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The Canadian Environmental Assessment Act, 2012 and Associated Policy: Implications for Aboriginal Peoples

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Abstract

Despite Canada's positive reputation in international circles regarding environmental protection, there are recent signs that this is no longer warranted. Recent changes to the Canadian Environmental Assessment Act (CEAA) clearly present governmental intentions to focus efforts on stimulating economic growth through more rapid resource exploitation at the expense of the environment. Moreover, when assessing the impact of CEAA 2012 on Aboriginal people, one must look beyond the Act itself and take into account other pieces of policy to see the true effects because there are a number of other governmental initiatives that further weaken Aboriginal peoples' capacity to participate in the resource development review process for undertakings that affect their traditional lands. The result is the silencing of the people who are most affected by resource development.

Keywords

Canadian Environment Assessment Act (CEAA) 2012, Aboriginal peoples, Canada, environmental assessment, resource development

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The Canadian Environmental Assessment Act, 2012 and Associated Policy: Implications for Aboriginal Peoples

Canada was founded on a federated system of government, with the powers of each level of government (federal and provincial) being specified in the Canadian Constitution Act (1867) (formerly known as the British North American Act). However, there was no mention of the environment in the Canadian Constitution Act and, consequently, the responsibility for the environment has been shared between the federal and the provincial governments of Canada. As such, two levels of environmental assessment have arisen in Canada: an overarching federal assessment process and several regional (provincial and territorial) assessment processes. To harmonize the environmental assessment process in Canada, formal environmental assessment agreements have been made between the federal government and several provincial governments, while other agreements have been reached through an ad hoc process. For the present article, we will be referring specifically to changes made to the federal process as currently outlined in the Canadian Environmental Assessment Act (CEAA, 2012a).

For a number of years, Canada has had a positive reputation in international circles with regard to its record on environmental protection. However, there are recent signs that this reputation is no longer warranted: the Canadian federal government has downsized its public service and cut heavily into spending levels in many areas of governance, including that of environmental protection. In 2012, certain changes made to the CEAA clearly indicate the intention of the current Canadian government to focus efforts to stimulate economic growth through more rapid resource exploitation at the expense of the environment. Arguably, most of the recent changes come in response to pressures created by economic uncertainty and a financial crisis that started some five years ago.

The impact of the CEAA 2012 on Canada as a whole has been well described by Gibson (2012) and Doelle (2012), but little mention has been made about the implications of the CEAA 2012 for Aboriginal (First Nations, Inuit, and Metis) peoples in Canada. Some individuals contend that “the role of Aboriginal peoples is a vital element of CEAA 2012” (Damman & Bruce, 2012, p. 83) since the CEAA 2012 contains “explicit requirements to assess changes to the environment that affect aboriginal peoples” (Walls, 2012, p. 2). These environmental changes have been defined by representatives of the Canadian Environment Assessment Agency to include:

- Health and socio-economic conditions;
- Physical and cultural heritage;
- Current use of lands and resources for traditional purposes;
- Any structure, site or thing of historical, archeological, paleontological or architectural significance. (Walls, 2012, p. 11)

In essence, the CEAA 2012 requires responsible authorities (i.e., the Canadian Environmental Assessment Agency, Canadian Nuclear Safety Commission, and the National Energy Board) to establish participant funding programs, although this requirement does not apply if the federal Minister has approved a provincial environmental assessment substitution process (Walls, 2012). There are currently

no clear criteria to decide on whether a provincial environmental assessment is considered an appropriate substitute to the federal environmental assessment process; the federal Minister has discretion to make this decision (Canadian Environmental Assessment Act, 2012; Gibson, 2012). Furthermore, the Canadian Environmental Assessment Agency has recognized that the federal “Crown has a legal duty to consult Aboriginal peoples about the potential impact of decisions associated with federal conduct on their rights” (Walls, 2012, p. 12). While it appears that the CEAA 2012 sets out laudable goals with respect to Aboriginal interests and engagement in the environmental assessment process, it is our contention that all is not what it seems to be, especially taking into consideration additional Canadian federal policy with respect to Aboriginal people and the environment. One must look at the whole picture and not just at the CEAA 2012 to understand the true implications for Aboriginal people with respect to environmental assessment.

This article begins with a brief overview of Canadian environmental assessment legislation since its introduction in the early 1970s and then describes and contrasts some of the main changes to the federal environmental assessment system implemented by the current government in 2012. We then discuss implications of the CEAA 2012 (and related government policy changes) with respect to the impact on Aboriginal peoples’ capacity to participate meaningfully in resource development and environmental assessment in Canada.

