

# **PUBLIC SERVICES, PUBLIC CONTROL AND THE *AIT***

Jane Stinson

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I WOULD FIRST LIKE TO THANK the organizers for the opportunity to come and speak to this conference. I appreciate the effort to ensure that there is a diversity of views expressed here because trade agreements, including this one on internal trade, have a profound impact on our economy, on our social programs, on labour standards, on environmental protection, on consumer protection, and much, much more. Trade agreements speak to the values of what we want to see our country look like. Therefore it is absolutely essential that there be full and informed public debate before commitments are made, agreements are signed, especially those that will have the effect of constraining our public policy options.

The union that I work for, the Canadian Union of Public Employees, has had a very active interest in the *AIT* since its inception. CUPE, for those of you who don't know, is Canada's largest trade union. We have half a million members who are employed in a broad range of public services. Our members are primarily concentrated in the so-called MASH sector, working for municipalities, academic institutions such as universities, colleges, and school boards, as well as health and social service agencies. As well, we have members who work in the energy sector, in particular in some provincial hydro facilities and in local public utility commissions. We also have members who work in the airline industry as flight attendants, in the communications industry, particularly in Québec in the cable industry. In other words, CUPE is everywhere, and as a result we have a broad range of concerns about what is happening with public policy issues.

Given our concentration in the MASH sector, we have been especially concerned about the impact of the *AIT*, and in particular about how it may contribute to privatizing public services. Because in our view, which is supported by others, privatizing public services is neither efficient, nor equitable. In fact, there is a growing body of evidence that the market is extremely inefficient in delivering public services, and it fails miserably when it comes to issues of distribution. Take income for example. One only needs to look at the US as evidence of this. But probably the best known example is healthcare. When we compare Canadian and American healthcare systems, we see an American system which is largely a market model, and is far more costly than the efficient and integrated public delivery of healthcare in this country, Canada. As well there are huge gaps in terms of coverage in healthcare in the US by relying on a primarily market model.

When one looks at difference in income distribution between the two countries, we see the role that social programs, and public programs, including regional economic development programs, have played in Canada. They have been very important in terms of narrowing differences in income, compared to our neighbours to the south. It's clear that our social programs are social equalizers that are important to maintain in Canada.

When the *AIT* was first proposed our union, and number of others, expressed concerns about it. I think it's useful for us to remember these. They haven't been raised much so far in the context of this discussion, partly maybe because the issues now are focussed very much on questions of labour mobility. But I do think we need to step back and consider the broader implications of this agreement, and remind ourselves of them.

Central to the concerns we raised were governance issues – that the *AIT* transfers decision-making in key areas away from elected governments to another body which is not directly, democratically accountable. This means a loss of local autonomy, local control and accountability. As well, we argued that the *AIT* makes local governments vulnerable to international trade rules, particularly NAFTA, when yet local governments were specifically not part of NAFTA originally. We were concerned that local governments would be prevented from making purchasing decisions that benefit the local economy because these would be seen as barriers to trade, despite fulfilling other important policy objectives. Such an effect would prohibit local governments from being able to create economic opportunities for people in a region. It could have the effect of undermining community support for local public institutions because they are not seen as being responsive or reflective of the local community. It would also undermine a local tax base that is so important to support public programs.

A central concern then and now is that the goals of liberalizing and removing trade barriers are really about privatizing public services and giving a competitive advantage to larger companies, particularly based in the United States.

These concerns caused us to commission two legal opinions in the earlier stages of the *AIT* to call attention to the seriousness of these matters. The first opinion was released in 1996 by the Canadian Health Coalition. It was done by Barry Appleton, and it found that the proposal to take health and social services off the list of the excluded services in the *AIT*, would make those services vulnerable to NAFTA rules. It may give our NAFTA partners the right to deliver health and social services, since NAFTA says the US and Mexico providers get the best treatment the Canadian service providers get. And it also found extending procurement rules to the MASH sector for health and social services would result in similar concerns for the protection of our social safety net.

