

# opinion

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## CLIMATE CHANGE

# A truly sustainable world

International agreements, like Paris, cannot be enforced in same sense as domestic law

BY ADAM FENECH  
GUEST OPINION

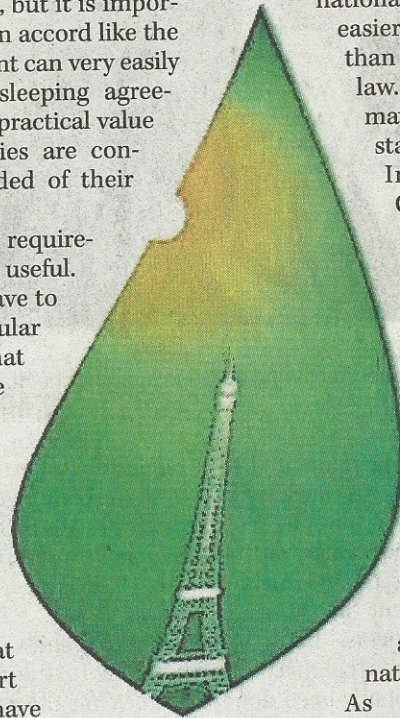
I have discussed with colleagues as to whether we should cheer or jeer the Paris Agreement signed this past weekend. Many were disappointed that a global carbon tax or some carbon pricing was not adopted especially given the political opportunity available since oil and gas prices are quite low at the moment. Discussions focused on whether to support a less satisfactory agreement, or hold out for something stronger, and it soon led to enforceability.

International agreements like the Paris Agreement cannot be enforced in the same sense as domestic law. Only rarely can countries be compelled to perform their legal obligations. There is a procedure for “going to court” in international law, which involves the International Court of Justice at the Hague, but these cases are rare, primarily because the results are seldom satisfactory. Greater attention has been given to developing non-enforceable techniques which, in practice, can be as effective a means of persuading countries to comply with their international obligations.

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plementation of the Paris Agreement can ensure that it stays at the forefront of attention. It may sound obvious, but it is important because an accord like the Paris Agreement can very easily turn into a “sleeping agreement” of little practical value unless countries are constantly reminded of their obligations.

Reporting requirements are also useful. If countries have to submit to regular reports on what they have done to meet the provisions of the Paris Agreement, they may prefer to comply with it rather than have to report that they have done nothing.



The Paris Agreement will be implemented in Canada by national legislation, and national law is much easier to enforce than international law. Some groups may have no standing in the International Court of Justice but may, if the national laws permit it, be able to force its government to comply with an international agreement by bringing an action in its national courts.

As University of Toronto profes-

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sor John Robinson so eloquently argued, “The power of a Paris agreement is not its (non-existent) enforceability, but the huge symbolic and political agenda and momentum it creates. Political expectations will be raised. A whole suite of activities will be set in place in different countries around the world. These activities will create momentum, which if sustained, can start to shift development pathways. And the legitimacy such an agreement will give to domestic efforts in countries around the world, from government policy-making, to private sector initiatives, to NGO activities, is very important. So to my mind it is more important to have some sort of agreement that is likely to create such momentum than to make sure the agreement is strong enough to reflect all our aspirations today.”

Robinson continued that “we should recognize that Paris can

never be more than a signpost on the way. International agreements are only a part of the puzzle. The really hard work that needs to be done will occur at the national level and below. An international agreement can provide a positive context and very useful momentum for such efforts. And no such agreement can substitute for the huge, and much more local, efforts that must be undertaken if we are to realize the challenge that climate change poses to us: to create a truly sustainable world.”

Prime Minister Justin Trudeau has promised to meet with the Canadian premiers within the next 90 days to discuss implementing the Paris agreement in Canada.

Dr. Adam Fenech, PhD is associate professor, UPEI school of business, and director of UPEI's Climate Research Lab. He attended the Paris climate summit.

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