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INSIDE POLICY

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Can we live without NAFTA?

The preeminence of the US and the perils of seeking new trade horizons

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Brian Lee Crowley, Managing Director
David Watson, Managing Editor and Communications Director
David McDonough, Deputy Editor

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For advertising information, please email: david.watson@macdonaldlaurier.ca

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From the editors

MLI's 2018 Canada-US dinner was a tremendous success. It could not have been timelier, given the ongoing negotiations on NAFTA that have raised concerns on the future of this agreement. US Congressman **Pete Sessions**, one of the headliners at this event, was unable to use his speaking notes at the dinner, so we are pleased to feature his written address here.

The future of NAFTA is also the subject of other articles. Senior Fellow **Stephen Blank** and **Monica Gattinger** remind us that Canada-US relations go far beyond any trade deal. In separate articles, Munk Senior Fellows **Duanjie Chen** and **Philip Cross** look at the proposed global alternatives and agree that significant trade diversification beyond North America is a dubious proposition.

China is often represented as a potential replacement market. Yet, as **Andrew Pickford** notes, Australia's experience with China shows the possible dangers associated with such an outcome. Instead, it might be prudent to look to countries like Taiwan with more similar democratic systems and outlooks – a point raised by **Dean Karalekas**.

India also represents an important emerging economic market. **Samir Saran** and Munk Senior Fellow **Shuvaloy Majumdar** make the case that Canada would do well to strengthen ties with the South Asian giant. Sadly, as **Rupa Subramanya** notes, Trudeau's recent trip to India has largely failed to do so.

Even as Canada looks for economic opportunities abroad, Senior Fellow **Marcus Kolga** reminds us that we can take a leadership role in dealing with hostile countries like Vladimir Putin's Russia.

Canada also needs to look closer to home on its own economic situation – one that its recently released federal budget has done little to help, as shown by Munk Senior Fellows **Sean Speer** and **Philip Cross**.

Carol Anne Hilton also points to the value of economically empowering Indigenous peoples in Canada. The Indigenous economy is currently valued at $32 billion, and could grow further through the resource economy, including interprovincial transport projects. These come under the authority of the federal government – a point reiterated by **Dwight Newman** in commenting on the Alberta-BC pipeline dispute.

Hugh Stephens has offered a useful reminder that blocking offshore pirate websites is consistent with "net neutrality." Munk Senior Fellow **Richard Owens** has also contributed two articles exploring intellectual property rights – on proposed changes to the Patented Medicine Prices Review Board, and the success of courts in upholding IP rights.

Of course, when it comes to criminal justice reform, more work still needs to be done – that's the conclusion of Munk Senior Fellow **Benjamin Perrin** and **Richard Audas**, authors of MLI's *Justice Report Card*.

Finally, it is with great sadness that we conclude this issue with a statement by MLI Managing Director **Brian Lee Crowley** on the passing of a dear friend of the institute and this magazine, Stanley Hartt. He will be missed.

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NAFTA is not the whole game – but we treat it like it is

NAFTA should be seen as only a first step towards a stable foundation for continental collaboration and growth.

Stephen Blank
Monica Gattinger

President Trump has riveted all attention on NAFTA. Yet that is kind of "fake news" in and of itself, because NAFTA isn't the totality of the North American economic system – nor of Canada-US bilateral relations. Indeed, it's not even the most important issue in bilateral relations.

It is easy to forget that NAFTA wasn't the beginning of North America's integrated economic system. Rather, NAFTA was part of a deep restructuring of the North American economy underway since the mid-1980s. By the 1990s, deeply integrated supply chains linked production centres and distribution hubs across the continent. This was not just growth in trade in raw materials and finished goods among the three nations, but rather, a fundamental increase in cross-border movements of parts and components. The result is that we are not just trading partners – we make stuff together.

It is also easy to forget that our obsession with NAFTA did not begin with Trump. From the early NAFTA years, the fundamental problem has been the failure of the three governments to acknowledge that NAFTA – the trade agreement – was only one element of a North American reality, and only a first step toward achieving a stable foundation for continental collaboration and growth.

But Ottawa, Washington, and Mexico City continued to say that we were trading partners, nothing more, and little was accomplished (or even attempted) to create a wider vision of North America and build other institutions that would realize the vision.[1] Calls to renegotiate NAFTA after 9/11 led nowhere, and the collapse of efforts to enhance regulatory and security cooperation in 2009 revealed that leaders were not prepared to confront wild accusations that this was a step toward a "North American Union."

1 The work of the US-Canada Regulatory Cooperation Council has been more successful but still modest – bilateral rather than trilateral and focused essentially on making the border more efficient and secure rather than on the issues coming at us.

With the exception of the weakly articulated and underfunded Labor and Environment Commissions, NAFTA has been basically the only on-going game in town.

So where are we today?

First, at time of writing, we are still not certain what the American side (or President Trump) will actually do: compromise, redraft, pull out? We are also not quite certain what President Trump can do: can the President simply opt out of NAFTA on his own, without any Congressional involvement? We also don't know what might occur after whatever happens: revert to the Canada-US free trade agreement (FTA)? Do World Trade Organization (WTO) rules kick in? Are we left with a zombie NAFTA?

Second, no matter what happens with the NAFTA negotiations, it's highly unlikely (admittedly not impossible) that moats and walls will be erected or that North America will break apart like a gigantic Antarctic ice crack. The most likely outcome will be that firms on both sides of the border with interests in the integrated North American economy will devise workarounds to deal with whatever cracks emerge.

Think of 9/11. We feared that the "thickened" border would lead firms to change their "just-in-time" strategies to "just-in-case," piling up huge inventories and relying less on integrated supply lines. In fact, most firms worked out ways to deal with the border. While perhaps slower or more expensive, it is notable that the volume of goods crossing the border have only increased since 9/11 and North America's integrated economies did not collapse.

Now, some firms may alter production and supply arrangements, and some may relocate altogether. But, barring the unlikely event of complete catastrophe, we can anticipate that – at least in the near and even medium term – life will go on pretty much as it has over the past several decades.

Third, and most importantly, Canada and the US face critical issues that are reshaping North America – and that were not part of NAFTA. These issues will dramatically alter the structure of North America's economies and how they perform in the coming years.

That being said, we have long viewed NAFTA as the single most important bridge linking our nations. And, since we have failed to create institutions directed at other dimensions of the relationship, the collapse of NAFTA may have much more powerful consequences than might have been the case.

> *NAFTA has long been out of date – even as a trade agreement.*

With rapidly increasing levels of digital and service trade, massive growth in cross border information flows, increasing application of AI and deep learning to everything from mobility to health, security and beyond, NAFTA has long been out of date – even as a trade agreement. It's a 20th century trade agreement (innovative for its time, to be sure) that could be a starting point for coping with 21st century demands.

