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NAFTA, *INVESTITURE* AND REDISTRIBUTION
The Power Underpinnings of Trade and Investment Liberalization in Canada

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ABSTRACT
Criticism of trade and investment liberalization (TAIL) in North America has drawn attention to weak economic performance, wage-profit redistribution, social dumping and fiscal pressure on government programs as evidence that the TAIL regime has failed to deliver on some of its key promises. This criticism has been unable, however, to establish satisfactory conceptual and empirical connections between the dramatic distributional changes witnessed in the TAIL era and the reorganization of power that the TAIL regime entrenched. This paper will undertake a quantitative assessment of the Canadian political economy to see who the main beneficiaries of the TAIL era have been, contrasting returns to labor and to capital in the pre-TAIL and TAIL eras. Employing tools from radical institutionalism, two pictures are painted: the first picture examines broad changes in the distribution of income and the second picture examines differential business performance. The evidence from this inquiry suggests that although the official purpose of TAIL was to enhance the prosperity of all Canadians, this trade deal actually represented—both in its intentions and consequences—a political-economic transformation written *by* dominant capital, *for* dominant capital.

INTRODUCTION
More than 20 years have passed since the Canadian Government took a 'leap of faith' and entered into a trade and investment liberalization (TAIL hereafter) regime with the United States.[1] Socially divisive at the time, TAIL remains contested today both north and south of the Canada-US border. Evidence for this can be seen in the clandestine fashion in which the Canadian Government is pursuing a bilateral TAIL agreement with the EU and the criticism it is beginning to draw (Lewenza 2010). During the 2008 Democratic Party presidential primaries, Senator Obama and Senator Clinton ignited a firestorm, however extinguishable, when they claimed they would potentially withdraw the US from NAFTA[2] if the labour and environmental side agreements were not strengthened (Ibbitson 2008). The opportunism aside, both candidates were preying upon the discontent many in the US probably feel with the looming effects of TAIL. What are we to make of the popular discontent with one of the hallmarks of orthodox economic thinking? After all, arguments in favour of TAIL are as old as the discipline of political economy itself, stretching as far back as the Scottish Enlightenment.[3] And as Paul Krugman puts it, free trade is 'as close to a sacred tenet as any idea in economics' (1987, 131), so are we to attribute the popular discontent to economic illiteracy or to something else?

In his essay *On Liberty*, John Stuart Mill (1859, 60) urged us to continuously question the reigning ideas of our time, lest they degenerate into dead dogmas. Mill believed that uncritical submission to inherited opinion is incompatible with the free exercise of our higher faculties. The consensus among mainstream economists on the question of TAIL, both across space and through time, could be greeted as a smashing success by the 'science' of economics into the 'natural laws' of capitalism. But then again it could be greeted with suspicion, for it might signal that mainstream economics is a particular way of seeing the world—a two century old habit of thought—that consistently describes and prescribes in a uniform manner. Belief in this 'sacred tenet' invites the question: is the (orthodox) economics profession's confidence in the broad-based benefits of TAIL the product of scientific scepticism or of something else?

This paper will employ tools from the capital as power framework pioneered by Jonathan Nitzan and Shimshon Bichler (N&B hereafter) to investigate the effects of the TAIL regime on the Canadian political economy. The focus will be on the distribution of income, contrasting returns to labour (wages) with returns to capital (differential business performance) in the pre-TAIL and TAIL eras. The chief claim this paper will make is that the remarkable shift in distributional outcomes witnessed in the TAIL era is the manifestation of the increasing differential power of capital. The argument will be delivered in five sections. The first section will offer a primer on the capital as power framework. The second will historically contextualize the move towards TAIL in Canada. The third will examine broad changes in the distribution of income and the fourth will explore shifts in the pattern of differential business performance. The final section will provide a qualitative explanation that ties together the quantitative facts encountered in the third and fourth sections.

CAPITAL AS A POWER INSTITUTION

The capital as power framework approaches capital as the central institution of the political economy and its accumulation as the generative process (this brief synopsis is inspired by N&B 2009). Mainstream and Marxist political economy think of capital as an economic category anchored in material reality. From there capital is parcellated into different types or kinds, the most fundamental division being between the 'real' capital (or capital goods) embodied in tools, machines and factories and the 'financial' capital associated with the equity and debt traded on the stock and bond markets. N&B dispense with the *à la carte* approach, claiming instead that capital is vendible, commodified power. The claim that capital is a monolithic power institution is analytic rather than synthetic, for power is built into the definition of capital. The reason is as follows. The institution of capital centers on private ownership. The word 'private' is derived from the Latin *privare* which means 'to deprive' and *privatus* which means 'restricted'. Contrary to popular understanding, private ownership is not an institution which enables those who own, but one which disables those who don't own. And in the final analysis institutionalized exclusion is a matter of organized power. For us to understand accumulation, then, we cannot conceptually divorce the economy from the polity or capital from the state. The architecture of prices and the magnitude of capital are neither reflections of scarcity nor marginal productivity, but are the symbolic quantification of the differential power of absentee owners (investors) to

restructure society against opposition. This power manifests itself in the universal quantitative logic of capitalization. The assets owned by investors stretch far beyond tools, machines and factories to include everything from inventions to ideas to human beings and nature itself. But this implies direct and indirect control over those very inventions, ideas, human beings and natural objects being held as assets, something that cannot be meaningfully separated from the broader power institutions and processes of a given society.

Some will interpret the identity of capital with power as far-fetched, even conspiratorial. The uneasiness might stem from one rather troubling implication of N&B's theory. Those who accumulate capital not only accumulate power; power becomes the dominant motivational energy behind their action, an implication that doesn't easily synchronize with our sanitized liberal-democratic sentiments because of its Hobbesian overtones ('I put for a general inclination of all mankind, a perpetual and restless desire of power after power, that ceaseth only in death' (1651, 161)). However, the relationship between private ownership and power isn't far removed from some of the key ideas in modern political theory. Both the patron saint of liberalism (John Locke) and the father of modern economics (Adam Smith) hint at this relationship. Locke would have us believe that 'government has no other end but the preservation of property' (1690, 51), and in his *Lectures on Jurisprudence*, Smith details the relationship between the two, telling us: "Till there be property there can be no government, the very end of which is to secure wealth, and to defend the rich from the poor' (1766, 40). Locke and Smith appear to be in agreement that in a pre-political situation ('the state of nature') one would find (1) large inequalities of wealth that (2) are secured through a state which defends the riches of the owning class from those who don't own. But in this they get the causal sequence backwards because private ownership depends on the existence of a power institution like the state to en*force* exclusion.

Because power is a relational concept it only has meaning when compared with other forms of power. In the same way that force only becomes force in the face of counter-force or resistance, power must operate on something other than itself to be power. One implication is that capitalists do not strive to 'maximize profits'. The performance of an investor or CEO is not measured against an absolute standard, but against a (relative) benchmark. Investors are conditioned to *out*perform rivals and accumulate *faster* than the average, that is, they strive to accumulate *differentially*. The distinction might sound soft, almost semantic, but shifting our thinking from absolute accumulation in an economy to differential accumulation in a political economy yields a new set of questions and an altered landscape of meaning. Because the political economy is conceived as a terrain of struggle and power is inherently differential, distributional outcomes become the very manifestation of power. A further implication of thinking in differential and distributional terms is that any inquiry into the development of the political economy should begin with the largest firms that stand at the centre of the political economy, or what N&B refer to as dominant capital.[4]

The genealogy of the capital as power framework is diverse, but a primary source of inspiration is the ideas of Thorstein Veblen. Writing at the turn of the twentieth century, it was apparent to Veblen that America was being transformed by big business. But even as the giant corporation was having a greater impact on the political-economic life of the community the

political economists had, up until then, failed to give an adequate account of the relation between this institution and the broader culture. In addressing this problem, Veblen drew a distinction between 'business' and 'industry', terms which most people think of as synonyms but to Veblen were becoming closer to antonyms. Business centres on investment for profit. The language used is that of accounting and the units of measure are universal pecuniary values. The (immaterial-financial) business system is driven by capitalists competing for 'differential advantage' (1904, 18), something that is secured through the extension of ownership and control and which presupposes conflict and antagonism (amongst owners and between owners and non-owners). Industry, by contrast, is the domain upon which the economic welfare of the community rests. This (material-productive) domain contains the inherited knowledge of previous generations and is calibrated through heterogeneous material units. Its goal is the efficient and innovative servicing of the community's needs, something that requires cooperation and planning. If these two domains are inherently distinct, how are they related? In a word: vertically. As Veblen saw it, the 'industrial system is organized on business principles and for pecuniary ends [with the] business man [at] the center…' (1904, 27). Since the writings of Locke we've been led to believe that private enterprise is a natural institution (it exists in the pre-political state of nature) because it is a direct extension of private ownership over one's body and labour, but to Veblen:

> …any person who has a legal right to withhold any part of the necessary industrial apparatus or materials from current use will be in a position to impose terms and exact obedience, on pain of rendering the community's joint stock of technology inoperative to that extent. Ownership of industrial equipment and natural resources confers such a right legally to enforce unemployment, and so to make the community's workmanship useless to that extent. This is the Natural Right of Investment (1923, 65-66).