Brief Overview of Canadian Environmental Assessment Legislation and Streamlining

Environmental challenges occur frequently. Approaches to mitigate damage, to halt developments and undertakings that are likely to cause serious problems and, in some cases, to compare alternatives and identify the most desirable options have been developed. One of the main ways of doing this is through environmental assessment (EA) processes of various types. The most entrenched form of environmental assessment is project-level environmental assessment, which is now common in virtually every part of the world. Since the formal introduction by the United States of the *National Environmental Policy Act of 1969* (1970), environmental assessment has evolved substantially. In 1973, Canada followed the U.S. example and introduced environmental assessment legislation at the federal level when the Canadian Environmental Assessment and Review Process was implemented.

Potential Benefits and Essential Environmental Assessment Requirements

For the past 40 years, environmental assessment has been helpful in minimizing and sometimes compensating for the environmental impact of proposed undertakings. Despite perceived challenges and limitations in its application, EA has been described as one of the most important processes for incorporating potential environmental consequences of proposed projects into decisions regarding those projects (Noble, 2010), with many potential benefits associated with its application. Besides managing the effects of proposed undertakings (Noble, 2010) by considering environmental effects and potential mitigation measures early in a project planning cycle, the use of environmental assessments can have many benefits, such as:

- Improving project design and planning;

- Reducing project costs for proponents through early identification of potentially unforeseen impacts;
- Forcing planning agencies and some private sector interests to integrate the environment early in the planning and decision making process;
- Potentially integrating environmental, social and economic considerations
- Providing a means for public debate about the nature and direction of development;
- Facilitating learning, environmental education and informed decision making;
- Facilitating greater transparency and increasing public acceptability of proposed undertakings through participation. (adapted from Noble, 2010, p. 17)

Moreover, international EA practice provides insight into essential requirements for EA “good practice” and assessments should follow these identified requirements for potential benefits of an EA application to take effect. It is beyond the scope of this article to comprehensively review the literature on essential requirements for EA good practice. Instead, we present in Table 1 a list of essential EA requirements developed by Gibson (2012). According to the Gibson (2012), they represent “core process design requirements for effective, efficient and fair [environmental] assessment.” (p. 181), and are derived from several sources in the international literature (see Gibson, 2012).

The Canadian Environmental Assessment Act is currently the legislative base that regulates environmental assessment in Canada. The following sections describe the evolution of environmental assessment in Canada and recent developments in Canadian EA legislation.

Evolution of EA Legislation in Canada

In contrast with the U.S. environmental assessment regime, the Canadian government established a policy-based, federal environmental assessment process, which was not legally binding. This situation later proved to be challenging: “serious attention to environmental assessment requirements was essentially voluntary” (Gibson & Hanna, 2009, p. 22). As a result, assessments in Canada were carried out inconsistently and in some cases not carried out at all.

After much public criticism, the voluntary Canadian environmental assessment process was incrementally strengthened in the 1970s and early 1980s (e.g., early public involvement was encouraged). In 1984, the Environmental Assessment and Review Process was amended and became the Environmental Assessment Review Process Guidelines Order (1984), which brought firmer language of obligation, but in practice still failed to secure more effective commitment to the environmental assessment process. Not until a decision by the Federal Court of Canada in 1989, when Mr. Justice Cullen ruled that the Guidelines Order was legally binding, did the federal environmental assessment process in Canada become mandatory. This ruling set the stage for the introduction of a legislated environmental assessment process.

Table 1. Requirements for Effective, Efficient, and Fair Environmental Assessment

The process must be designed to:

1. Apply to all potentially significant undertakings;
2. Ensure effectively integrated attention to biophysical, social and economic considerations;
3. Begin at the outset of deliberations on anticipated initiatives so as to inform decisions on purposes and alternatives as well as project selection and design;
4. Establish clear requirements and predictable process expectations;
5. Focus attention on the most significant undertakings, effects and opportunities for protection and enhancement;
6. Facilitate open public engagement and learning;
7. Aim for selection of most desirable options for enhancement of benefits as well as avoidance or mitigation of adverse effects;
8. Improve decision-making consistency, impartiality, transparency and accountability;
9. Integrate well with other objectives and processes;
10. Provide authoritative means of enforcing requirements and ensuring monitoring and adjustment.

Note. Adapted from Gibson (2012).