Beyond trade, issues like energy must be viewed in continental terms. We all benefit from North America's deeply integrated oil, gas, and electricity systems. In our energy-rich environment, governments at all levels must develop energy policies that optimize availability, cost, reliability and sustainability for generations to come. Will we collaborate on developing the energy technologies, policy frameworks and game-changing innovations needed to do so – or will we drift into pointless competition and policy chaos?

Hanging over all of this is climate change. A changing climate does not stop at national borders. Both countries will need to determine how they reconcile the need to lower GHG emissions with their status as major oil and gas producers. Will they work together to develop oil and gas resources responsibly for domestic and global consumption while driving down GHG emissions and transitioning to lower carbon energy systems? Will they collaborate on adapting to climate change when it comes to severe weather events, changing sea levels and transformations in regional economies? We cannot discuss environmental threats as separate national issues. Yet we have given surprisingly little attention to building collaborative adaptation mechanisms for dealing with such issues.

Infrastructure also poses huge questions in both countries. Competitiveness requires efficient, safe, and sustainable road, rail, air, and water transport and logistics systems. Yet North Americans face a tremendous infrastructure crisis. Much of our production moves through what are single integrated systems – highways and railroads, pipelines and electric wires, the St Lawrence Seaway and the great Mississippi River system.

It is a crisis on two levels – the deterioration of the physical infrastructure and the failure to conceptualize what will be needed in coming years to ensure North American competitiveness in the 21st century. Both governments will have to decide whether to pump huge sums of money into existing infrastructure or to abandon threatened structures and build anew – or some combination of the two.

Last but not least, we face massive demographic changes – particularly aging populations – that will challenge economic

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Myth vs. fact on Canada's need for trade diversification

Despite concerns on NAFTA's future, Ottawa should be wary of pushing for trade diversification with China.

Duanjie Chen

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Canada has often been stereotyped for its "reliance" on the US economy. Even some decades ago in China, my Harvard-trained economics professor told us an old joke: When America sneezes, Canada catches a cold. That joke has long stuck with me, due not least to its humorous medical analogy to disease contagiousness.

But in today's reality, isn't it true that when America (or to a lesser degree China) sneezes, the whole world catches a cold? And because of America's economic size and diversity, and its free-market system, who doesn't envy our geographic proximity to the United States and the attendant economic benefits that cannot be matched by any other country farther away? Between that old joke and today's reality, there is a natural linkage, both geographically and historically, between economic regionalization and globalization.

Because we have grown so accustomed to smooth sailing with our American sibling, however, we easily panic when conditions south of the border go sideways. In addition to the usual economic downturns, recent examples of such troubling developments include the repeated fallout of the Keystone pipeline project under the Obama administration and the current worrisome NAFTA renegotiations forced upon us by President Trump.

These are the times when the age-old call for using policy to diversify Canada's trade sound more natural, or at least harmless. But the current rhetoric of using China as a counterweight to the Trump administration at the NAFTA renegotiation table has gone too far. It becomes imperative for us to defuse the myth of our urgent need for trade diversification.

In other words, our political leaders need to think logically and speak by the facts.

Fact One: Our close economic ties with America are rooted in our geographic proximity and supported by our shared belief in free-market capitalism, the rule of law, and democratic institutions. This is a blessing rather than curse, since our economic relationship with America is a perfect combination of being "godsend" and "man-made." Imagine for a moment that we were far away from the US, let's say across the Atlantic Ocean or even the Indian Ocean. And what if we shared a border with a centralized authoritarian regime that did not afford us an equal say at the negotiation table? Would we really be rejoicing at our good fortune? Or would we be alarmed by our proximity to a (not-so) good neighbour with which we share little in terms of values or beliefs?

Fact Two: Canada is not an outlier in terms of its trade diversification, if the concentration of its exports is measured at the regional rather than the country level, as argued by two trade economists, Eugene Beaulieu and Yang Song. More specifically, they pointed out the following:

- World trade is extremely regional in nature, with each region trading at least 50 percent within its own boundaries.

Geographic trade patterns are determined by the size and proximity of trading partners.

• In terms of its concentration of trade on a regional level, Canada (within the North American region) is even less concentrated than Australia (within the Asian region) and more diversified than many EU member states including Belgium, Netherlands, Austria, Norway, and Luxembourg.

• It is Canadian firms – and not governments – that undertake exports and imports. In that sense, the "all your eggs in one basket" argument is fallacious. Aggregate trade patterns reflect the decisions of thousands of firms and markets involving millions of people and are not conducted by countries. (See below for the obvious outlier on this point.)

Of course, the authors who arrived at these findings never meant to be anti-diversification, but they do say that Canada does not have a concentration problem. Policy initiatives may help, but only the decisions made by firms and consumers can lead to a substantial adjustment of trade, including trade diversification.

Fact Three: According to the latest report by Statistics Canada, our Canadian exports to the US were not concentrated in any specific state but were rather distributed across US states in a relatively uniform manner.

The implication of this fact is clear. Given the size and diversity of the American economy and the democratic topography of its state governorships, it is safe to predict that neither Mr. Trump nor any individual state could singlehandedly change the orientation of our trading structure with the 50 states. This prediction will be valid even if NAFTA renegotiations proceed along a longer and bumpier road than we would prefer.

Fact Four: The true outlier in the world of free trade is China.

As pointed out recently by David Lipton, the International Monetary Fund's deputy managing director, "China should be open to look at its own restrictions on trade and investment, which have generated criticism from some trading partners. It also means protecting intellectual property rights and reducing the distortions of industrial policy, overcapacity, and policies that favor state enterprises."

Lipton went further at Davos to urge the rest of the world to listen to the "legitimate" US complaints of "distortive" or "unfair" Chinese trade practices. Despite Trump's bombshell hurled into the international trading community, the rest of the world knows full well that only China is the intentional and systematic rule-breaker.

> *Only China is the intentional and systematic rule-breaker.*

It is therefore absurd to promote China as a counterweight to any of our rule-abiding trade partners.

Fact Five: Unlike China, politicians in both Canada and the US act in their perceived constituency's interests, and all of them can be voted out of office if their constituents disapprove of the way they handle or mishandle critical issues. This means that Trump's isolationist rhetoric and unpresidential mentality should not shake our confidence in America as our trustworthy and leading trade partner.

More specifically, Trump's performance on the Trans-Pacific Partnership (TPP) stands out. He pulled the US out of the TPP on the first day he entered the White House and then announced his possible accession to it a year later at Davos, perhaps after doing some reluctant soul-searching. Did not our Prime Minister Trudeau similarly disappoint and then rejoin with our other 10 TPP partners, albeit to a much lesser degree?

But that is democracy: In the free world, politicians are actors in a democratic theatre, and their audiences are always in disagreement but are normally versed in reasoning and persuasion. Trump, like Trudeau, has had to listen to his audience. If they don't, the electorate will let them know who is in the majority.

On NAFTA, therefore, we should not be overly worried because, in addition to the staunch defence of it by both Canada and Mexico, Americans from all walks of trade have been speaking up against Trump's misconceptions. A recent academic estimate also put the annual cost to America for leaving NAFTA at $50 billion. Trump the Business Man will not ignore that sum!