Drawing on Veblenian categories (and others), N&B have altered the parameters of our discussion of the accumulation of capital. Using aggregate and disaggregate measures and looking at accumulation in differential and distributional terms may assist us in making sense of the striking distributional changes witnessed in the TAIL era.

CONTEXTUALIZING TRADE AND INVESTMENT LIBERALIZATION IN CANADA

Far from having active supporters throughout its history, TAIL has tended to find an unreceptive audience among ruling elites in Canada. Part of the reason for anti-TAIL sentiment can be found in Canadian political culture. Unlike the US which is thoroughly liberal-whig or bourgeois in values, Canada has traces of toryism and socialism in its official politics. Both ideologies are opposed in one way or another to liberalism and have the potential to be protectionist and nationalist in orientation. Shifting from political culture to historical events, a variety of political-economic and military forces, not least the end of the American Civil War, culminated by the mid-1860s so that 'reciprocity' between Canada and the US ended. This development propelled the Canadian statesman, John A. Macdonald, to propose that the maritime colonies unite with Canada East and West in a confederation that might ensure the preservation of their

independence. In 1866 Macdonald's political platform called for the extension of Canada's boundaries horizontally along the American border, a linking of the territory by rail and the establishment of tariff barriers to protect the domestic market for Canadian industry. Canada was spawned, then, from anti-TAIL policies and successive Canadian governments have had to work at safeguarding Canadian independence, something they considered threatened by TAIL (Beatty 2002).

Aversion to TAIL among ruling elites persisted through much of the twentieth century but began to change in the 1970s when liberal governments undertook overtly nationalist policies, including rejecting TAIL with the US. This prompted dominant capital in Canada to re-evaluate its way of doing politics. Up until then dominant capital had lobbied political parties, helped them financially and supported them behind the scenes. In 1976 the Business Council on National Issues was formed (since re-branded the Canadian Council of Chief Executives (CCCE)), made up of the CEO's of the largest corporations operating in Canada. Taking their cue from Business Roundtable in the US, the explicit objective of the organization was to have dominant capital participate directly in the policy-making process. In the late 1970s and early 1980s the CCCE led an 'attitude adjustment' within the business community which had, until then, showed little appetite for a TAIL deal with the US. But by the early 1980s there was a near consensus on the issue of TAIL (McBride 2001, 70). Indeed, even before a free trade deal became part of the Mulroney Conservatives' policy platform, the CCCE led a delegation to Washington to try to promote the idea to the Business Roundtable and Reagan Administration. And in 1983 the CCCE began promoting the idea to the Canadian public. Despite this, Brian Mulroney campaigned against TAIL during his 1983 Tory leadership race. However, after winning the 1984 election the tory cabinet was invited by the CCCE to an extensive briefing at a secluded retreat in Quebec. The following year at the Shamrock Summit in Quebec City Mulroney and Reagan formally announced the launching of free trade negotiations. That same year Mulroney's conversion from anti- to pro-TAIL was vindicated by the Macdonald's Commissions findings (see note #1), which made TAIL with the US the centerpiece of its three volume report on Canada's economic future (Clarke 2007). By the time the liberals came to power later in 1993 they sensed the change in the ideological climate. Jean Chrétien, the Liberal Prime Minister would famously remark: 'Protection is not left wing or right wing; it is simply passé. Liberalization is not a right-wing or left-wing issue; it is simply a fact of life' (quoted in Alexandroff 1993, 56), and with this the conversion of Canada's ruling elites from anti- to pro-TAIL had been completed.

TAIL was sold to the Canadian public on two interrelated grounds: necessity and prosperity.[5] Canadians were told that technological change meant that production and markets were globalizing, and should Canada not secure stable, predictable access to the US market it would be relegated to the periphery of the global political economy (Trefler 1999). Fear was not enough to induce Canadians, however. TAIL also had to hold out the promise of enhanced prosperity. The promises and predictions of TAIL were issued from a variety of sources. The Economic Council of Canada predicted a 1.8 percent boost in employment (Robinson 2007, 261). The Canadian Department of Finance predicted a boost to long-term economic performance,

including a long-term increase to real GDP of three percent. The productivity gap between Canadian and US manufacturing was supposed to close along with a boost to long term productivity growth. And on the question of distribution the explicit assumption was that gains from TAIL would be shared with workers in the form of higher wages (Jackson 2003, 2).

How are we to assess the validity of the (neoclassical) predictions and the public promises that are derived from them? The success or failure of TAIL, however qualified, has continuing political relevance, for the Canadian Government is pursuing an ambitious TAIL agreement with the EU and is marketing this deal to the Canadian public on the apparent success of NAFTA (McParland 2008). But was NAFTA a success? If yes, by what criteria? Who was it successful for? Table 1 presents a few basic performative measures for the Canadian political economy. What these broad facts tell us about Canada is that inflation-adjusted ('real') GDP growth did not pick up after the institution of a TAIL regime, nor was labour productivity boosted. Unemployment increased with the inception of TAIL and it took the entire decade to recover the jobs lost in the recession of the early 1990s. The 1980s was a tough decade for organized labour, but inflation-adjusted wages have been stagnant in the TAIL era and continue to trail labour productivity. These trends in the Canadian political economy mirror those in the OECD to an extent, but that aside the promises/predictions of TAIL were not supposed to be dependent upon global economic performance. These facts alone are insufficient for generating conclusions, but at the very least they tell us that we ought to be sceptical about the public promises made by TAIL advocates and perhaps a bit suspicious of the theories that informed those promises.

Table 1
Basic Performative Measures
(Decade Average Growth Rate)

MEASURE	1950s	1960s	1970s	1980s	1990s	2000s
'Real' GDP	4.8	5.1	4.1	3.0	2.4	2.1
'Real' Wages	3.30	2.35	2.78	-0.02	0.63	-0.49
Labour Productivity (Business Sector)	--	3.8	2.5	1.3	1.6	1.0
Labour Productivity (Manufacturing)	3.9	4.4	3.4	2.2	3.3	1.0
Unemployment Rate	4.2	5.1	6.8	9.4	9.6	7.0 [10*]

***** Including discouraged and involuntary part-time workers.

Source: GDP from Statistics Canada; unemployment rate from the OECD (discouraged and involuntary part-time workers from Cansim table 2820086); hourly earnings from the IMF; manufacturing productivity from the Bureau of Labour Statistics, all through Global Insight; business sector labour productivity from Cansim.

