talks with the P5+1 (the U.S., the United Kingdom, Russia, China, France, and Germany), which began on October 14 and will resume on November 20 in Geneva, provide a diplomatic opportunity to reach concessions. As crippling sanctions continue to strangle the Iranian economy, the P5+1 have powerful bargaining leverage. For example, the loosening of sanctions may be exchanged for reduced or halted uranium production in the fortified and secretive Fordow facility. This would mean that the IAEA would have access to the remaining major nuclear facilities : the uranium and IR-40 heavy water production facilities in Natanz and Arak, respectively. The resulting transparency and increased IAEA oversight would render Israeli or American sabre-rattling unnecessary and place a renewed focus on multilateral negotiations. This could allow for a continuation of the Geneva talks towards a road map and possibly a subsequent resolution.

Based on the statements and findings from the June IAEA BoG meetings in Vienna, Iran's ability to preserve its pride while not inviting a pre-emptive strike by focusing primarily on low-enriched uranium production means that factors are favourable for a potential peaceful settlement. Military engagement in the near-future would squander a rare opportunity to resolve the issue diplomatically. Significant economic pressure on Iran has motivated the regime's officials to approach the negotiating table. One should hope that the alleviation of sanctions in exchange for meaningful structural changes can be as successful as the dismantlement of the Libyan nuclear program, which culminated out of similar circumstances. Only time will tell if negotiations in the next few months will lead to fruitful results, but the possibility of small gains leading to a grand bargain is more likely than ever.

Finally, there are policy implications resulting from the June IAEA BoG meeting for Canada to consider. Up until now, the Obama administration has struggled to convince members of the Senate Foreign Relations and Banking committees to reconsider imposing a new round of sanctions on Iran until after the end of the delicate negotiations process. At this time, Netanyahu is aligned with the U.S. Senate's "Iran hawks," who are taking a hardline position and insisting that any deal short of a complete halt to uranium enrichment would be a grievous, historic error (Richer 2013).

Prime Minister Stephen Harper and Minister of Foreign Affairs John Baird have repeatedly stressed the Canadian government's commitment to the state of Israel. In 2012 Baird declared Iran the biggest threat to global security while shuttering the Canadian embassy in Tehran and ejecting Iranian diplomats from Canada. Netanyahu was quick to praise

Canada's action, calling it a bold leadership move that sent a clear message to Iran (Palmer, Ljunggren 2012). However, if Canada wishes to make its national interest in regional stability a priority over scoring easy political points, Harper ought to use his tight-knit relationship with Israel to discourage Netanyahu from attempting to derail the P5+1 negotiations. Our government should privately emphasize to Israel and the U.S. that we support a temporarily delay on sanctions for Iran–not as appeasement, but as sensible foreign policy determined by clear-eyed pragmatism.

Ending the 34-year Cold War between America and Iran would improve Canadian relations with the U.S.–our closest ally, and a state that wields sizeable influence in Syria, Iraq, Afghanistan, the Palestinian-Israeli conflict, terrorism, energy security, and nuclear proliferation (Friedman 2013). The tremendous importance of these national, regional, and international security interests cannot be overstated. Thus, Canada should align itself with the P5+1 in its efforts to maintain momentum with unhindered negotiations that may ultimately yield a historical agreement on the Iranian nuclear issue.

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Report from the Field

Informal Recycling and Street Vending in Vancouver’s Downtown Eastside

Josie Wittmer

In Vancouver, informal recyclers take to the streets on a daily basis to salvage recyclable materials from the garbage to generate an income from their sale. Many of these informal workers reside in the city’s impoverished Downtown Eastside and are highly stigmatized. In the context of a gentrifying city, the weekly Pigeon Park Street Market has taken a group of “unemployable” people whose livelihoods have been criminalized and designated a safe and dignified space for vendors to sell their recycled materials. The social and economic benefits that are created by the market help to promote health and wellbeing, reduce feelings of stigmatization, and allow for vendor’s voices to be heard in the governance of the organization.

Introduction

Vancouver, British Columbia has been repeatedly ranked as one of the most ‘livable cities in the world’ according to The Economist Intelligence Unit’s livability ranking (EIU, 2013). As a researcher spending the summer in Vancouver, I was able to see how Vancouver can be a hospitable and beautiful place. However, my research into the economic disparity between the city’s neighbourhoods and residents led me to question what it means for a city to be ‘livable,’ and ask exactly who the city is ‘livable’ for.