In 1990, a bill was proposed to create the Canadian Environmental Assessment Act (CEAA). It received legislative approval in 1992 but only came into force in 1995 (CEAA, 1992). According to Gibson and Hanna (2009), during this period, proponent departments heavily dominated deliberations and the result was “a law that is less ambitious than the previous Guidelines Order and full of openings to ministerial discretion” (p. 25). However, CEAA 1995, in its almost two decades of existence and despite the need for further improvements, still had some positive results, such as: covering most projects within the federal domain; providing opportunities for public participation, including participant funding for more effective public involvement; requiring attention to cumulative effects; and encouraging the development of follow-up plans. Table 2 shows that CEAA 1995 certainly had some room for improvement; however, subsequent weakening of the federal EA system brought forth with the CEAA 2012 is unprecedented, and “particularly comprehensive and dramatic” (Gibson, 2012, p. 180).

Table 2. Strengths and Weaknesses of the Canadian Environmental Assessment Act, 1995

| Weaknesses | Strengths |
|--|--|
| Restrictive definition of environment (focused on biophysical effects only) and narrow scope of environmental considerations to be addressed | Promotes examination of “alternatives to” a type of project and “alternative means” to carry out a project, and the needs for the proposed project |
| Focused mainly on mitigating negative environmental effects | Covered most projects within the federal mandate |
| Exclusive focus on projects (no openings to strategic environmental assessment) | Opportunities for public participation and participant funding |
| Sometimes late triggering of the Act (i.e., environmental assessment begins late in the project planning/design process) | Clearly defined streams for major and minor undertakings |
| Examination of project’s purposes and alternatives not mandatory | Required attention to cumulative effects |
| Ineffective mechanisms to ensure adequate follow-up, monitoring and enforcement | Could be used to ensure a comprehensive and sustainability-based approach |

Note. Adapted from Gibson (2012).

It has been argued that the overall trend in the scholarly field of environmental assessment has been one of gradually expanded application, scope, openness, understanding and ambition (Bond, Morrison-Saunders & Pope, 2012; Gibson, 2012; Gibson, Hassan, Holtz, Tansey & Whitelaw, 2005). It is a fact that resistance to environmental assessment obligations has always been present, either by proponents of a project who fear delayed approvals and increased cost or by government authorities who fear greater scrutiny and new obligations from an inherently more open, transparent, and participatory process. Pressures for a reduced role of environmental assessment in development approvals has grown in recent years, especially when governments look to stimulate economic growth and create jobs in response to economic recession (Morgan, 2012). In Canada, this continued pressure resulted in substantial changes made to the CEAA in 2012 in order to streamline the federal environmental assessment regime already in place. Presented as a means of ensuring more timely decisions and efficient environmental assessments, the new Act in effect drastically reduces the number of projects that undergo environmental assessments. More than 95% of projects that required an environmental assessment under the old Act will now be exempt from it (which represents more than 6,000 assessments if we take the year 2010 to 2011 as reference). In addition, almost 3,000 ongoing environmental assessments were cancelled – including more than 600 involving fossil fuel energy and more than 200 involving a pipeline – immediately after the Act came into force in July 2012 (CEAA, 2012b).

From an Aboriginal perspective, the streamlining changes to the CEAA 1995 have substantial implications, especially in terms of how effectively Aboriginal people can participate in the environmental assessment and review process of new undertakings that may affect their traditional

lands. The drastic reduction in the number of projects that undergo an environmental assessment in turn greatly reduces opportunities for Aboriginal involvement. It has been suggested that the implemented changes are so drastic that the Canadian federal environmental assessment regime can no longer be considered environmental assessment per se; the new federal environmental assessment process will be, for the most part, a process of gathering information rather than “a true planning process that engages governments and the public [including Aboriginal peoples] in the early stages of project planning and design” (Doelle, 2012, p.8). Indeed, shortened timeline requirements under CEAA 2012 – a maximum of 365 days for environmental assessments by the Canadian Environmental Assessment Agency, and a maximum of 24 months for a review panel environmental assessment (Walls, 2012) – will make it more difficult for remote and/or isolated Aboriginal communities to fully participate in the environmental assessment process due to logistical constraints.