These basic facts, and many others like them, have not escaped the attention of TAIL's critics (Campbell 2007). It was feared by some (Stanford 1993) that lower labour and environmental standards in the US and Mexico would divert investment away from Canada. Part of the incentive for manufacturing firms to migrate southward would be the deliberately restrictive government labour policies in some southern US states ('right to work' laws, for example) and the wage differentials created therein (Stanford 1991). 'Social dumping', the critics noted, would put continuous pressure on Canadian wages, labour and environmental regulations and government programs as high-standard jurisdictions struggled to forestall investment flight to low-standard jurisdictions (Stanford, Elwell and Sinclair 1993). The move to a 'new economy' in the 1990s had the effect of transforming the labour market and reshaping distributional outcomes (Heisz, Jackson and Picot 2001). That said, critics point out that NAFTA has altered the 'relations of power' in society: from workers to corporations, from low and median to high income earners and from governments to markets (Campbell 1999). Some predicted that TAIL would redistribute income from wages to profits because the former is dependent on the bargaining power and rights of workers, which are effectively undermined when unemployment rises and capital mobility is increased (Koechlin and Larudee 1992; Jackson 1999a). Enhanced capital mobility and greater investor rights also has the effect of empowering employers to demand wage concessions and resist unionization more effectively (Jackson 1999b). The claim that productivity gains would be tilted more heavily towards capital (profits) and away from labour (wages) appears to be supported by facts from both Canada and Mexico (Russell and Dufour 2007; Larudee 1998; Larudee 1999). And contrary to the textbook argument, say the critics, wage differentials between countries exert an independent influence on FDI decisions, which means that the 'sweatshop labour argument' has more validity than its critics admit (Larudee and Koechlin 1999). And because the TAIL regime created greater 'openness', inducing greater profit-led growth, it made it more difficult for governments to regulate labour market outcomes (Stanford 1998). TAIL also had the effect of inducing the state to forfeit other forms of regulation (competition, regional development, the environment, foreign investment, etc.) which have long played a role in Canadian development (Stanford 2008). While the critics have noted that the TAIL regime is not the only factor at play in generating some of these shifts they claim that it has made these matters worse (Larudee 1999).

The critics have made important contributions to the debate about neoliberal globalization, but remain hamstrung by century-old conceptual difficulties. All of TAIL's critics accept the basic bifurcation between politics/economics and the real/nominal. For them, capital is accumulated in the economy and its magnitude ultimately reflects scarcity and marginal productivity (both of which are unknowable). The distribution of income reflects the productive contribution made by each 'factor' and any reference to power, when it is made, is usually prefaced with one or another prefix ('market', 'bargaining' or 'economic'). Capital remains a material-productive input whose overall contribution to the production process is registered by, and remunerated with, profits. These conceptual problems serve to limit existing criticism of TAIL, especially as it pertains to distributional outcomes. Who had the power to make TAIL a public policy issue in the first place? Who had the ideological tools to effectively shift the state

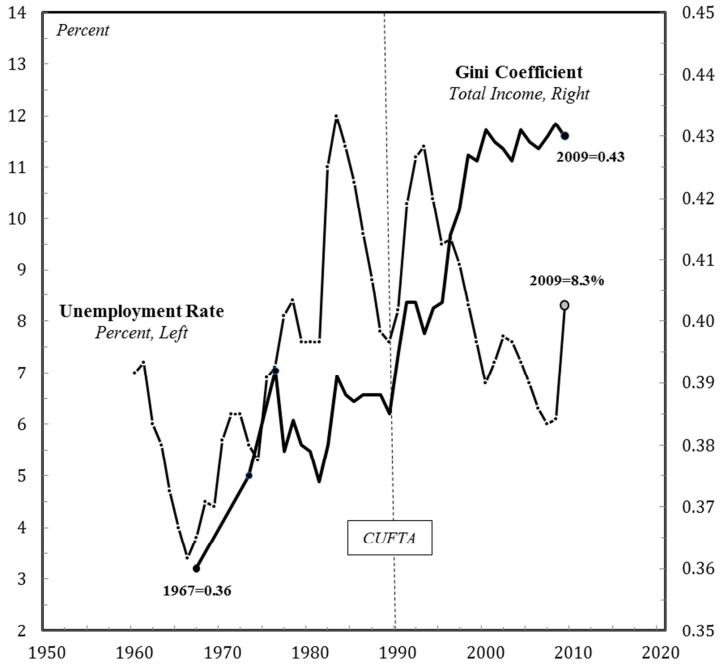
and society to a pro-TAIL position? Why were the provisions of the TAIL agreements so heavily tilted in favour of global capital? And why were the agreements not ordinary pieces of legislation, but instead were 'supraconstitutional' (meaning they have the capacity to transform the polity from the outside-in) and so not subject to ordinary legislative repeal? These types of questions are not addressed by the economists, but are typically left to political scientists and sociologists. But if we hope to have an understanding of the transformative effect of the TAIL regime, especially as it pertains to distribution we will need a more integrated approach to its institution.

SOME ANIMALS ARE MORE EQUAL THAN OTHERS

Let us shift our focus away from the critics of TAIL to a broad measure of distribution: the gini coefficient.[6] Figure 1 contrasts the gini coefficient with the unemployment rate since the late 1960s. This figure shows us two things. First, sharp rises in the gini coefficient (increasing income inequality) corresponds with increases in unemployment. Second, the positive correlation between the gini and unemployment only holds when unemployment rises. When unemployment falls the gini remains stubbornly steady. We can infer from this chart that rising unemployment *corresponds* with redistribution. In 1989, just as CUFTA was coming into effect Canadians witnessed a sharp increase in unemployment and a corresponding spike in the gini coefficient. Income inequality would rise for nearly ten consecutive years following the implementation of CUFTA and though the unemployment rate fell back to pre-CUFTA levels by 2000 the gini coefficient did not shrink proportionately with it. Therefore, crisis and unemployment led to a stable redistribution of income. And while the data for the gini coefficient ends in 2009, if the pattern of the preceding 40 years holds we can expect the latest spike in unemployment attributed to the global financial crisis to correspond to even higher levels of inequality, and so, redistribution.

If the TAIL era has corresponded with greater income inequality we should take a magnifying glass to the aggregate income distribution in order to identify the movement of its constituent parts. Until very recently (Yalnizyan 2007) it was thought that income inequality in Canada was being driven by the income share of the top quintile, with the gains likely concentrated in the top decile. More precise data were unavailable until the gruelling work of a few researchers (Saez and Veall 2003; Saez and Veall 2005; Veall 2010) supplied us with a picture of the top income share in Canada over the twentieth and early twenty-first centuries. What the work of Saez and Veall reveal is that income inequality in Canada is not being driven by the top quintile or even decile, but by the top percentile. Figure 2 presents a disaggregated view of the income share of the top decile and a long-term view of the top percentile in Canada.

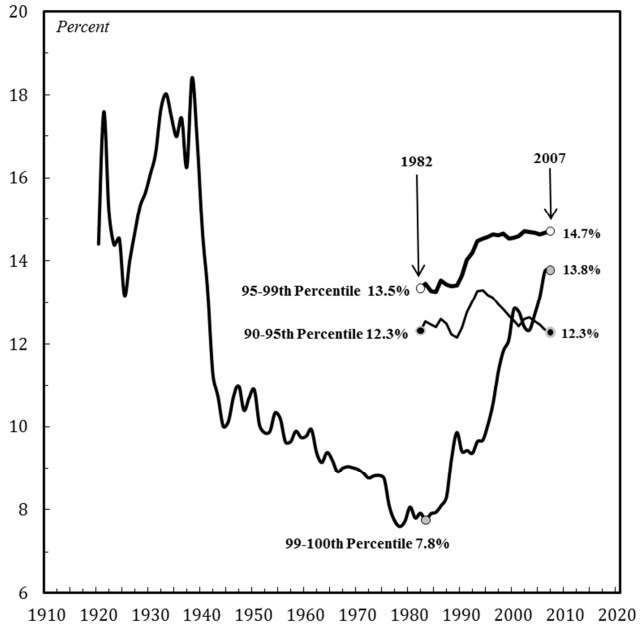
FIGURE 1: Unemployment and Income Inequality in Canada



Note: CUFTA stands for the Canada-US Free Trade Agreement. Gini coefficient values for 1967 and 1973 are based on figures from Wolfson (1997), table 1. Data are interpolated for 1967-1973 and 1973-1976.
Source: Cansim Table 2020705 for gini coefficient (total income); OECD through Global Insight for unemployment rate.