To conclude, let us look at the numbers:

Over the past two decades (1998-2017), despite the steady growth in the volume of our exports to the US by over 50 percent, the US share in our total exports has dropped by 7.5 percentage points (ppt), from 82.3 percent to 74.8 percent. This drop in the US share was more than offset by the total share increment among our other major exporting destinations: the EU region (up 2-ppt to 7.9 percent), China (up 3.7-ppt to 4.5 percent), Mexico (up 0.8-ppt to 1.7 percent), India (up 0.7-ppt to 0.8 percent), and the rest of the world (1-ppt, from almost nothing).

This is quite an achievement in terms of Canada's trade diversification. Of course, we should strive for greater trade expansion through deepening existing trade ties and exploring new ones. But lunging at the age-old siren call for trade diversification as an emergency counterweight to Trump and his antics – and doing so with a focus on expanding ties with the fundamentally protectionist China – is illogical, misconceived, and perilous.

Duanjie Chen *is a Munk Senior Fellow at MLI.*

Photo: Courtesy of MLI

Canada has a partner in the US Congress

In a speech at MLI's annual dinner, the Chair of the House Rules Committee outlined the role of Congress in ensuring a deal that works for all three countries in NAFTA.

Pete Sessions

As one of the world's leading democracies and a place where people may live in peace and freedom and prosperity under the rule of law, Canada is a crucial ally of the United States and among the world's most vital countries.

A few weeks ago, I had the great pleasure of sitting down in my Rules Committee office with the Canadian Ambassador to the United States, David MacNaughton, to discuss the US-Canada bilateral relationship and some of the issues that we currently face.

That morning, the Ambassador was gracious enough to spend an hour of his time discussing the ongoing NAFTA negotiations, Trade Promotion Authority and the role of the US Congress in America's trade policy, as well as our countries' joint efforts on security and intelligence sharing. On a lighter note, Ambassador MacNaughton also mentioned the Winter Olympic games and his hope that the US and Canada would meet again in the Hockey Gold Medal Game this year. He was quick to remind me that the last time our two nations met on that stage, Team Canada beat Team USA in overtime. Now Texans are known for two things – our confidence, and our lack of hockey knowledge, which means that while I don't know much about ice hockey, I was absolutely sure the United States would win gold this time. (As it happens, it was a rare occasion where neither team made the final.)

Sports aside, it was a very productive meeting and I look forward to again hosting Ambassador MacNaughton at the Rules Committee as we continue to jointly work on trade issues and further improve US-Canadian relations.

During the meeting, I was also struck by something the Ambassador mentioned about his family, specifically his grandfather, and I asked the Ambassador if I could share the following story.

As a US citizen originally born in the United States, Ambassador MacNaughton's

grandfather crossed our northern border in 1915 and enlisted in the Canadian Expeditionary Force to fight in World War One. As one of the roughly 40,000 Americans who served in the Canadian military during this time, he proudly fought in defence of our shared values of freedom, democracy, and liberty.

After three long years of service, sometimes serving side-by-side with soldiers from the American Expeditionary Forces, he returned to Canada and later settled in Hamilton to raise his family. The Ambassador's grandfather was a proud American-Canadian citizen whose grandson would one day rise to serve as Ambassador for his adopted country in the country of his birth.

I share this story because I believe it shows just how close the United States and Canada truly are. Canada has no greater friend, partner, or ally than the United States; and the United States has no closer friend, partner, or ally than Canada. The US-Canadian relationship is one that is grounded in our shared values; our desire to build a prosperous future for citizens on both sides of the border; and our common commitment to security and economic prosperity at home and abroad.

Today, we sit at a critically unique time between our two countries. Soon, decisions will be made that will greatly affect the United States, Canada, and our shared relationship.

In renegotiating NAFTA, we can choose one of two paths. We can either turn back the clock, and return to a time of strict protectionism and anti-trade policy. Or we can work to strengthen the bridges that unite us, accelerate shared economic growth, and promote mutually beneficial trade policies that Ronald Reagan would have been proud of.

I am a Ronald Reagan Republican. I believe in free trade for the same reasons President Reagan believed in free trade – good trade agreements help grow economies, lower prices for consumers, and create good-paying jobs.

Look no further than my home state of Texas, where trade has been at the cornerstone of our continued economic growth. In 2016 alone, thanks to NAFTA-based trade with Canada, Texas exported $832 million in goods north of the border and supported almost 460,000 jobs in the state – including 23,000 in my congressional district. NAFTA is so important to Texas that the American Enterprise Institute estimates that my state would lose over 150,000 jobs if the US were to withdraw from NAFTA.

In fact, Canada is the top destination for US exports, with the amount of goods and services travelling north almost doubling what we send to China, and vastly outweighing countries such as Japan, the UK, and South Korea.

Over the past year, I have been closely engaged with the Trump administration on trade issues and NAFTA. As Chairman of the House Rules Committee with jurisdiction over trade-related legislation, I have met with our Trade Representative Robert Lighthizer, Secretaries Ross and Perry, and my colleagues including Speaker Ryan and Chairmen Brady, Chabot, and Royce, to discuss how Congress can best guide, support, and most importantly provide feedback on the NAFTA renegotiation process.

We are in uncharted territory. We presently have a successful binding agreement with our second and third largest trading partners that the president wants to renegotiate. Absent the United States unilaterally withdrawing from NAFTA, if Canada and Mexico don't agree to any renegotiations, the existing agreement won't be changed. While it appears that the President has the unilateral ability to terminate international agreements, the explicit repeal of the statutory provisions that implement NAFTA would likely require congressional assent.

There is no question that the president is entitled to engage with our trading partners. Thus far, he's followed the appropriate process under Trade Promotion Authority, which is a partnership between Congress and the executive branch that empowers the executive to negotiate and implement trade agreements.

> *We can work to strengthen the bridges that unite us.*

On May 18, 2017, pursuant to TPA, the President sent Congress a 90-day notification of his intent to begin talks with Canada and Mexico to renegotiate NAFTA, and the US Trade Representative submitted detailed negotiating objectives 30 days prior to the start of negotiations on July 17. While these negotiations have not yet concluded, an agreement must be struck before Congress has the opportunity to consider it. After all, the Constitution gives Congress the authority to regulate trade with foreign nations, and Congress will play that constitutional role through this process.

