The Fed's Wrecking Ball C-39

Its short title is **Building Canada Strong**. But it's much more of a demolition job. Bill C-39 takes a wrecking ball to environmental, transportation and labour laws, and many long-standing regulations. Its stated aim is to speed up and simplify the approval of projects, but the measures proposed are draconian in their extent and intensity. Decision-making timelines are shortened; regulators the sole reviewers for major energy and nuclear projects; projects pre-approved and exempt from environmental law in entire regions, and ministers authorized to weaken or remove existing conditions of approval. In addition, the Bill attempts to completely over-ride the treaty and aboriginal rights of First Nations, Inuit and Metis peoples, and ignores their internationally protected right to Free Prior and Informed Consent. This degree of legislative evisceration is unprecedented.

Bill C-39 allows the government to establish "regions of national interest". One suspects that the so-called Ring of Fire will be the first target. Once a region is established, the Act exempts eligible projects from the usual requirement for permits and authorizations. The Minister of One Canadian Economy (a nice Orwellian touch) will simply issue an approval document that replaces the usual permits. Moreover, the Act will then "deem" all eligible projects to have then satisfied the requirements of any previously applicable environmental laws –essentially negating the need for any regulatory oversight.

C-39 fixes a maximum one-year approval for eligible projects when neither environmental assessments nor consultations with multiple Indigenous groups can be completed that fast. Moreover, some construction could begin while the assessment is still underway – which makes it almost impossible to stop a project if the assessment reveals important harms. Imposing conditions on projects to mitigate impacts namely on species at risk, fish habitat or the environment will become more difficult. Decision-makers will be legally compelled to consider the "technical, economic and practical feasibility" of said conditions before imposing them. Lessening the costs for the developer trumps the cost to species and the environment.

The government appears to rely on Supreme Court rulings which found that "the national interest" trumped an Indigenous nation veto over development projects. Who and how the "national interest" is determined has yet to be explained.

Most Indigenous nations would argue that protecting air, lands and waters and the creatures that depend on them (including humans) is more in the national interest than an LNG terminal, a gaggle of mines and/or an expansion of the tar sands. The Chiefs Steering Committee stated on September 29: "Ottawa is continuing its history of what it does best – bypassing meaningful engagement and consent from First Nations Peoples. Bill C-39, the Building Canada Strong Act, uses the guise of national interest and foreign threats to infringe on Indigenous rights, our sacred Treaty rights and our inherent sovereignty."

Major projects that are already approved subject to certain conditions to mitigate impacts can now be fast-tracked retroactively if they are once again deemed to be in the national interest. In which case, the conditionalities can be removed or amended. For example, the Minister of Environment and Climate Change will be able to weaken the conditions of any approval issued under the *Impact Assessment Act*.

The public's right to information about the approval process is severely curtailed. Whereas in the past the Minister was required to publish information on the process 30 days *before* the approval was granted, under the proposed legislation the explanatory documents will be issued 30 days *after* the approval document has been issued.

As we might expect, Bill C-39 has a particular focus on the energy sector. Gone are panel reviews of pipelines, nuclear projects, transmission lines and offshore energy projects. Now, only the Canada Energy Regulator will review pipelines, transmission lines, and offshore projects. The Canadian Nuclear Safety Commission, a notoriously pro-nuclear agency, will become the sole arbiter in the approval of nuclear projects, and is even authorized to allow construction activities to commence before impact assessments are complete.

The pipeline and transmission line approval process will be shortened and simplified, with the concept of 'right of way' expanded to include the route of all existing pipelines, power lines, railways, and highways. Only offshore energy projects, nuclear energy, and ports will be subject to any federal assessment. Everything else is regulated by the provinces—which in most cases, have a dubious record of environment protection and regulatory oversight, especially for nuclear power, pipelines, and the expansion of 'natural' gas facilities.

It is not only the public that is now pushed to the sidelines. Nowhere in Bill C-39 is there any reference to the UN Declaration on the Rights of Indigenous People, the UN Declaration Act, or the imperative of free, prior, and informed consent. Indigenous rights do not feature in this vision of speed and simplification.

In short, Bill C-39 is one of the worst pieces of legislation that any federal government has tabled in decades. It wrecks environmental regulation, undermines indigenous rights, and subverts the rights of organized labour. Bill C-39 is a travesty of justice.

Pan-Canadian Action Committee