There are a few things to note in this figure. First, the top percentile saw its share of national income fall dramatically during the Second World War. This transformation was probably closely tied to the war-time move towards a centrally planned political economy replete with price fixing. But the end of the war did not restore the top percentile income share. Instead, the 'golden age of controlled capitalism' saw the top income share fall even further. This period saw an increase in union density, roaring economic growth, wage gains and a corresponding demographic bulge in the middle class. By the 1980s the top percentile decline eventually stabilizes, then begins to rise around 1987 (two years prior to the CUFTA). A second thing to note about this figure is that the income share of the 90-99th percentiles has hardly budged since 1982. Their share of national income is nearly flat, rising just over one percent. It is the surging distributional gains made by the top percentile that is driving income inequality across Canadian society over the last generation. An earlier study (Piketty and Saez 2003) of income inequality in the US found had found the top income share to have also taken a U-shaped form over the twentieth century, and subsequent research shows the trend in Canada is mirrored in the broader Anglo world (though not in continental Europe, where the top percentile income share is L-, not U-shaped).[7] This suggests that institutions, not globalization, are paramount in explaining these trends.

FIGURE 2: Top Income Shares in Canada, 1920-2007



Note: Gross market incomes (reported for tax purposes) excluding capital gains.
Source: Veall (2010) Figures 1, 4 and 5 (pages 9, 12 and 13).

To recap, these broad facts tell us a few things. First, the distribution of income in Canada has become markedly more unequal in the TAIL era. Second, the only group to make notable distributional gains is the top percentile. And finally, the timing of the distributional changes corresponds, albeit imperfectly, with the implementation of the TAIL regime. The mainstream explanation for these dramatic distributional changes is to point to technology and trade, or simply 'globalization'. These forces, it is said, have altered the demand for certain types of labour. As a result, 'flexible skills' are in high demand in the knowledge economy and get rewarded at a higher rate than other skills. People with low education or with low skill levels are having their wages bid down by the developing world, hence the increase in income inequality (Jaumotte, Lall and Papageorgiou 2008). The ideological significance of this line of reasoning is so obvious that it barely requires mention. By rooting distribution in the blind, impersonal forces of technology and trade the more substantive questions about how our very-human-created institutions shape distributional outcomes is neatly side stepped (see note 5), especially questions about power. These (neoclassical) explanations of the distribution of income are rooted in intellectual support structures stretching back to the nineteenth century, chiefly, but not only, the marginal productivity theory of distribution and the production function. But the Cambridge capital controversies (see Cohen and Harcourt 2003 for a review) demonstrated the impossibility of explaining wages and profits, that is, the distribution of income across society, by drawing a connection between the physical quantities of labour and capital used in production and the physical quantities of marginal products attributable to these factors (Hunt 2002, 308-9). So how are we to explain these distributional changes?

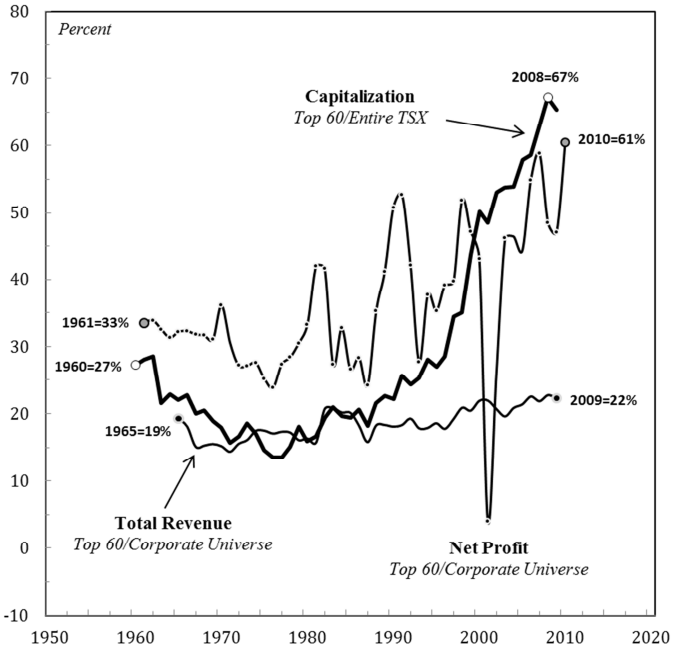
INVESTMENT, *INVESTITURA* AND DISTRIBUTION

The word 'investment' is derived from the Medieval Latin *investitura*, which originally signified the acquisition of rank, title and prescriptive right by an office holder. After taking a loyalty oath, a vassal would be *invested* by his overlord with a fief. This ceremony would grant the vassal new powers, among them distributive power. Investiture only began to be used in a commercial sense in the early sixteenth century and then in reference to the East Indies trade. It wasn't until the mid-nineteenth century that it began to be used to describe the use of property as a means to profit. For the first few centuries of its use 'investment' signified a power process which shaped distribution, and it is this sense of the word that N&B insist we ought to be thinking.

If the multinational corporation is the predominant form that business enterprise takes and if it has a (visible) hand in shaping distributional outcomes through *investiture*, then we need to begin our exploration of differential business performance by looking at the relative size and profitability of the largest firms. The largest 60 firms on the Toronto Stock Exchange (TSX), ranked annually by market capitalization, are used as a proxy for dominant capital for two reasons: first, the TSX 60 serves as the main benchmark for the performance of large cap firms in Canada; and second, the Canadian political economy is approximately one tenth the size of the US, and the S&P 500 is taken as one of the main benchmarks for business performance globally so having a proportionate measure for Canada takes us somewhere near the 60 largest firms.

Aggregate concentration may be interpreted as a broad measure of the power of big business. Figure 3 presents this measure for market capitalization, net profit and total revenue from the early 1960s onward. Aggregate concentration is a ratio which uses the largest 60 firms ranked annually by market capitalization for the numerator. The denominator has a slight difference. For the capitalization measure it uses the total market value of all equities listed on the TSX. For the net profit and revenue measures the denominator is composed of all Canadian corporations, listed and unlisted. There are a number of striking features to note in figure 3. First, the concentration measure for capitalization declined for nearly two decades, falling from 27 percent in 1960 to 13 percent in 1977. The 1980s saw a gradual upward movement of this measure before its eventual take-off in the early 1990s. The largest 60 firms made up fully 67 percent of total market value in 2008—a stunning degree of concentration. The concentration of net profit also falls in the 1960s and 1970s before rising, but its movement is much more erratic and highly cyclical. Nevertheless, the overall profit share of the largest 60 firms has increased from 33 percent in 1961 to 61 percent in 2010. The story with revenue is different. Its movement is nearly flat, rising from 19 percent in 1965 to 22 percent in 2009. This suggests that larger firm size translates into higher distributional profits, but not because of a distributional increase in revenue. In other words, larger firm size translates into a higher profit markup, something which will be explored below.

FIGURE 3: Aggregate Concentration in Canada



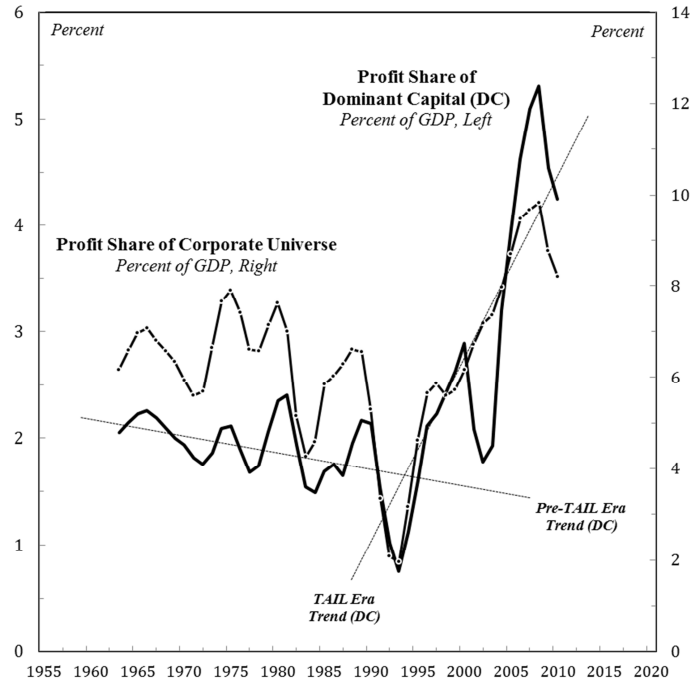
Note: Ratio of the top 60 firms (ranked annually by market capitalization) and (i) all firms listed on hte TSX; (ii) all Canadian-based firms (listed and unlisted for net profit and total revenue). Net profits are after-tax.
Source: Compustat through WRDS for common shares outstanding, share price, revenue and net income; TSX e-Review, Review and Factbook for total market capitalization and number of listed stocks; IMF through Global Insight for total after-tax corporate profit; Cansim for corporate revenue and total number of corporations.