There are some modifications to NAFTA that can be made unilaterally by the President under existing statutory authority, while other proclamations are subject to the requirements of TPA. In these instances, the President must strive to adhere to both general and specific negotiating objectives as outlined under TPA, which means for Congress to approve these changes, the President must follow our statutory guidelines as well as gain the consent of

In discussion at the MLI annual dinner, left to right: Frank McKenna, Former Canadian Ambassador to the US (moderator); Kelly Craft, US Ambassador to Canada; US Congressman Pete Sessions; Laura Dawson, MLI Munk Senior Fellow and Director of the Canada Institute; Frank Buckley, Scalia Law School Professor, author of *The Republic of Virtue*. Photo: Courtesy of MLI

our trading partners. If he were to follow these guidelines, which include a number of procedural requirements designed to ensure that Congress is notified in a timely manner of the administration's proposed changes to NAFTA, then Congress would consider a renegotiated NAFTA as agreed to by the three parties and would agree not to amend the negotiation. As the Chairman of the Rules Committee and a member of the House Advisory Group on Negotiations, it is my belief that Congress would be unlikely to support changes to NAFTA that are not satisfactory to Canada and Mexico.

Canada and Mexico have their own parliamentary processes for approving a renegotiated NAFTA. Under Canada's treaty process and practice, the text of the agreement must be tabled in the House of Commons for 21 days, and after that time the implementing legislation can be considered in Parliament. The House and Senate would debate and consider that language, but it is up to the cabinet to approve the decision to table the implementing language. Under Mexican law, NAFTA renegotiation would be treated like a treaty, which must be ratified by a simple majority of its Senate.

Ultimately, any update or change to US trade policy should be for the benefit of American trade agreements as a whole. It should not rest upon on one or two explicit areas of potential disagreement, or, even worse, seek to close markets, raise tariffs and prices, and hinder America's relationship with our partners.

Considering the completion of the sixth round of NAFTA talks, I look forward to continuing my work with the administration and sharing a message of free trade, shared opportunity, and stronger economic partnerships with our allies.

For the past two hundred and fifty years, Americans and Canadians have shared a common bond and a common border. As with any relationship between two brothers, there can be bumps in the road and issues that flare up. But, this is not what defines us or our relationship.

We are a common people who seek the same things; freedom, security, and economic prosperity. Personally, I will never forget the actions of Canadians on September 11, 2001, when your country so graciously opened its borders to thousands of Americans who had been stranded due to the attacks in New York, Washington, and Pennsylvania. In our time of need, Canada was there for the United States.

Finally, I look back to President Ronald Reagan and his early thoughts on a unique North American partnership. In 1979, as candidate for President, Reagan said: "We live on a continent whose three countries possess the assets to make it the strongest, most prosperous, and self-sufficient area on Earth. Within the borders of this North American continent are the food, resources, technology, and undeveloped territory which, properly managed, could dramatically improve the quality of life of all its inhabitants.

A developing closeness between the United States, Canada, and Mexico would serve notice on friends and foe alike that we are prepared for a long haul, looking outward again and confident of our future; that together we are going to create jobs, generate new fortunes of wealth for many, and provide a lasting legacy for the children of each of our countries."

This is what I truly believe when it comes to our relationship and the great potential it still has. Simply put, as long as our two countries continue to work together as brothers, the United States will continue to be here for our Canadian allies, and we will continue to grow what is one of the world's most successful and most important relationships.

Pete Sessions *is the US Congressman representing the 32nd District of Texas and Chairman of the House Committee on Rules.*

Canada's focus should be on NAFTA not overseas trade

Our future lies in finding our proper niche in the North American supply chain.

Philip Cross


iStock

President Trump's threatened duties on steel and aluminum increases the pressure on Canada to renegotiate NAFTA. The Trudeau government pretends there are alternatives to a failure of these talks such as the recently concluded deal with 10 Pacific countries and the start of negotiations with the Mercosur trading group in Latin America.

It is delusional to think there are substitutes for NAFTA in determining Canada's place in the international trading system. While more trade overseas is always welcome, we are fundamentally and inextricably part of the North American trading bloc and our relationship with the US will largely drive our future external trade. Our place in North American trade reflects both the rules governing trade and our ability to compete within those rules. Emphasizing progressive trade without an awareness of its costs worsens our competitiveness, which is the key determinant of our ability to successfully engage in trade. Negotiating trade deals while ignoring our cost structure is the ultimate bad trade strategy.

It is a misleading to say there are global supply chains. While raw materials such as crude oil and finished goods like smartphones are shipped around the world, producer supply chains tend to be highly regional. Three regions dominate the network of supply chains that trade in intermediate inputs; Europe, North America and East Asia, according to Richard Baldwin's analysis in *The Great Convergence*.

Each of the three main regions has wealthier countries where supply chains are designed and controlled and low wage countries that produce goods with less value-added. Western European producers, notably Germany, outsource to low wage countries in Eastern Europe. Richer Asian nations like Japan and Australia contract out parts of their production process to low wage countries like China and increasingly Vietnam and Thailand. The outsourcing is done to nearby countries and not overseas to save on the cost of moving people (notably those overseeing production), which is still high relative to the cost of moving goods.

> *We are fundamentally and inextricably part of the North American trading bloc.*

Canada's role in the North American supply chain has changed markedly over time, a reflection that cost competitiveness is as important as the rules governing trade. In the years after the original 1988 Free Trade Agreement with the US and before Mexico joined, Canada became the de facto low cost producer for the US. This is because our steadily declining exchange rate, which bottomed out at 63 cents (US), led to the rapid expansion of export industries producing cheap consumer goods in Canada. The exchange rate helped lower the cost of producing in Canada enough that not even the 1995 entry of Mexico into NAFTA slowed the growth of these industries in Canada, a risky bet that depended too much on a low cost structure and weak loonie.

Canada's place in the North American supply chain changed radically and for the worse when its cost structure began to rise rapidly after 2002 as the dollar returned to parity with the US greenback

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Australia provides a lesson on dangers of free trade with China

The Australia-PRC free trade experience has proven to be a troubling one to Canberra. Canada should take notice.

Andrew Pickford

iStock

In the pages of *Inside Policy*, there has been discussion of the potential for a bilateral trade agreement between Canada and the People's Republic of China (PRC), as well as the impact such an agreement may have on Ottawa. References to the Australia-PRC FTA experience and Canberra's response have been made. As of 2018, it has become clear that Australia's reliance on trade with the PRC is starting to have some significant implications on its ability to make strategic choices, with Beijing increasingly leveraging its economic power in ways which at times might conflict with Australia's national interest.

While Australia is an imperfect comparison to Canada, the extent to which Beijing has sought to influence decisions made in Canberra serves as a warning to those who expect a Canada-PRC trade agreement to manifest sans attached strings.

The PRC is now Australia's largest trade partner, with total merchandise trade now over AUD$157-billion. The China-Australia Free Trade Agreement (ChAFTA), which came into force on December 20, 2015, means that 96 percent of Australia's goods exports to China are eligible to enter duty-free or with preferential access. ChAFTA was negotiated at a time when bilateral trade had already reached a substantial level. This contrasts with the limited PRC-Canada trade.