With the intention of discussing urban health inequities and the health status of marginalized populations, my time in the field was spent documenting the health status and lived experiences of Vancouver’s informal recyclers (locally known as ‘binners’). This is a group of non-sanctioned waste workers who generate an income through the collection of recyclable materials from the garbage and predominantly reside in the city’s Downtown

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Eastside (DTES).

Within the context of Vancouver's booming real estate market and the gentrification of the DTES, inequity has become a visible phenomenon as high-end restaurants and shops infringe on the 'Bottle Block,' the section of Hastings Street where United We Can, the local bottle depot, is situated and where binners are often lined up on the street with their recyclable items to cash in. This section of Hastings Street is also occupied by informal vendors who have their recovered goods on display for passers-by to view. Through a partnership with United We Can, I was able to collect data; but while in the field, I also became quite intrigued by the recovered materials that can't be returned to the bottle depot for a refund and the people who sell them. This curiosity brought me to the Pigeon Park Street Market, a weekly low-barrier market that originated as a protest and is now a mainstay in the neighbourhood upon which hundreds of individuals rely for their livelihoods.

Vancouver's Downtown Eastside

Vancouver's DTES is one of Canada's most impoverished communities and is often characterized by its open drug scene, homelessness, poverty, and marginalized residents. The 10-block radius of the neighbourhood is home to approximately 18,000 residents who are often subject to socioeconomic risks and health implications that are associated with disparate urban environments such as low-quality housing, food insecurity, and difficulties in accessing health services (Linden et al, 2012).

There has been an administrative tendency to overlook the social factors that shape the DTES; therefore the neighbourhood continues to be a "highly regulated space where its residents are regulated, condemned, and discriminated against" (Boyd, 2008, p.21). It is estimated that over 5,000 injection drug users reside in the neighbourhood and thousands of additional users visit the area on a regular basis in order to purchase and consume substances (Small et al, 2007).

Addiction and mental illness are issues that affect many informal recyclers in the neighbourhood. However, it is important to recognize that despite popular conceptions of these precarious workers, addiction and substance abuse does not define all binners or DTES residents. The data I collected in the field was focused around the social determinants of health (Mikkonen & Raphael, 2010) and the way in which several hazardous social conditions in the neighbourhood combine and contribute to the multiple health issues, drug addiction, and reduced life expectancy that the local binners experience.

Informal Recycling in Vancouver

In an urban context, informal recyclers are non-sanctioned workers who recover recyclable resources such as beverage containers, metal, electronics, and clothing from

households, businesses, and public garbage bins. They generate a profit by selling these materials to middlemen, directly to the industry at bottle depots, or to customers on the street through informal street vending. As an informal economic opportunity, this activity is often a survival strategy for no- or low-income individuals in urban areas as this type of work often enables impoverished people to gain independence without having to resort to begging or criminal activity (Gutberlet et al, 2007). The socio-environmental situation in the DTES, in combination with B.C.'s beverage container refund laws (B.C. Ministry of Environment, 2004), have created an economic opportunity and motivation for this work to increase significantly in recent years.

Vancouver's informal recyclers (or binners) are a marginalized group of people who are exposed to a number of health threats that originate from both their work with waste and their socioeconomic position in society. Although this activity takes these individuals all throughout the city, a majority of these workers live in the DTES and return their bottles to the local bottle depot. Despite the environmental benefits that informal recycling provides to urban areas through waste recovery and litter reduction, these workers remain highly stigmatized. Gutberlet (2010) states "recyclers represent one of the most widely excluded, impoverished and disempowered segments of society" (171). Informal recyclers are often associated with the garbage that they work with and are perceived as a nuisance or even as criminals by the public (Nas & Jaffee, 2004).

The informal recycling economy provides an environmental service to the city and has grown to not only encompass those who recover beverage containers, but also includes the vendors who salvage other reusable materials from the garbage to sell on the street. Many of these informal sector workers engage in both activities in order to diversify their income and secure their livelihoods. These stigmatized workers already face several barriers in securing their income and stabilizing their health, but informal vending has experienced a recent crackdown by law enforcement in the DTES where the political climate of the community has provided space for the Pigeon Park Street Market to arise.