Note the timing of the rises. The concentration of the largest 60 firms only takes off in the TAIL era. By 1994, with the inception of NAFTA, the concentration ratio for capitalization is only at 28 percent, or one percent higher than in 1960. Net profit was at 28 percent in 1993, well below its level in 1961. All of the gains in both capitalization and net profit come in the TAIL era which suggests the TAIL regime played an important role in these distributional changes. A third thing to note is the volatility of net profit compared with capitalization. While the net profit share of the largest firms tends to fluctuate dramatically, the cyclical movement is unmistakably upwards. Capitalization, on the other hand, has a much more stable upward pathway. The reasons for this are unclear, but we should recall that while actual earnings play a role in driving capitalization, they do not do so alone. Other 'elementary particles' including investor expectations about future earnings, hype, perceived risk and the discount rate all figure in capitalization, which has the effect of making its pathway more stable than actual earnings.[8]

Shifting from aggregate concentration to the profit share of national income yields figure 4. This figure presents the profit share of the Canadian corporate universe and of dominant capital. Putting these measures in historical context enables us to see just how remarkable the TAIL era has been. With respect to the both series the pattern is cyclical, but there are two things that warrant our attention. First, both measures trend downward in the pre-TAIL era, but explode upwards in the TAIL era. The turning point comes, in both cases, with the inception of the TAIL regime. The cyclical trend is also significant. While the pre-TAIL era peaks for

dominant capital remain relatively constant the troughs become successively deeper. This, too, changes in the TAIL era. The latter half of the twentieth century saw a number of deep cavities in both series, but what is striking is the changed pattern exhibited in the TAIL era. The profit share of dominant capital has never been higher and even the 'great recession' did comparatively little to undermine this trend.

FIGURE 4: Profit Share of National Income in Canada

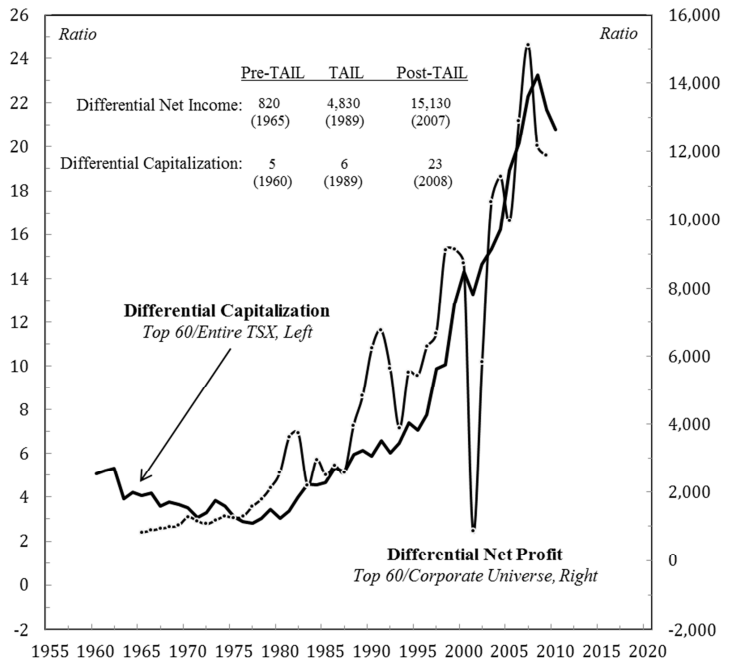


Note: Profits are after-tax. Series' smoothed as 3-year moving averages.
Source: Statistics Canada through Global Insight for GDP and total corporate profit.
Compustat through WRDS for common shares outstanding, share price and net income.

Moving from the profit share of national income to differential accumulation brings us into the capital as power framework proper because the relevant measures of power are not aggregate but disaggregate (N&B 2009, 319). Differential capitalization and differential net profit are ratios which are computed in three steps: the first step is to calculate the average capitalization/net profit of a firm within dominant; the second is to calculate the average capitalization/net profit of all firms listed on the TSX (and all firms in the corporate universe for net profit); and the third is to divide the first computation by the second. These ratios provide us with the differential power of capital and they are plotted in figure 5. While they are tightly and positively correlated over time (despite the scale differences on the axes), what is striking for the subject at hand is the change in the rate of growth with the inception of a TAIL regime. In 1960 an average firm within dominant capital was five times as large (by market capitalization) as an average firm listed on the TSX. Thirty years later that ratio had risen from five to six. So the pre-TAIL era saw very little movement in differential firm size. Most of the growth in the corporate sector was either evenly distributed between large and small firms or favoured the small

(generating negative differential accumulation). Since the inception of a TAIL regime that ratio has risen from 6 to 23. Dominant capital, then, has effectively delinked from the rest of the corporate universe in the TAIL era, suggesting that something dramatic happened precisely when the TAIL regime was instituted.

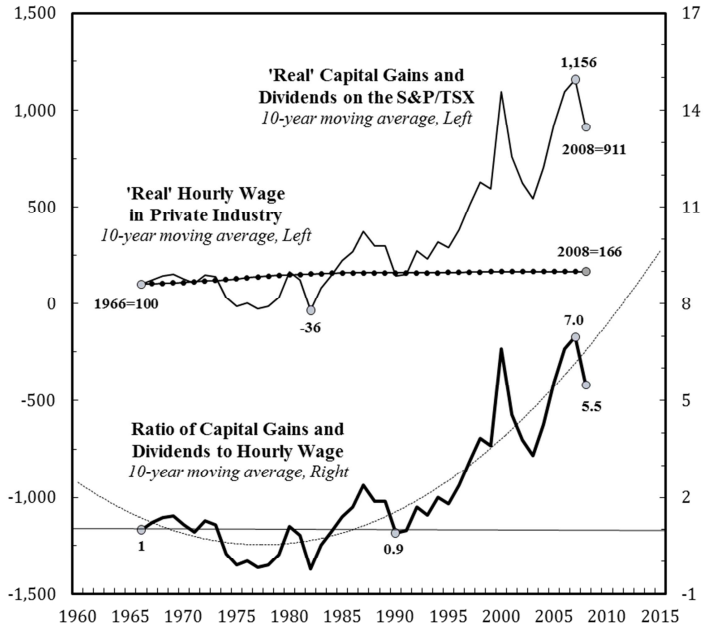
FIGURE 5: Differential Accumulation in Canada



Note: Ratio of the average of the top 60 firms on the TSX (ranked annually by market capitalization) and the average of all firms (on the TSX for differential capitalization; listed and unlisted for net profit).
Source: Compustat through WRDS for common shares outstanding, closing share price and net income; TSX Review, e-Review and Factbook for total market capitalization and number of listed stocks; IMF through Global Insight for total corporate profit; Cansim for total number of corporation.

Recall that one of the promises/predictions made by TAIL enthusiasts was that gains from trade would be shared between capital and labour. Unfortunately reality has refused to cooperate with their theory. Figure 6 plots the returns to capital and labour since the mid-1950s.[9] Smoothing each series as 10-year moving averages helps eliminate cyclicality and setting each series to 100 in 1966 enables us to track their relative movement. From 1955 when the data begins to instituting of the TAIL regime the relative gains flowing to capital and labour are nearly equal. It was likely because gains from growth were more or less shared that the TAIL enthusiasts made their promise/prediction to begin with. But the TAIL era has altered the pattern dramatically. The returns on labour began to slow in the 1980s and stall entirely in the TAIL era, while returns on capital have skyrocketed. Nearly all the gains from growth now flow to capital, a fact which is supported by the information about wage stagnation in table 1. Something dramatic happens just as TAIL is being instituted to change the relationship between these measures, and, as this paper is arguing, a large part of that change can be attributed to the reorganization of social space and altered power relationships that the TAIL regime entrenched.