The other key economic partner of Australia is the US. Two-way investment between the US and Australia is more than AUD$1.47 trillion. This is a nearly as large as Australia's GDP. The US is the largest foreign investor in Australia by a significant margin. Furthermore, through the Australia, New Zealand, United States Security Treaty (ANZUS), the two nations are security partners. The emerging tension between Australia's trade and security relationships, as they relate to the PRC and US respectively, has given rise to the notion of a "China Choice," which is predicated on a diminished Australia-US relationship in favour of a realignment towards Beijing. This choice is but one element of a broader debate within Australia about the future of its strategic relationship with the US, as economic and demographic trends shift power towards the Indo-Pacific.

The practice of the PRC of building influence through economic statecraft has been well documented and can most clearly be felt and observed among the nations surrounding the South China Sea. In the case of Australia, the desire by the PRC to influence domestic political processes has several drivers. Beijing perceives Australia as a US proxy and a potential weak link in the Western alliance and "Five Eyes" network. Until recently the PRC has sent extremely senior diplomats to Canberra, whose primary mandate appears to be to reinforce the notion that bilateral trade and economic relations have both commercial and political aspects. The commodity-focused trade of iron-ore, liquefied natural gas (LNG) and increasingly agriculture, has also been subject to Chinese political considerations, which while unstated in public comments, weighs on the minds of Australian decision makers.

The broader and more systematic focus of the PRC to influence Australian

political processes and public opinion should be viewed as a long-term effort that may already be paying dividends. In a public opinion poll conducted by the Lowy Institute, 36 percent of respondents identified China's foreign policies as a threat to the vital interests of Australia. Some 42 percent put the Presidency of Donald Trump in the same category. This could be partially attributed to the media commentary of the Trump administration, especially by the national broadcaster ABC, but it highlights the cumulative influence of the PRC's positioning as a peaceful benefactor of Australia's economy.

The first public indication of Chinese efforts to influence debate within Australia occurred during the 2008 Olympic torch relay through Canberra and Sydney. A large presence of pro-PRC government supporters clashing with Tibet and human rights campaigners, demonstrating the ability of the PRC to mobilize its nationals and the large Chinese diaspora. This also shone light on the influence held by the government of the PRC over Chinese language media in Australia.

Another key conduit for the PRC to expand influence is through the funding of academic institutions and programs. This can particularly be seen among the Confucius Institutes, which spread a positive and lightly pro-China image through language and cultural programs. In more targeted efforts, the PRC, either directly or through surrogates, funds academic programs and centres. The most striking example of this is the Australia China Relations Institute (ACRI) at the University of Technology, Sydney, led by former NSW Premier and Australian foreign minister Bob Carr. Academic critics on the left and right identified the ACRI as being close to the PRC embassy and operating as a "propaganda arm" for the PRC Communist Party.

Bob Carr, who is still involved in the Australian Labor Party (ALP), has influence over current members of parliament and exploits these connections to promote pro-PRC positions and expanded influence. Large PRC political donations to the ALP (as well as the centre-right Liberal Party) may be one reason for these actions. Such was the concern of the influence of PRC-donors on the political process that, in 2015, the head of the Australian Security Intelligence Organisation flagged this with the heads of the organizational arms of the three main political parties.

The Foreign Influence Transparency Scheme Bill was introduced in December 2017 and remains before parliament. This would ban foreign political donations; require a registry of those seeking to influence Australian politics on behalf of other nations; and expand the definition of espionage to include the "possession" of sensitive information. This legislation was introduced due to growing concerns by the intelligence community about the influence of Chinese government agents and political donations. Official PRC and local proxies reacted furiously, and bilateral relations have remained tense ever since.

> *PRC attempts to influence Australia's political system needed to be addressed.*

A 2017 ABC Four Corners-Fairfax investigation into PRC Communist Party links to the Australian political system raised these issues in a systematic manner. Based on an analysis of PRC actions, investments and diplomatic moves, it appears that there has been a concerted effort by the PRC to influence Australia's political system since at least 2000, with limited and less structured efforts beginning even earlier.

What is surprising for outside observers is the success of the PRC in influencing Australian defence and strategic policy. Two examples are worth highlighting. In 2009, then ALP Defence Minister Joel Fitzgibbon resigned, in part, after undeclared gifts, including a suit and flights, were received from a PRC-linked businesswoman. In 2017, Carr-aligned ALP Senator Sam Dastyari defended the PRC's policy in South China Sea, in defiance of ALP policy, while standing next to a wealthy Chinese businessman and ALP donor. Senator Dastyari would ultimately resign from parliament in early 2018. However, it became clear that the systematic attempts by the PRC to influence Australia's political system needed to be addressed.

At the strategic level, some within the governing Liberal Party have started to publicly signal concern about growing PRC influence in the region, including the South Pacific, Papua New Guinea and the broader Indo-Pacific region. Furthermore, the emergence of the quadrilateral – a US aligned grouping involving itself, Australia, Japan and India – and enhanced bilateral Australia-Japan strategic relations (likely Joint Forces Agreement) are part of the pushback against concerns over aggressive PRC expansion.

Despite earlier success in repositioning, there is a potential reversal of China's recent expansionary trends. Actions by the Trump administration in its first year slowed US strategic decline in the Western Pacific after a period of gradual concessions during the eight years of President Obama. With a growing economy, clearer defence focus on the broader Indo-Pacific, an ambitious *National Security Strategy* and a

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Closer ties with Taiwan are in Canada's interests

Canada should pursue economic opportunities with democratic, free market economies like Taiwan.

Dean Karalekas

In late January 2018, a Canadian parliamentary delegation led by the Honourable Bob Nault, PC, MP, visited Taiwan. President Tsai Ing-wen and several other government representatives met with the Canadian parliamentarians to discuss trade, and to express Taiwan's desire to be a part of Canada's resurrection of the Trans-Pacific Partnership. In addition to trade issues, the leaders discussed matters of security as well, including the unilateral imposition by the People's Republic of China (PRC) of the M503 air route: a move that puts the delicate state of cross-strait peace at risk.

As is the norm in such visits, the Taiwanese hosts were keen to showcase not just their country's economic attributes, but its values as well. The economic and trade ties between Taiwan and Canada are strong: according to the Government of Canada, Taiwan is Canada's 11th-largest trading partner, with merchandise trade in 2016 reaching $6.7 billion and Canadian exports rising 8.8 percent to $1.59 billion. Several Memoranda of Understanding have been signed, including most recently an Avoidance of Double Taxation Arrangement and one on Telecommunications Cooperation.

Taipei City, Taiwan (Photo: Remi Yuen/unsplash)

"As a country that promotes the rule of law and embraces free and open markets, Taiwan represents a golden opportunity for Canadian businesses to expand their trade and investment opportunities within the Asia-Pacific region," The Honourable Ed Fast, PC, QC, MP, a member of the Canadian delegation, was reported as saying. "Our engagement with Taiwan's leaders highlighted our mutual desire to deepen our economic and people-to-people relationships," he added.