Origins of the Pigeon Park Street Market

The Pigeon Park Sunday Street Market began in May 2010 when the Downtown Eastside Neighbourhood Council (DNC), a group of community residents, responded to ticketing blitzes undertaken by the Vancouver Police Department during the lead-up to the 2010 Olympic Games. This ticketing campaign of the DTES consisted of tickets being given out to local residents for bylaw infractions like street vending, jaywalking, and urinating in laneways. It was later confirmed that between 2008 and 2012, 95% of the city's street vending tickets and 76% of the city's jaywalking tickets had been handed out in the neighbourhood (Pivot, 2012). This targeted criminalization of poverty-related behaviours infuriated many local health advocates, as these bylaw infractions all stemmed from health-related factors that are commonly experienced in the DTES like lacking a home and a secure income. One of the market's coordinators reflects:

> How much money is it going to cost to ticket their way out of the street disorder issue in front of the bottle block? Enormous police presence, enormous cost in tickets… essentially the solution is jail when all people are really doing is trying to supplement welfare and they're doing it in the most independent and the least harmful to society way. They are going through people's trash, they're recycling it, and they are selling it. Because they don't have a legitimate place to sell it, they're being criminalized and thrown into jail (R. Clarke, August 26, 2013).

In an attempt to highlight the local protest against the ticketing of street vendors on Hastings Street, DNC members and a group of volunteers went to Pigeon Park and walked around telling people that it was safe to vend in that location. On the first day of the market, there were three vendors with blankets on the ground containing their goods: "It took a long time to convince the vendors that it was actually safe to go there," said R. Clarke.

Since then, the weekly market has grown substantially to host between 100 to more than 200 vendors every Sunday. By the end of the first year of operations, the vendors who started selling their wares on the ground were obtaining better products, renting tables and tents, and preparing for the market by putting prices on items and wrapping up cords. The vendors also have several opportunities to get involved in the governance of the market, as they are encouraged to participate in membership meetings and volunteer groups where the vendors can have their voices heard and participate in decision-making that has a direct impact on their livelihoods.

Significance of the Street Market

Whether exclusively collecting bottles and cans, street vending, or–as is often the case–a combination of both, informal recyclers are often described as "unemployable," with many of those participating in the activity being reliant on of social assistance payments. Tremblay (2007) points out that there is a strong correlation between social assistance cutbacks in B.C. between 1995-2002 and a marked increase in binning activity during these years. She also notes that the number of binners fluctuates on a monthly basis with more activity towards the end of the month, which can be attributed to the social assistance pay schedule. Clarke remarked that in the earlier years of the market, the average pot for the 50/50 draw fluctuated greatly between the week before welfare payments and the week afterwards. In 2013, the 50/50 draw has leveled off at the higher end of the scale, indicating that the market is now consistently attracting a wealthier demographic of customers and bringing more money into the neighbourhood (R. Clarke, August 26, 2013).

Many people rely on the income that they make vending at Pigeon Park on Sundays. In addition to providing a safe place for these informal sector workers to vend in public, the market is redefining what it means to be "employable" while providing a level of formality and dignity to the salvaging of recycled goods. In my own interactions with these workers, many expressed a sense of pride about being a member of the street market and attending meetings or having a specific place where they vend every Sunday. Jacek Lorek, Clarke's coordinating partner for the market, echoes this indication:

> When people go, they sell something and they have some money…they feel like they're worth something, they don't have to ask somebody for a free meal or something for free…it's basically a step to being more independent and having their own voice. We see people starting very low and building something up again, a life (J. Lorek, August 26, 2013).

In providing a safe place for vendors to sell their recycled goods in an accepting environment, the street market is making positive contributions to health and wellbeing in the neighbourhood. The criminalization of poverty-related behaviours had adversely affected health in terms of increased feelings of discrimination as well as stress and anxiety (People's Health Radio, 2011). The street market not only provides vendors with an opportunity to make an independent income and promote their health through the acquisition of basic things like food and housing, but it can also foster a sense of pride and lower anxiety and perceived social stigma.

Street Market Politics and the Street Vending Economy

Despite its protest roots, the Pigeon Park Sunday Street Market is now working in cooperation with the City of Vancouver. Based on their records and estimates, Clarke and Lorek estimate that approximately $10,000 is generated by the vendors on an average Sunday and that hundreds of thousands of dollars are brought into the DTES through the market on an annual basis. This revenue is remarkable, considering that the weekly Sunday market costs $600 to put on (DTES Street Market, 2013).