FIGURE 6: Returns on Capital and Labour in Canada



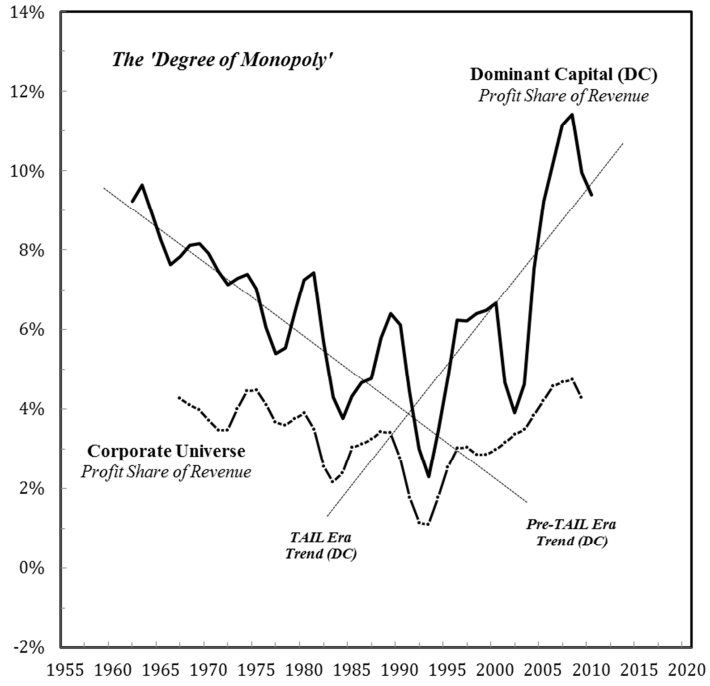
Note: Real series are computed by deflating nominal data by the CPI. Capital gains and dividends are the difference between successive values on the S&P/TSX Composite Total Returns Index (includes the value of the stock price index with dividends reinvested over time).
Source: Total Returns Index from Datastream; Wages from IMF through Global Insight; CPI from Statistics Canada through Global Insight.

For Canadians TAIL has probably been the chief way in which globalization has manifested itself. With the paternalistic hand of government removed and other structural barriers to markets levelled, labour and capital were to face a new era of continental competition (Porter 1992). The overall process would ultimately be socially beneficial, so the reasoning went, because increased competition would induce firms to innovate, forcing them to invest in productivity-enhancing technologies which would eventually translate into higher wages. Greater competition would also bring with it lower prices, so Canadians would benefit as workers and consumers. Many, even those on the left, seemed to have been swept up by the rhetoric of heightened competition. As it sometimes is, agreement between contending parties—in this case the neoliberal right and nationalist left—is the opportune time to question the consensus and explore the roots of the prevailing wisdom. Has the TAIL era seen greater competition? And how can we know for sure, because competition, like other metaphysical categories, is not susceptible to direct empirical measurement?[10] As such, we can only know it through its effects. But what effects should we be looking for?

N&B (2009, 50-51) draw on Michal Kalecki's conception of the 'degree of monopoly' as a quantitative proxy for economic power, the effect of which is disclosed in the profit markup. Kalecki (1943, 49-50) saw heightened concentration leading to the formation of giant corporations whose relative size meant they did not operate in perfectly competitive markets and were not price-takers. Rather, they could have an effect on overall market prices through practices like tacit agreement or other cartel-like behaviour (where a leading firm fixes prices

which other firms follow). A major counteracting force to the degree of monopoly, Kalecki thought, was the strength of trade unions, whose relative bargaining position is improved when the ratio of profit margins to wages increases. Changes in the degree of monopoly have decisive importance for the distribution of income between workers and capitalists and so across society generally. The dual economy literature would also have us believe that the existence of large firms has the effect of reducing competition because relative differences in firm size gives rise to different competitive behaviour, performance and market power (see Bowring 1986).

FIGURE 7: Profit Markup of the Corporate Sector in Canada



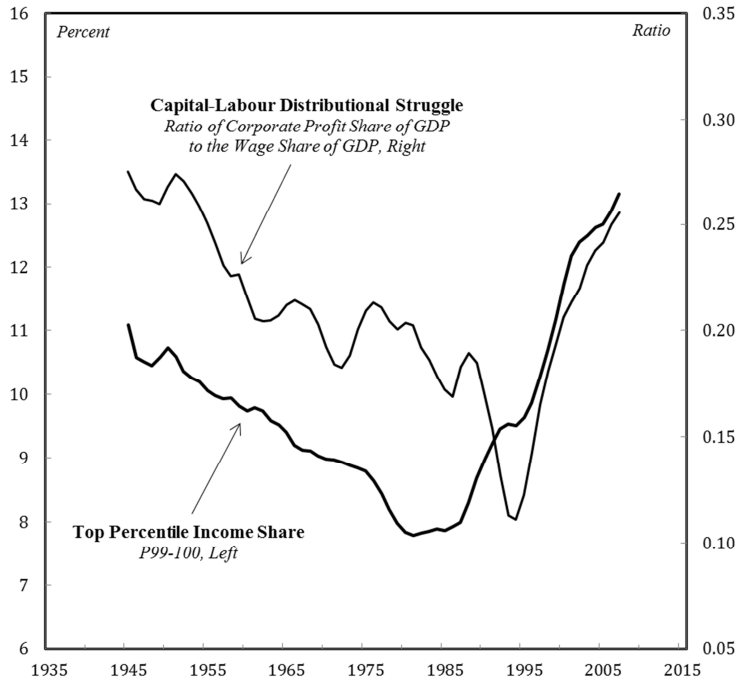
Note: Profits are after-tax. Series' smoothed as 3-year moving averages.
Source: Compustate through WRDS for commons shares outstanding, share price, total revenue and net income. IMF through Global Insight for total after-tax corporate profit; Cansim for total corporate revenue.

If the TAIL era was to usher in heightened competition this should have the effect of shrinking, not enlarging, the profit markup. Figure 7 portrays the profit markup for dominant capital and the corporate universe since the 1960s. For the 30 year period prior to TAIL both series trend downward, indicating that competition was becoming more, not less intense in the Canadian political economy. Recall figures 3 and 5 which showed that the largest firms were shrinking in relative size over this period. The profit markup falls all the way to the inception of the TAIL regime which, once again, acts as an inflection point. And just as Kalecki thought, there is a strong correlation between relative firm size (as indicated in figures 3 and 5) and the degree of monopoly. He was also right to think that union strength plays a countervailing role to the degree of monopoly. As we will see in figure 10, the pre-TAIL era saw increasing unionization,

while the TAIL era has seen significant de-unionization, leading to a heightened degree of monopoly.

In the previous section we saw that increasing income inequality across society is being driven by the re-establishment of the top percentile income share. During the 'golden age of controlled capitalism', roughly 1945-1973, the share of national income going to this group fell. Since the late 1980s, and especially in the TAIL era, we've seen the move towards a 'new gilded age', with the top percentile income share re-establishing itself to pre-war levels. But how does the top percentile income share relate to the distributional struggle between capital and labour?