Indeed, those people-to-people relationships are the bread and butter of Taiwan-Canada ties. For one thing, Taiwan is home to one of the largest communities of overseas Canadians in the world, with an estimated 60,000 Canadians living there. Just what is it about Taiwan that makes it such an attractive place for Canadians to live? Economic opportunities are certainly high on the list. But the shared values undoubtedly factor into the decision: values that include tolerance, diversity, and respect for human rights. Unfortunately, the government of Canada is lagging behind these intrepid Canadians in its appreciation for just how beneficial this relationship can be.

Fair or not, Ottawa's relationship with Taipei is often played as a zero-sum game, with Beijing threatening to retaliate – often economically – for any perceived amelioration in ties. This makes countries like Canada apprehensive about getting too close to Taiwan, and it is why leaders in Taipei go to such great lengths to highlight values.

Unlike China, Taiwan and Canada are thriving democracies where citizens have a voice in how the government is run. Unlike China, Taiwan and Canada believe in the international rules and norms that help preserve global peace and security. Unlike China, Taiwan and Canada respect human rights, with both embracing such issues as same-sex marriage. Yet unlike Taiwan and Canada, China remains in an 18th-century mindset of expansion and colonization, and continues to threaten – by force if necessary – to annex Taiwan. This is despite the fact that Taiwan is not, and has never been, a territory of the People's Republic of China.

In any other context, Canada would surely side against the obvious bully. Yet, in the cross-strait scenario, Ottawa seems loath to cross Beijing. This is especially true since the ascendance of Justin Trudeau as Prime Minister. It was Trudeau, one should recall, who attended Liberal Party cash-for-access fundraisers that generated hundreds of thousands of dollars from Chinese billionaires, raising ethical concerns. Trudeau also okayed the takeover by a Chinese investor of Norsat International Inc., a Vancouver satellite communications firm with contracts with the US Department of Defense – a takeover that has obvious national security implications and rightly went into review soon after the sale.

This latest controversy seems destined to be repeated. Aecon Group Inc., a prestigious Canadian construction and engineering firm, is now the target of acquisition by the investment arm of the state-owned China Communication Construction Co. (CCCC), well known for building the now infamous artificial islands in the South China Sea that contributed to rising tensions in the Indo-Pacific region.

Given this track record, it is little wonder that Trudeau was so keen to ink a free trade pact with the PRC last year. The effort only went south when Beijing refused to accede to a number of ideological stipulations on such issues as gender equality and the environment. Ironically, it is exactly these issues where Canada and Taiwan are in harmony, and on which Taipei would enthusiastically agree.

Canada only stands to benefit from a closer relationship with Taiwan. As argued by J. Michael Cole elsewhere, Taiwan has experience dealing with the very problems that Canadian businesses and officials are now facing, including how to protect against Chinese theft of Canadian intellectual property, as well as how to counter Chinese intelligence operations and the covert exerting of influence from Beijing on Canadian officials, businessmen, and community leaders. This latter problem is rarely, if ever, addressed by Canadian politicians or our media, but it remains a widespread and potentially dangerous phenomenon that threatens Canada's security and economy.

Canada could also benefit from Taiwan's experience in defending against cyberattacks launched against Canadian infrastructure and businesses by Beijing. This problem is also one that does not receive much attention in the media, but it is happening at such a level and frequency that it would be alarming if the Canadian public were not kept blissfully in the dark. Taiwan has long been the testing ground for many of the hacking techniques now employed against Canada by China's police and intelligence service, the Ministry of State Security, and other cyber spying bodies in the Middle Kingdom.

Canada shares just one thing with China, and that is a desire to make money. With Taiwan, we share that, plus a host of other important values. In the words of the Hon. Bob Nault, "Based on what we heard during our numerous meetings and discussions, it is clear that Taiwan strongly embraces the values of democracy, freedom, and cultural diversity. It is also very encouraging to see the efforts of their government to address the historical injustices made towards Taiwan's indigenous communities, and the importance they place on protecting the environment and developing green energy."

"Unlike China, Taiwan and Canada are thriving democracies where citizens have a voice in how the government is run.

How to begin? Opening negotiations on a Foreign Investment Promotion and Protection Agreement (FIPA) deal between the two countries as a means of increasing foreign investments would be a good place to start. As would Canada's support for Taiwan's inclusion in future talks surrounding the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). It would demonstrate that Ottawa is taking its relationship with its allies seriously and help to dispel the impression that the Trudeau government is not able or willing to stand up to China on matters of principal.

Dean Karalekas *is a former professor of Asia-Pacific Studies and serves as Associate Editor of the security journal Strategic Vision. He is currently based in New York City.*

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India and Canada: back to the bad old days

The Trudeau government should be wary of pandering to the pro-Khalistan elements of the Sikh Canadian community.

Rupa Subramanya

On the eve of Indian Prime Minister Narendra Modi's state visit to Canada April 2015, Vivek Dehejia and I co-authored a report for Canada's Asia Pacific Foundation called "Canada and India: A New Beginning." We argued then that the combination of Modi in India and Prime Minister Stephen Harper in Canada augured well for the future of the bilateral relationship. As we noted, there was a natural kinship between Harper and Modi. Both leaders were conservatives, outsiders who catapulted to power at the centre in their respective countries, and both faced a hostile liberal media establishment.

There were more tangible reasons. As early as 2006, when Harper and his Conservative Party came to power in a minority government in Canada, one of his first acts of diplomacy was to open a trade office in Ahmedabad, Gujarat, Modi's home state. What is more, Canadian dignitaries frequently graced Modi's bi-annual flagship business summit, Vibrant Gujarat, with Canada even co-hosting on one occasion. Most tellingly, unlike the United States or the United Kingdom, Canada did not give Modi the cold shoulder. Readers will recall that Modi was even banned officially from entering the US; there was never such a ban in Canada, despite widespread misconceptions to the contrary.

Fast forward to today and sadly the reality now is much different under Prime Minister Justin Trudeau. Were we to re-write the report today, I suspect we'd call it "India and Canada: Back to the Bad Old Days." Trudeau has managed to return the relationship with a major emerging economy to a neutral or even negative phase from the positive phase it had been entering.

The reasons boil down to the particular form of vote bank politics of the Liberal Party in Canada which always does well among minority voters, in this case the Indo-Canadian diaspora. Numbering well over a million, a crucial group within this diaspora are the half million or so Sikh Canadians, who form a solid voting block

in favour of the Liberals. Trudeau has an unprecedented four Sikh Canadians in his cabinet, including Harjit Singh Sajjan, in the very senior post of Minister of National Defence.

A problem from the Indian point of view is that Trudeau and members of his government appear to look the other way when it comes to the pro-Khalistan leanings of some of their Sikh Canadian supporters. Khalistan is a term which refers to a would-be Sikh homeland in the Indian state of Punjab and is associated with the worst terrorist incident in Canadian history, the bombing of Air India Flight 182 in June 1985 killing 329 people.