The street market is not only bringing an increasing number of tourists and Vancouver residents into the DTES on Sundays, but is also providing vendors with a consistent income that they rely on. If not for this income, there would be increased potential for financial desperation to result in dangerous behaviours that could contribute negatively to the health of individuals and to the "street disorder" that law enforcement has attempted to eliminate through ticketing. By giving street vendors a safe place to legally vend, the Sunday Market is contributing to a reduction in street disorder and providing a livelihood to people who need it.

There has been concern expressed in the media about the presence of stolen goods and drug dealing in the market, as well as some complaints by local businesses. Clarke and Lorek have worked to address these concerns and have undertaken actions to improve the aesthetics of the market. The bike lanes and areas in front of businesses have been cleared as "No Vending Zones" with volunteer security guards posted to ensure that vendors don't set up in these areas and block pedestrians and customers. Tents and tables have been purchased in order to facilitate the vendors in their selling of their goods and to help to create a more legitimate look for the market.

During my weeks observing the market, it was clear that there is a concerted effort to work with police officers to eliminate stolen goods and drug dealing increase the legitimate selling of recycled goods. The coordinators and volunteers have formed relationships with the police officers that regularly attend the market and monitor them to ensure that any actions or confiscation of goods is legitimate and follows due process. These efforts to defend the vendors and work with the City and law enforcement have resulted in attitude shifts in the area surrounding the market. In a 2011 study, Quinlan surveyed local business owners and found that for the majority of the businesses, the street market has little to no impact on their operations.

The top priority for the market coordinators is not maintaining the protest element of the market, but the benefit that it provides for the vendors. Clarke argued that if neither he nor the volunteers showed up on a Sunday morning, the market would still happen:

> This is a highly motivated group of people who have a reason to go there on Sundays and are refusing to be pushed out, so from that standpoint, it has nothing to do with your rhetoric or how much you yell at the city or the cops, but has everything to do with the existence of the endeavor. It is there and it helps people and it maintains itself (R. Clarke, August 26, 2013).

The Pigeon Park vendors may not be concerned about whether the market has a permit, but they do care about being able to make the money that they need to survive. The social protest of vending on Hastings Street, as well as the protest roots of the market, are reinforced by the economic dependence that people have on informal recycling and street vending. The economic motivation that propels the market ensures that it has a hope to continue benefiting the DTES community into the future.

Policy Recommendations

During my time in the field, 88% of the informal recyclers that I interviewed thought that they were doing a "green job" by removing recyclable materials from the waste stream. However, less than 20% felt as though city residents treated them with respect. Despite

the important role that these workers play in Vancouver's Zero Waste initiative, informal recyclers have not received any recognition in the City's action plans for green jobs or reduced waste. In order to promote and support the livelihoods of Vancouver's street vendors, the municipal government should acknowledge these informal workers and the contributions that they make to the reduction of waste in the city. Informal recyclers would greatly benefit from being included in the Zero Waste Action Plans, which could provide access to a more secure income and reduced feelings of stigmatization.

As a socially excluded group, informal recyclers have little influence over the policy decisions that affect their lives. The Pigeon Park Street Market could be an important avenue with which to initiate change in this area. In Brazil, informal recyclers have joined together to form recycling cooperatives, where workers have collectively been able to build their capacity and improve their livelihoods and health status (Gutberlet, 2010). The Pigeon Park Street Market may be the beginning of a similar movement in Vancouver, as vendors are already encouraged to participate in the governance of the market and have a voice in decision-making at weekly meetings. Gutberlet maintains that government support is crucial to the improvement of the livelihoods of recyclers and the recovery of their dignity. It is therefore essential for the City of Vancouver revisit its concept of "employability" and consider informal recyclers in their plans for a greener city.

Conclusion

The Pigeon Park Street Market has embraced a criminalized form of work and has redefined popular conceptions of what it means to be "unemployable." The weekly Sunday market provides a safe and dignified space for hundreds of vendors to work, an effort that brings thousands of dollars into the neighbourhood every week. The social and economic benefits that the street market creates help to promote health and wellbeing, reduce feelings of stigmatization, and allow for vendors' voices to be heard in the governance of the organization. When considering Vancouver's dynamic urban environment and its municipal policies championing the development of a green city, it is important for the voices of the city's dedicated informal recyclers to be heard and for their livelihoods to be secured. The Pigeon Park Street Market is a step in the right direction, helping to create a truly 'liveable' city for all.

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