FIGURE 8: Social Struggle and Distribution, 1945-2007

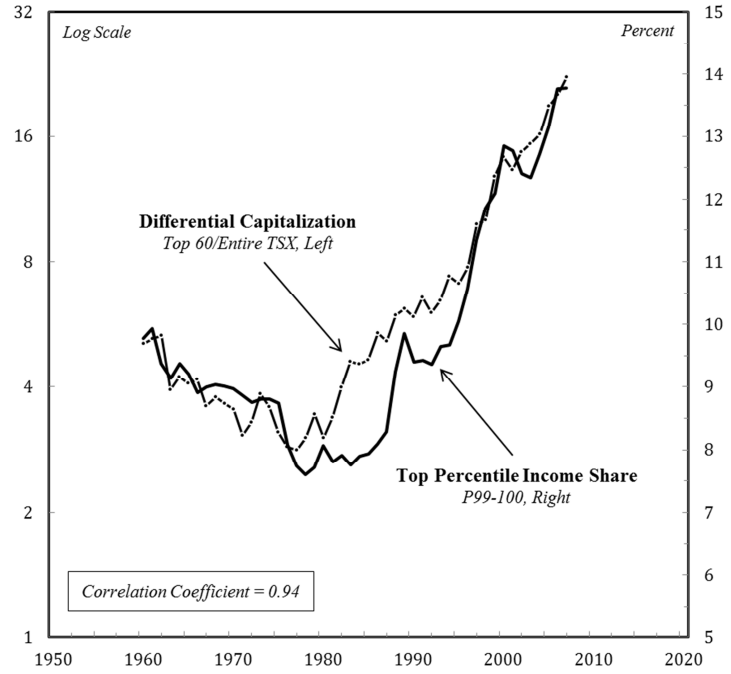


Note: Series' smoothed as 5-year moving averages. Corporate profit is pre-tax. Top percentile income share is gross market income (reported for tax purposes) excluding capital gains.
Source: Veall (2010); GDP, wages & salaries and corporate profit from Cansim and Historical Statistics of Canada.

Let's assume that it is the top percentile that owns and has effective control over the corporate sector. How does this groups' income share relate to the struggle between owners (capital) and non-owners (workers)? Figure 8 plots the ratio of the corporate profit share of GDP to the wage share of GDP and the top percentile income share. The former captures the distributional struggle between capital and labour and the latter may be thought of as a proxy for the distributional power of the owners of the corporate sector. What this figure shows us is that workers were making relative gains from the close of the Second World War to the NAFTA, when capital began to decisively win the distributional struggle. This trend corresponds, albeit imperfectly, with the decline then rise of the top percentile income share. Once again, the TAIL regime acts as a turning point in terms of distributional outcomes.

After having explored the distribution of income in the previous section and differential business performance in this section, the operative question becomes: is there a connection between the two? They should, of course, be related, but how close might the relation be? Figure 9 plots differential capitalization and the income share of the top percentile from 1960 to 2007. The two series move in tandem and appear as mirror images of each other. The one, differential capitalization, captures the differential power of capital while the other acts as a proxy for the distributional power of the richest one percent. It's the latter category that is most likely to own and have effective control over dominant capital (and the corporate sector generally) so we should expect that the increasing differential power of capital (and all that comes with it) flows to this group.

FIGURE 9: Differential Accumulation and the Top Percentile Income Share, 1960-2007



Note: Ratio of the average of the top 60 listed corporations ranked annually by market capitalization and the average of all firms listed on the TSX. Total pre-tax market income, excluding capital gains.
Source: Compustat through WRDS for common shares outstanding, closing share price; TSX Review, e-Review and Factbook for total market capitalization and number of listed stocks; Michael Veall (2010) for data on top percentile income share.

To recap, the distribution of income has become more unequal in the TAIL era and it is the surging gains made by the top percentile that appears to be the cause. On the other side of the ledger, the TAIL era has seen larger relative firm size, a rising profit share of national income, booming differential accumulation, rising returns to capital and an increase in the profit markup. The level and pattern of accumulation changes markedly with the inception of the TAIL regime along with the distribution of income. The major claim here is that these measurements, figures 3-7, find their domestic analogue in figures 1 and 2. That is to say, there is a quantitative correspondence between the rising inequality and concentrated income gains of the highest

income earners, on the one hand, and the increasing differential power of capital on the other. These (quantitative) facts require a (qualitative) explanation. Taking refuge in the 'invisible hand' or 'marginal productivity' just won't do, even if it's the dominant intellectual reflex. Thinking of these distributional changes as a reflection of the institutional reorganization of power might go some way towards our explanation.

THE INSTITUTIONAL REORGANIZATION OF POWER

How did TAIL reorganize power on the North American continent? The answer, which is meant to be suggestive rather than conclusive, will come in three parts. First, a new 'bill of rights' was created that further empowers capital. Second, labour has experienced large scale de-unionization and so has been significantly weakened. And third, the TAIL regime acts as a 'conditioning framework' on all levels of government, restraining the activities they can undertake. It should be noted that in claiming that the institution of a TAIL regime had a large impact on these distributional outcomes it does not imply that it is the *only* factor at work. Plainly there are many other processes and policies that shape distributional outcomes, but as we've seen the timing and magnitude of the changes correspond with the institution of TAIL, thus indicating its importance.

A New 'Bill of Rights' for Capital

The proliferation of trade agreements since the close of the Cold War have tended to be encompassing from the standpoint of investment, and CUFTA and NAFTA are no exception (the following discussion draws extensively on Shrybman 2007). These agreements include areas of law, public policy and government services that had previously been confined to the domestic sphere and rule upon such broad matters as investment, regulation, public services, procurement, intellectual property and environmental protection. International tribunals have been established that impose upon governments at all levels severe restraints, and threats of retaliatory trade sanctions or damage awards for 'expropriated earnings' are part of the ordinary mandate of these tribunals. One of the more striking features of these tribunals is the extremely broad definition given to 'expropriation'. The conventional understanding centers on the confiscation of property, but the TAIL regime understands this term to include 'covert or incidental interference with the use of property which has the effect of depriving the owner…of expected economic benefit of property' (Supreme Court of British Columbia, quoted in Shrybman 2007, 303). In other words, it is not just actualized losses, but potential future losses that receive compensation.

The investment provisions of NAFTA empower capital to sue governments to enforce the exclusive rights the treaty accords them. In some cases these encompassing investor rights are not mirrored in domestic law and would be unenforceable in national courts. When a claim is made under chapter 11 of the agreement it is determined by a secretive international tribunal operating wholly outside the framework of domestic law and without consideration of ordinary constitutional guarantees. This enables investors and corporations to constrain government policy and regulation by submitting damage claims for alleged 'interference' with their 'rights'.

By providing capital with these powers the TAIL regime marks a dramatic departure from the norms of international law in two ways. First, capital is given a broad range of rights even though it is not actually party to the contract and does not have any obligations under it. Historically, only states had access to the powerful dispute mechanisms of international trade law. Second, chapter 11 provides capital with the right to bring into play private and secretive international commercial arbitration processes that rule upon important issues of public policy and law. In short, the deal enables capital to put any law, program or policy of a NAFTA signator that it happens to oppose on trial, and those parts of civil society that might be affected by a NAFTA ruling are ignored. These legal-institutional changes constitute a reorganization of the framework of accumulation, further empowering capital. It should be noted that this power does not have to be utilized to be effective. The actual application of this power is infrequent and its direct connection to distribution is probably partial. That said, capital has acquired new legal possibilities which condition government policy, making the enactment of laws in its favour more probable.