I think these are very important points to remember. It may be true that

we haven't seen much evidence yet, but we are in an environment now where I think we are seeing much more aggressive action on the part of corporations to make use of the rules that they are provided with under NAFTA. We are seeing now, more and more investor-state disputes that challenge the right of governments to provide services, and where corporations are demanding huge compensation.

The second opinion that was commissioned by Professor Bryan Schwartz also called attention to this NAFTA chain reaction. He found that lifting the exemption on health and social services would cause an unintended chain reaction on other trade agreements, causing other trade agreements to come into play. And I think one of the very important things about that decision was the recognition that Canadians and their governments have given a high priority to non-market values in this sector. That is something we have to keep in mind: What values we want to continue to have and to have reflected in our political and economic policies.

It is extremely important to maintain the exclusion of health and social services from the *AIT*. In fact health, education, and social services should be completely excluded from the *Agreement* in our view and not just from the procurement provisions. These sectors of the economy should not be ruled by the market and commercial interests. Because inevitably it seems in today's context, in today's era, commercial interests are more dominant and will too often override our human concerns, our human values.

Commercialization is antithetical to the provision of public services. It brings a different framework that is not conducive to the social goals of public services. One can see this in the changes that have occurred in homecare in Ontario as we've seen the development of CCACs - Community Care Access Centres. The advantage of this model is in bringing health and social services together and coordinating them. The problem though is the requirement for competitive tendering, where service providers must regularly bid to renew service delivery contracts. This leads to tremendous turnover of personnel, in a service where continuity of care is important. As well, commercialization introduces a need to break the service down into its component parts in order to have measurable outcomes. A recent analysis of how homecare is evaluated under the Ontario CCAC model, found that somehow care had dropped out of the picture in measuring homecare. Caring is more intangible and harder to measure than specific actions like cleaning or bathing. In an effort to have quantifiable, measurable outcomes, the values of caring were not being taken into account. Because the primary concern became a commercial one - how to evaluate, how to have measurable outcomes - which were not appropriate in that context.

In the same way that I think we need to work against recasting homecare into a series of measurable outcomes that may have little to do with

care, I think we need to work against recasting important public policy issues as only trade issues. Legitimate government policies, such as regional economic development policies, environmental protection policies, employment policies and more, should not be seen just as trade issues. They are more important than that. And the danger is that once we start treating everything as a trade policy issue, the original purpose of that policy can be subordinated to the pressures of liberalized trade. Labour mobility might be one example of this. I understand that a number of the labour mobility issues have been addressed through the *AIT* forum but there are some that are still outstanding, and no doubt they are outstanding because there are complex issues involved. It's most important that we actually have a way to look at what is underlying the disputes and deal with the underlying issues and not simply try and deal with it or override it as a barrier to trade that must be overcome. If for example, I think about the labour mobility issue involved in construction trades between Québec and Ontario, this dispute is not just one of labour mobility; the right of workers to work in one province or the other. It is really a challenge about wanting to bring non-union construction workers from Ontario to work in the province of Québec. So understandably this is a major conflict because this dispute challenges a well established tradition of unionized construction work in the province of Quebec. One that was fought for by many people which they are not wanting to give up. It's a different standard, it's a different culture and one that should be respected.

So how should we treat these differences when we are trying to promote an internal trade agreement? It's important that there continue to be scope to allow for and accommodate differences and diversity in policy approaches. One size can't fit all in this country. It is a vast country with huge differences from coast to coast. It is unrealistic to think that the same economic policies will apply and meet the same needs across the country. And there is a fundamental question of democracy and accountability. Provincial governments are charged with developing rules and laws that are responsive to the needs and desires of their residents. If they don't, the residents have the right to vote them out of office and elect another government that they think will better meet their needs, and move in the direction that they want. It's true that economic and social needs as well as cultural needs vary tremendously across this country, so understandably there are policy differences. It is crucial that we not just see these differences as barriers to trade, because by just casting the debate as one on trade barriers, it diverts attention from the reason why specific government regulations are there in the first place.