Recent Developments in Canadian Environmental Assessment Legislation and Other Relevant Policy

The process through which the CEAA 2012 was introduced has been highly criticized for not having preliminary proposals and for being pushed too quickly through the legislative process with no debate about the implications of proposed changes (see for example Doelle, 2012; Gailus, 2012; Gage, 2012; Gibson, 2012; Kennedy, 2012; Russell, 2012). The CEAA 2012 was passed as part of the 2012 Budget Implementation Bill, Bill C-38, that brought changes to legislation largely unrelated to the budget itself, in only two months. In contrast, it took years to consult and draft the CEAA 1995, and well over two years to guide it through Parliament in the 1990s (Doelle, 2012). Curiously, it was also a Conservative federal government who passed the CEAA 1995 into law, accepting more than 100 amendments proposed during debate and review of CEAA 1995; on the other hand, it was a very different economic time.

In 2009, a briefing document leaked to the press brought forth the first sign that the government was planning to make substantial changes to the federal environmental assessment system in Canada. The document announced governmental intentions to “streamline” the federal environmental assessment regime by focusing on reducing duplication and improving efficiency in the federal environmental assessment process (CEAA, 2009; Gibson, 2012). However, the proposed changes listed in the briefing document were only made known after the current government had a governing majority (after the 2011 election). The government used a 400-page omnibus budget bill, which was rammed through Parliament in marathon sittings to ensure minimal openings for effective opposition (Doelle, 2012; Russell, 2012). In fact, all proposed amendments to Bill C-38 were rejected and, as a result, no changes were made during the reading and review stages of the proposed omnibus budget bill, an unprecedented situation in Parliamentary deliberations. In addition to repealing the CEAA 1995, the omnibus budget bill also brought sweeping changes to more than 70 different legislative pieces, including the Fisheries Act and the Species at Risk Act. Once approved, Bill C-38 became the Jobs, Growth and Long-term Prosperity Act (2012), which has major implications for when and how environmental assessments are conducted in Canada.

Not long after Bill C-38 passed through Parliament and CEAA 2012 came into force, the Canadian government proposed a second omnibus budget bill, Bill C-45, presented on October 18, 2012, which once again, introduced major changes to legislation (more than 60 different bills were affected). Bill C-

45, now known as the Jobs and Growth Act (2012), was passed and received royal assent on December 14, 2012 (Government of Canada, 2012). Once again, it took only two months to rush the massive omnibus budget bill through the legislative process (Government of Canada, 2012). Further changes were introduced to the Fisheries Act (1985), and the Navigable Waters Protection Act (NWP, 1985) (now known as the Navigation Protection Act) (Abouchar & Vince, 2012). Implications for Aboriginal peoples with respect to environmental assessment due to changes in these two acts are substantial.

The second phase of changes to the Fishery Act are controversial: the act no longer protects the fish habitat per se; rather, it oversees fisheries, including commercial, recreational, and Aboriginal (Abouchar & Vince, 2012). Furthermore, the definition of “Aboriginal fisheries” in Bill C-38 focused on fishing for ceremonial purposes; the definition in Bill C-45 has been altered to include fishing “for the purposes set out in a land claims agreement entered into with the Aboriginal organization” (Abouchar & Vince, 2012, p. 80). Potential implications remain to be seen, but, as has been pointed out by Abouchar and Vince (2012), further controversy is expected:

Who defines an Aboriginal fishery? How will the proposed definition impact Treaty and Aboriginal rights? Has the Crown adequately consulted Aboriginal people regarding impacts this revision may have on Aboriginal and Treaty rights? (p. 80)

Prior to amendments made to the NWP, the federal government would have been involved in any project on a waterway in Canada through an environmental assessment obligation (CEAA, 1992). Bill C-45 resulted in a reduction in the scope of waterways covered under the NWP and the federal government’s involvement in the environmental assessment process has been dramatically reduced. Abouchar and Vince (2012) have calculated that the new Navigation Protection Act will apply “to just 100 lakes and coastal areas and 62 major rivers from among millions crisscrossing Canada” (p. 80). Because the Canadian federal government’s revised environmental regulatory approach encompasses less of the environment (Abouchar & Vince, 2012), there will be a significant effect on Aboriginal people since most waterways and waterbodies in Canada, which are the lifeblood of Aboriginal culture and identity, are no longer included in the environmental assessment process.