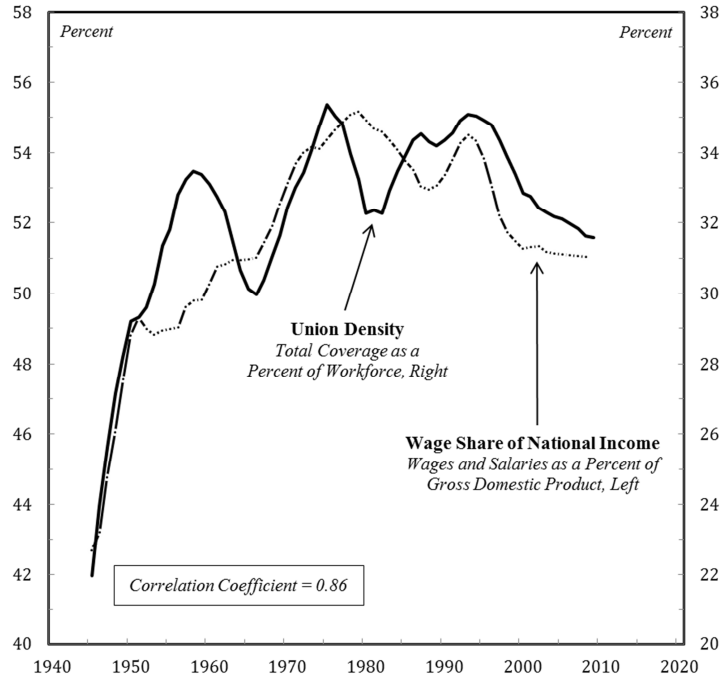
De-unionization of Labour

Recall that the official purpose of eliminating tariffs and reducing other trade barriers was to free capital from narrow national constraints, thus enabling it to move to more productive sectors. The assumption was that more jobs will be generated in the productive sectors to absorb the losses of jobs in the unproductive sectors. But the institutionalization of a TAIL regime was about more than tariff reductions and the cross-border flow of commodities. The facilitation of capital mobility further empowers capital over labour, especially at the level of collective bargaining. The real threat is not just that capital will leave declining sectors and flow to more productive ones, but that it will leave the domestic economy altogether. This puts downward pressure on wages in the sectors most exposed to the threat of relocation by weakening the bargaining position of labour. The wage stagnation that we see in table 1 and figure 6 is closely tied to the enhancement of capital mobility. Increased competitive pressures help explain the very sharp decline in the unionization rate in Canadian manufacturing, which has fallen from 37 percent in 1988 to 27 percent in 2009. Figure 10 presents the relationship between union density and the total wage bill over the postwar era. The correlation is surprisingly tight given the breadth of the indicators, and it clearly shows that rising union density was coupled with a higher wage bill throughout the 'golden age'. The process reaches a peak in the mid-1970s before going into sharp decline in the TAIL era. With de-unionization the Canadian political economy has seen a smaller wage bill, heightened wage stagnation, thicker profit margins and an expanded profit share of national income.

It is important to note that the positive feedback loops make this a self-perpetuating trend. As more jobs are lost in unionized workplaces and as new workplaces are created that are not unionized, organized labour will be put in an even worse bargaining position, and so even those jobs that aren't relocated will face wage compression. Union decline also implies that non-unionized sectors will be less able to bid wages up. So wage compression for unions implies wage compression for the entire labour market. Union decline is not a process rooted in 'nature',

nor is it the inevitable outcome of shifts in technology. It is the product of (political) decisions made by human beings and these figures suggest that the disproportionate closures of unionized plants and the disproportionate concentration of new hiring in non-union plants has contributed to the distributional changes in earnings.

FIGURE 10: Union Density and the Wage Share of National Income in Canada



Note: Coverage is for non-agricultural paid workers. Series' smoothed as 5-year moving averages.
Source: Union Density from Historical Statistics of Canada, E175-177 and Cansim Tables 2790026 and 2820078; Wage Share and GDP from HSC, F1-13 and Cansim Table 3800016.

A New Conditioning Framework for Governments

TAIL serves as an institutional mechanism that effectively restricts the policy choices available to states. Ruling elites have used these international obligations to impose policies that would not otherwise acquire domestic approval and many of the institutional mechanisms are 'supraconstitutional' in function, meaning they are so broad in scope and have such unusual judicial authority that they are capable of transforming the domestic political order from the outside-in. The ability of these agreements to shape government behaviour even though they do not fall under the constitution has led some to claim that 'NAFTA tied the government's hands…a clear illustration of how international agreements can be used to constitutionalize a domestic ideological position' (Clarkson 2002, 51-52). The new rights capital acquired also make it extremely difficult to bring public and social services back into the public sector once they have been privatized, thus giving practical significance to Thatcher's ideological acronym, TINA (there is no alternative). Not only is it extremely difficult to reverse some of the privatization and

deregulation measures of previous neoliberal governments, it becomes very difficult to establish new social services. For instance, if Canadians ever wanted to expand their Medicare system to include home care or pharmacare they would almost surely have a right on their hands, because investors could sue the Canadian Government for expropriated earnings.

CONCLUSION

It turns out that the popular discontent with the TAIL regime is well placed. Contrary to the received economic wisdom the TAIL regime has brought enhanced prosperity for the few and income and wage stagnation for the many. The great philosopher of science, Imre Lakatos, reminds us that 'in scientific reasoning, theories are confronted with facts and one of the central conditions of scientific reasoning is that theories must be supported by facts' (1978, 2). The facts do not appear to support existing theories of TAIL and its connection with the level and distribution of income. Orthodox economics is compelled, then, to generate what Lakatos calls 'rescue hypotheses', namely an account of the failed prediction and rationale for why it should be thought of as an 'anomaly'. But we don't need to generate rescue hypotheses, much as science does not need 'sacred tenets', once we step into a new theoretical framework. Thinking of capital accumulation as a broad power process enables us to simultaneously explain the assimilation and deepening subordination of the state to capital via NAFTA and the dramatic distributional gains made by the highest income echelons. After 100 years of protectionism and economic nationalism Canada's ruling elites, at the behest of dominant capital, inaugurated a TAIL regime. Twenty years into this regime has given us the perspective we need to evaluate this political-economic transformation. Much as we may dislike having to agree with that great Florentine political thinker, he thought deeply about power and perhaps had it right when he said:

> ...men are inclined to think that they cannot hold securely what they possess unless they get more at others' expense. Furthermore, those who have great possessions can bring about changes with greater effect and greater speed (Machiavelli 1517, 118).

BIOGRAPHY

Jordan Brennan is a PhD candidate in political science at York University and contract faculty in the School of Liberal Arts and Sciences at George Brown College.

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NOTES

1. In 1985 the Royal Commission on the Economic Union and Development Prospects for Canada (known as the Macdonald Commission) presented its report to the Government of Canada. One of its key recommendations was that Canada should pursue a free trade agreement with the United States, a move the Report referred to as a 'leap of faith'.
2. In 1989 the Canada-US Free Trade Agreement (CUFTA) came into effect. The agreement was strengthened and extended to include Mexico in 1994. The North American Free Trade Agreement (NAFTA) thence became the world's largest trading bloc.
3. In attacking the privileges and protections of the mercantilist system and by anchoring an argument for free trade in cost competitiveness Smith (1776) goes some way towards Ricardo's (1817) theory of comparative advantage. Two centuries later Milton and Rose Friedman can do no better than recycle the arguments Smith and Ricardo made without adding anything substantively new (Friedman and Friedman 1980, chapter 2). This indicates that the strongest arguments for TAIL are still to be found in the works of Smith and Ricardo.
4. N&B define dominant capital as the leading corporate-government coalitions (2009, 315). Their reasoning, I speculate, is that accumulation could not exist, and is shaped at every step, by institutions like government, the judiciary, the central bank and even the armed forces. I will break with their framework and use dominant capital as a category which only refers to the largest corporations.
5. Marx and Engels' (1845) concept of ideology has three main components: it depicts social arrangements as natural, rooted in extra-human forces; it justifies social arrangements by claiming that all members benefit; and the interests of the dominant class are passed off as the interests of all. The proponents of TAIL were almost certainly innocent of Marx and Engels' ideas, but it is always remarkable to see a centuries-old idea hold up so sturdily.
6. The gini coefficient is commonly used as a measure of income inequality. It ranges from zero (perfectly equal distribution of income) to one (perfectly unequal distribution of income).
7. Piketty and Saez (2003) claim the trend towards greater income inequality is significant because it suggests that Simon Kuznets' (1955) influential hypothesis—that income inequality should demonstrate an inverse-U shape as societies modernize—can no longer account for the facts. Kuznet's theory, in short, suggests that in the early phases of economic growth, particularly the transition from pre-industrial to industrial society, incomes should show a tendency to diverge as urban industrial elites surge ahead of the rural agricultural population. The trend towards inequality is eventually offset, at least partially, by the rising wages of urban industrial workers. As migration from countryside to city intensifies so too should the tendency towards income equality intensify as more people enter high paying urban jobs. The trend, then, should be one of inequality first rising, eventually stabilizing and then falling, thus tending towards greater equality as modernization takes hold.
8. See Nitzan and Bichler (2009), chapter 11 for a discussion of the 'elementary particles' of capitalization.
9. Figure 6 reproduces for Canada, with similar results, the US chart from a graduate course assignment offered by Jonathan Nitzan at York University.
10. I leave aside here basic neoclassical elements of competition, e.g., that there be a large number of sellers in a market (something which can be measured directly). This still stands as a proxy for competition proper, which is a metaphysical category in the Aristotelian sense that it is not directly accessible to sensory perception.

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