> *All Canadian parties have, in the words of former Liberal minister Ujjal Dosanjh, "played footsie" with pro-Khalistan elements.*

There is more than merely insinuation and guilt by association here. Trudeau himself in May 2017 attended a Sikh community event in Toronto which featured Khalistan flags and posters of Jarnail Singh Bhindranwale, the terrorist leader who was killed at the Golden Temple in 1984 when it was stormed by Indian troops. Bhindranwale and his supporters had amassed a large stock of weapons in the Golden Temple in the cause of Khalistan.

A threat assessment prepared in 2016 by the RCMP, for the Minister of National Defence, now declassified, pointed to the proximity of Sajjan's father as a religious leader in the World Sikh Organization, a pro-Khalistan Canada-based outfit founded shortly after the attack on terrorists holdup at the Golden Temple in 1984 mentioned above.

Most non-Sikh Canadians seem to ignore such associations as benign but imagine if a Canadian leader were seen at a Quebec separatist event featuring flags and posters supporting the Front de libération du Québec (FLQ)? Or for that matter how would Canadian officials react if a foreign leader were seen in the company of FLQ sympathizers?

While all of this may seem to be standard ethnic vote bank politics in Canada, it is not looked kindly upon by Indian officials. To make matters worse, the Ontario Legislature in April 2017 voted in favour of a private member's motion to declare the 1984 anti-Sikh riots in India, following the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards, as a "genocide." This is a gross exaggeration of what would be most accurately described as an organized pogrom as revenge for Mrs Gandhi's assassination. The term genocide implies that an entire community has been wiped out, which is clearly not true of the Sikh community in India, Canada or elsewhere. While obviously Trudeau and the federal Liberals can't be held accountable for a motion that passes in the Ontario Legislature, the latter certainly sent a signal to India that pro-Khalistan elements seem to be coming to the fore in the Canadian polity.

The truth is that all Canadian parties have, in the words of former Liberal minister Ujjal Dosanjh, "played footsie" with pro-Khalistan elements of the Sikh Canadian community. However, there is a matter of degree and no one can ever accuse Harper and the Conservatives of pandering to pro-Khalistan sentiments in the way that Trudeau and the Liberals have. What is more, given the election of Jagmeet Singh as the leader of the New Democratic Party (NDP), you would fully expect the tussle for Sikh votes to lead to an intensification of bending to pro-Khalistan elements. Notably, Singh himself refused to condemn by name the alleged mastermind of the Air India bombing in a recent TV interview. You can fully expect the Liberals and the NDP to vie for Sikh Canadian votes including among pro-Khalistan elements and this can only lead to a further degradation of the situation.

With this background, it is no surprise that the Indian government has not laid out the red carpet for Trudeau and his entourage during their recent visit to the country. Notably, unlike for other world leaders, including US President Barack Obama or Israeli Prime Minister Binyamin Netanyahu, Modi did not personally greet Trudeau at the airport, sending a junior minister instead. While this does accord with official protocol, it clearly sent a signal that Trudeau was not a special visitor - especially given Modi's past proclivity to break with protocol by greeting world leaders upon their arrival. Modi, who's prolific on Twitter, did not send out a a welcome tweet on Trudeau's arrival. On Trudeau's visit to Modi's home state of Gujarat, Modi was noteworthy by his absence. The visit itself was also noteworthy for the paucity of official meetings and the large number of private events for Trudeau and his family. While the total cost of the visit is not yet known, it's certainly fair to ask whether Canadian taxpayers are getting their money's worth from this week long visit.

It should be clear to the reader that an earlier optimism about improving Canada India ties now must be replaced with a much more pessimistic outlook. Having said that, what can Trudeau do to salvage the situation after the visit is over? First and foremost,

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A strong Canada-India relationship holds promise of prosperity

Unlike China, India offers economic and strategic possibilities for Canada that are genuine, pragmatic, and achievable.

Samir Saran
Shuvaloy Majumdar

> *Canadian access to Chinese markets and global influence comes at high cost.*

Prime Minister Justin Trudeau's recent visit to India came at a time when Canadians are particularly preoccupied with two other compelling international relationships facing unprecedented strains born from a changing global order: the United States and China.

The US friendship is inescapable, forged by geographic, economic, and cultural realities. American leadership remains the lynchpin of an international order Canadians cherish, dedicated to free peoples and free markets. Yet as NAFTA undergoes a tough re-examination, Canadians are reminded that even the closest alliances are not immune to diverging interests.

Amid anxieties over America, China is often presented as Canada's obvious alternative, and the creeping "Sinofication" of Canada's economy, and Sinophilia of its political class, has increased at a rapid clip. Canadian access to Chinese markets and global influence comes at high cost to Canadian interests. Critical voices have rightly questioned the degree to which Canada can enter into the good graces of a one-party command economy while keeping traditional Canadian business and political ethics intact.

Canada needs new room to manoeuvre, and the Indian opportunity is an essential corridor to the high growth Indo-Pacific region between these two demanding poles.

Prime Minister Justin Trudeau meets Narendra Modi, Prime Minister of India, in New Delhi, February, 2018.

(Photos: pmindia.gov.in/en/image-gallery)

India, more than any other growing power, offers Canada economic and strategic possibilities that are genuine, pragmatic, and achievable. It is a common-sense, practical alliance, free from tyranny of geography, grounded in shared values and mutual interests. A stronger Canada-India relationship holds the promise of enhanced prosperity and security for both parties without threatening the character and agency of either.

The rapid modernization of the Indian economy, and with it, the material improvement of the lives of millions, is a remarkable achievement of modern history. Within the next two decades, the Indian economy may be valued at $10 trillion, placing it firmly in the most elite upper tier of nations. The country has established a window for global opportunity through a growing array of modern industries, including technology, energy, urban planning, and agriculture.

The bright future such development portends has not gone unnoticed by Canadian firms hungry for international partners, and Canadian investors eager to diversify their portfolios. Canadian pension investments in India in particular have risen dramatically, from virtually nothing a decade ago to over $14 billion today. With each passing year the evidence becomes clearer: Canadians who fail to appreciate the economic opportunities of India do so at their own risk.

On the security front, New Delhi plays a critical role as the defender of the international order which Canada is so invested in. India's strategic geographic location, increasingly sophisticated military and security forces, and principled opposition to the hegemonic and regressive ideologies of our time make it an essential ally in an uncertain era. The country has proven itself a willing partner in the fight against violent extremism, including the false prophesies of Khalistan and political Islam, within its borders and beyond. Its proximity and understanding of West Asia, Pakistan and Afghanistan make it an invaluable partner for the West.

Perhaps most importantly, India provides an essential counterbalance to China's rising ambition as Asia's unquestioned regional superpower. When Beijing threatens the sovereignty of other nations, for example its "Belt and Road Initiative" to construct highways through disputed territories in Asia, or the uninvited presence of Chinese warships and military infrastructure in the Bay of Bengal, Indian Ocean and South China Sea, it is India's strength, both militarily and diplomatic, that make it the most credible voice of resistance. At a time when many of Canada's leaders seem oblivious or resistant to the consequences of Chinese power, India's informed insights demand a Canadian audience.