Resource Development and Aboriginal Funding Cuts

Increasingly, resource development and related environmental assessments are affecting Aboriginal homelands in Canada, especially in northern parts of the country (McEachren, Whitelaw, McCarthy & Tsuji, 2011; Tsuji, McCarthy, Whitelaw & McEachren, 2011; Whitelaw, McCarthy & Tsuji, 2009). According to the Canada Economic Action Plan (2012), the current federal government wants to “unleash Canada’s natural resource potential” through Responsible Resource Development and by supporting more than 600 major energy and mining projects over the next decade (Canada Economic Action Plan, 2012). The manner in which resource development is now being proposed has led many critics to call it “irresponsible” resource development, which prioritizes rapid resource extraction while reducing environmental safeguards (see for example Gailus, 2012). The plan aims to attract around \$650 billion in investment to “quickly open up Canada’s oilsands, gas reserves and mining sectors to the world, making it easier for corporations to extract natural resources as long as they do it responsibly” (Scofield, 2012, p.2). How the term “responsibly” is interpreted and applied is key, especially in the way that Aboriginal peoples will participate in the decision-making process.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) is considered to be a global standard for Aboriginal rights. Originally, Canada was one of only four countries (Canada, USA, Australia, and New Zealand) to vote against the UN Declaration when it was adopted by the UN General Assembly in 2007. In the three years following its adoption, the Canadian government aggressively campaigned against the UN Declaration, although it was finally endorsed by Canada in 2010. Professor James Anaya, the UN Special Rapporteur on the rights of Indigenous peoples, has welcomed the recent statement of support by the Canadian government mentioning that “opposition to the Declaration [is] a thing of the past” (United Nations, 2011, p.5). However, he further highlights that the outstanding challenge now is to implement the Declaration’s provisions through concerted efforts at both the domestic and international levels (United Nations, 2011).

The UN Declaration includes a number of articles that recognize the need for a dominant state to respect and promote the rights of its Aboriginal peoples as affirmed in treaties and agreements, including how Aboriginals participate in decision-making processes that affect their traditional lands and livelihoods (UNDRIP, 2007). The concept of free, prior, and informed consent promoted by the United Nations is of paramount importance in terms of decision-making. For example, article 18 mentions that,

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedure, as well as to maintain and develop their own indigenous decision-making institutions. (p. 6)

Moreover, article 32 (2) of the UN Declaration states:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water and other resources. (p. 9)

Historically, Aboriginal communities have been unable to effectively participate in the environmental assessment process of reviewing new undertakings, especially in the extractive industry (United Nations, 2011). The lack of capacity to participate takes many different forms, including scarcity of resources (i.e., money, expertise, time) to review technical documentation produced during the assessment process prior to consultation efforts. This is exacerbated by the fact that many Aboriginal communities are remote, fly-in communities, which poses an added logistical challenge to meaningful public participation (Gardner, Tsuji, McCarthy, Whitelaw & Tsuji, 2012; Kirchhoff, Isogai, Tsuji, McCarthy & Whitelaw, 2012). The result is a further barrier to proper engagement “as equals in consultation and negotiations”, and the perception by many Aboriginal communities that consultation efforts by the extractive industry are “a mere formality in order to expedite their activities within indigenous territories” (United Nations, 2011, p. 12).

To counteract the lack of opportunity for participation, the Canadian government provides funding that can be used not only to facilitate more meaningful Aboriginal participation, but also to increase organizational capacity of Aboriginal Representative Organizations to contribute to government policy and program development. Provision of funding is also intended to increase Aboriginal input to

legislation, policies and programs so that they are more reflective of Aboriginal perspectives as well as to improve relations between the Canadian federal government and Aboriginal peoples (Canadian Heritage, 2005). Aboriginal Representative Organizations are mandated by their memberships as representatives and advocates for the interests of members and are considered “the primary mechanisms through which the federal government has been able to collaborate on issues affecting Aboriginal peoples” (Aboriginal Affairs and Northern Development Canada [AANDC], 2010, p.1). In addition, First Nations Tribal Councils (a tribal council is made up of several First Nations) also have a funding program that is focused on providing core funding to tribal councils “for the delivery of programs and services to affiliated bands” (AANDC, 2012a, p.1). Services include economic development, financial management, community planning, band governance, and technical services, which in part assists constituent First Nations in matters related to the environmental assessment process (Bell, 2012).