In many cases the fundamental issues in this debate about internal trade are not principally issues of trade. Rather, they are about public governance issues. There are about the trade-off between diversity and har-

monization of policies. There are about the role of government in shaping economic development and direction. And it's important that we pay attention to those underlying issues. To reduce these very complicated issues and reframe them simply as trade barriers really does muddy the water. We need to move beyond reducing issues to being trade barriers in order to unpack what is contentious in trade disputes and deal with the underlying issues. This is one reason why it's inappropriate for the dispute resolution process in the *AIT* to move to a simple majority vote that makes decisions binding on all the parties. I think it is fundamentally undemocratic, because it means that a province that has the support of its citizens can't choose a different path. It can't choose a different policy option, even if that's what's really needed in that region. It can't respond to the unique needs in its province. So what's wrong with allowing a province to opt out under certain circumstances or least having that as a possibility? In fact, the possibility of having a province opt out could be an important factor in bringing about consensus between the parties. And it is much more respectful of the differences in the democratic process that we need to maintain in this country.

If there is a genuine interest in democratizing the process surrounding trade agreements and this one in particular, I think there has to be more transparency about it. It's very interesting to me that this trade agreement has not hit the public radar. There is huge interest in trade agreements in Canada and yet this one is a sleeper. It's very curious. There needs to be more done to talk about it publicly and ensure that Canadians understand the implications. Take for example the energy chapter, of which we have heard a number of references to in this conference. But nothing is public. And I'm not even talking about the text. The goals aren't public. Surely this is important enough to merit broad public discussion. It is a huge issue of importance to Canadians. When we live in a climate as cold as ours, energy takes on a particular significance.

In terms of consumer protection there is much reason to be concerned if the goal of the energy chapter of the *AIT* is deregulation, given the recent experience in Alberta. Is this energy chapter about trying to create a framework to support a continental energy pact? If so, it's important that there be public debate and discussion about it. Or is this agreement something that is going to strengthen east-west trade in energy and help to develop a stronger domestic energy source and market? I think the people's summit in Québec in April and the massive demonstration in Québec that protested the secrecy and the substance of the FTAA, showed that Canadians are very concerned about trade agreements that our governments are signing. And that we want to know more about what's in them, and what the implications are. We don't want our rights traded away - especially without our knowledge.

In closing I want to leave you with a few final thoughts. One deals with labour mobility since it has been a major issue in the discussions here. I think it is important to understand what may be underlying some of the labour mobility issues and we need to unpack and look at the assumptions. What gives rise to the concern for greater labour mobility in this country? Is it that workers have to follow jobs, to chase jobs around the country because they can't expect to have a job in their local community? Is that why labour mobility is so important? If so, we need to address whether or not workers should have the right to be able to find employment within their community and not be forced to travel around the country in search of work. Is it because changes in unemployment insurance have made it more difficult to stay and workers are therefore forced to leave? Is labour mobility an issue because the conditions of work are such that it's driving people out of the field, which is the case in healthcare. If you talk to any healthcare worker, or if you've had anyone in the hospital recently, you'll know - people are run off their feet in healthcare. And the move to privatized homecare has meant that you have registered nurses who are working for not much more than minimum wage. It's shocking! No wonder they are leaving the country! No wonder they are deciding to get out of this! Because those are the conditions under which they are being forced to work. Those are the competitive pressures that international and other trade agreements can bring to bear. And so we have to look at the conditions that gives rise to a need for labour mobility.

Finally, it is crucial to be mindful of how the *AIT* fits into the broader framework of international trade agreements. Because these international trade agreements are far more ambitious and extensive now than when the *AIT* was first negotiated. We now have the GATS - the General Agreement on Trade in Services - which seeks to open up new international markets in services for multinational corporations. It puts public services at risk by opening up public sector markets to allow private companies to bid on and make profit in the delivery of those services. That is the new context for the Agreement on Internal Trade. So we have to be very mindful of the implications and the extent to which the *AIT* can undermine or help to protect fundamental Canadian values, which I think are about more economic and social justice than our neighbours to the south.

Thank you.