However, in 2012, the federal government announced funding cuts to both Aboriginal Representative Organizations and Tribal Councils, arguing that the cuts were meant to make funding “more equitable among organizations across the country” (AANDC, 2012b). All national Aboriginal Representative Organizations had a 10% funding reduction while all regional Aboriginal Representative Organizations had either a 10% reduction or had funding capped at \$500,000. As a result, some Aboriginal Representative Organizations saw their funding cut by 80% (i.e., Assembly of Manitoba Chiefs). Similarly, there were huge cuts for Tribal Councils. Given that all Aboriginal Representative Organizations have had their funding reduced by at least 10%, it is difficult to understand the argument that the cuts were necessary to make funding more equitable. If this were the case, it would have meant that some organizations were getting too much while others were not getting enough. Reducing funding for everyone does not make the funding program more equitable; rather, it reduces Aboriginal capacity for participation even more. Therefore, it is clear that, in addition to the recent changes to the federal environmental assessment regime through the introduction of the CEAA 2012, there are a number of other government initiatives that further weaken Aboriginal capacity to effectively participate in resource development review processes including environmental assessment.

Discussion and Conclusions

The CEAA 2012 is solely focused on mitigation of adverse effects, with no mention made of enhancing positive effects (a characteristic of more advanced environmental assessment regimes and championed by environmental assessment experts). What is most astonishing from an academic perspective is that all changes in the CEAA 2012 appear to go counter to what is suggested in the international literature as essential requirements for effective environmental assessments, following the principles for better or best practices (see for example International Association for Impact Assessment [IAIA] & Institute for Environmental Assessment [IEA], 1999).

Environmental assessment has been one of the most important instruments to provide a venue for meaningful public participation (Booth & Skelton, 2011; Diduck, Sinclair, Pratap & Hostetler, 2007). Streamlined environmental assessment regimes such as CEAA 2012 exempt more undertakings from environmental review, narrow the range of waterways and water bodies that would necessitate an environment assessment, and set shortened timelines for assessments – thereby drastically reducing opportunities for participation by Aboriginal communities in Canada – which has daunting implications for the concept of free, prior, and informed consent promoted by the United Nations (UNDRIP, 2007).

In addition, the cumulative impact of all exempted projects will now be overlooked, which is counter to the Aboriginal worldview of the environment.

From an Aboriginal perspective, the changes introduced with the CEAA 2012, followed by a number of other recent government initiatives, further weaken Aboriginal Peoples' capacity to participate in the resource development review process of undertakings that affect their traditional lands. The result is the silencing of the people who are most affected by resource development. Given Canada's unique relationship with its Aboriginal people, governed by Aboriginal and treaty rights that are constitutionally entrenched, there is an obligation for responsible development that involves free, prior, and informed consent. One way to ensure responsible development is the inclusion of strategic (or regional) environmental assessment (SEA) as a vital part of the EA regime. SEA has the potential to serve as a venue through which assessments can be achieved in a timely, effective and efficient way, particularly in Northern Ontario.

SEA has emerged as a promising means of dealing directly with strategic issues in a way that has the advantages of project EA processes (e.g., integration of environmental concerns in planning and decision making, a more transparent, open, and participative process, etc.), but also has the necessary scope and mandate to influence higher-level decisions such as plans or programmes that set the stage for subsequent projects. Moreover, SEA has the potential to facilitate greater transparency and more effective public involvement at the strategic level. As such, SEA could serve as a means for Aboriginal peoples to participate and influence strategic initiatives that shape and guide project-level assessment and decisions and provide a mechanism through which Aboriginal peoples could influence the kinds of projects and the pace of development that are going to happen on their traditional lands (rather than just receiving the details after projects have already been considered).

Lastly, recent budget cuts to Aboriginal Representative Organizations and Tribal Councils further exacerbate the potential negative implications for Aboriginal peoples as it relates to resource development and capacity to participate in a meaningful way in the environmental assessment process. Indeed, the introduction of Bills C-38 and C-45 and their impact on so many pieces of legislation (e.g., Fisheries Act, Navigable Waters Protection Act, Indian Act) has been seen as an assault on Indigenous sovereignty and the protection of land and water; so much so, that a grassroots Aboriginal movement called "Idle No More" has emerged and gained momentum in an unprecedented way in Canada in response to recent changes (IdleNoMore, 2012).

Clearly, when assessing the impact of the CEAA 2012, one must look beyond the Act itself and take into account other pieces of policy to see the true effects on Aboriginal people. We suspect a similar situation may exist in other countries: a situation whereby environmental assessment processes and Aboriginal people are currently viewed through a single piece of legislation, but should actually be evaluated on a suite of policy pieces. Further research is called for, perhaps through the use of case studies of Aboriginal groups across Canada, in order to evaluate and demonstrate in more detail the true implications of the numerous recent legislation changes introduced through Bills C-38 and C-45.

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