As we enter the third decade of this century, both countries' political and opinion leaders need to explain India's contemporary economic and strategic realities to Canadians. We must make clear the vast opportunities for productive cooperation. In announcing a new era of collaboration between our two organizations while our national leaders met in New Delhi, the Observer Research Foundation and Macdonald-Laurier Institute intend to serve as leading proponents of this mission from both our capital cities.

India provides an essential counterbalance to China's rising ambition as Asia's unquestioned regional superpower.

Although our two countries share symbolic and cultural bonds born from decades of migration and common political heritage, the true strength of our partnership will ultimately be defined by the ability of Canadians and Indians, in both the private and public realm, to coordinate tangible activities of mutual geopolitical and material interest. It is a testament to the skills and resources of both nations that this objective seems easily within our grasp.

Samir Saran *is Vice President of New Delhi's Observer Research Foundation.* **Shuvaloy Majumdar** *is Munk Senior Fellow for Foreign Policy at MLI.*

Canada and its allies must confront Vladimir Putin's Russia

This is a moment, not unlike the formation of NATO, when Canada can lead and make a lasting global impact on peace and security.

Marcus Kolga

iStock

Multiple assassinations, the illegal annexation of Crimea, the downing of a commercial airliner, ongoing cyber attacks, systematic cheating at Olympic Games, meddling in US, French, German, UK, Spanish and other elections, have all demonstrated Vladimir Putin's intentions over the past decade.

Yet it is the vulgar impertinence of Putin's latest assault that may have finally laid bare the true nature of the Putin regime to even the most skeptical observers. The chemical weapon attack in Salisbury, England, by suspected agents of the Russian government, has proven that no government nor borders are capable of protecting citizens against the poisonous fury of the Kremlin.

The Novichok nerve agent that was used against Sergei Skripal and his daughter Yulia, is an extremely rare Soviet-era toxin, developed by Moscow to both kill its targets with maximum efficiency and evade detection by NATO inspection equipment.

This is not the first time a rare poison, controlled exclusively by the Russian government, has been used to poison Kremlin critics.

In 2006, a former Russian Federal Securiy Service (FSB) agent, turned whistleblower, Alexander Litvinenko, was poisoned with Polonium-210. The highly toxic substance is produced and stored by Russian state nuclear agency, Rosatom, which is also the current parent owner of one of Canada's largest uranium producers, Toronto-based Uranium One.

A British inquiry into the Litvenenko murder concluded that the radioactive Polonium used to kill him was administered by two Russian intelligence agents, Andrei Lugavoi and Dimitri Kovtun, who were likely acting on the orders of Vladimir Putin. The US has placed both men on their Magnitsky sanctions list for their role in the murder, yet they remain missing from Canada's list.

NATO members have issued a joint statement defining the Kremlin's chemical attack in Salisbury as the "first offensive use of a nerve agent on Alliance territory."

Unchecked, Putin will accelerate his aggression. He will continuing attacking our democracy, institutions and society through ongoing information warfare campaigns and manipulation. The risk to Canada and our upcoming elections should not be understated.

Tit-for-tat diplomatic expulsions and stern statements will not compel Putin to stop. Like a schoolyard bully, Putin's attacks can only be slowed by confrontation and containment. Appeasement only fuels his authoritarian appetite for dominance.

> *This is not the first time a rare poison has been used to poison Kremlin critics.*

Like the mafia, the Russian economy is a racket run by its president. The oligarchs who control much of the money inside Russia rely on Putin, who allows them to operate – at a cost. Putin, in turn, protects the oligarchs for a cut of their business

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Budget 2018: the dismal triumph of symbolism over substance

Canada failed to improve its trade and tax competitiveness and reassure financial markets.

Philip Cross

Canada faces its most challenging macroeconomic environment since the Great Financial Crisis. Free trade with the US is in peril. Canada's long-standing corporate tax advantage with the US is gone, exposing myriad policies hampering our cost-competitiveness. Not building pipelines reduces exports by $15 billion a year. Failing to shift growth to exports and business investment from debt-fuelled government and household spending heightens the risks from the impending end of ultra-low interest rates for a heavily-indebted nation like Canada.

Such a daunting array of challenges calls for a substantive budget to improve our trade and tax competitiveness and reassure financial markets by reining in government spending and setting a path to balancing the budget. None of these were forthcoming in budget 2018. Instead, we got a lightweight budget featuring Trudeau's obsession with gender issues, apparently not satisfied to preside over Canada's first female-majority Cabinet after his public neutering of finance minister Bill Morneau last fall. Gender-based initiatives include more pay for female civil servants, paternity leave so men can help more in raising children, "boot camps" for women entrepreneurs, and reams of gender-based analysis that guarantees lifetime jobs for graduates in gender studies. Important as they may be,

> *We got a lightweight budget featuring Trudeau's obsession with gender issues.*

these hardly address the macroeconomic risks Canada faces.

The government's analysis of gender issues is not even done well. Nowhere in the dozens of pages devoted to gender issues is it mentioned that the most obvious difference between men and women in the labour force is where they work. Men reside overwhelmingly in the private sector, where they account for 66.7 percent of all workers. Conversely, the public sector is 71.8 percent dominated by women (the budget lock-up is an exception; 16 of the 19 Finance officials attending were men).

The budget ignores the implications for wage data of a female-dominated public sector and a male-dominated private sector. Many public sector benefits don't appear on a paycheque; hours of work are shorter, vacations are longer, sick leave benefits are greater, medical expense coverage is broader, job security is better, retirement starts earlier. Most importantly, public sector pensions are heavily subsidized by taxpayers, a benefit hidden in income data but equivalent to 20 percent of federal civil servant pay and 10 percent of the pay of most non-federal civil servants.

All those stats about women earning less would be different if incomes were adjusted for the non-taxable benefits women receive because so many work in the public sector. No one in government bothers making that adjustment since it reveals how the civil service has artfully constructed a compensation package to maximize non-taxable benefits and minimize its exposure to the tax system it helped design, while trying to ensnare as much private sector income as possible (last fall's assault on small business was only the latest example).

The lack of new initiatives in this government's third budget is not surprising. It partly reflects the miscalculation in its first budget of emptying the federal piggybank to zealously differentiate itself from the Harper government. Trapped by past fiscal profligacy, it follows other governments in Canada by increasing compulsory private sector spending on their behalf, such as provincial minimum wage hikes, oblivious to the negative impact on business cost-competitiveness.

More fundamentally, the federal government shares with a growing number of provinces a distrust or misunderstanding of the systemic processes that produce desirable results for our society, notably capitalism and market forces. Instead, they believe that only direct government actions produce tangible results. Not content to establish the rules of free trade and then step aside to let firms compete, they now promote "progressive trade" that dictates satisfying social goals. They don't trust market mechanisms to increase everyone's income, so they legislate radical increases in minimum wages. They don't trust people to manage their own finances, so they mandate higher pension taxes. They don't even really believe spending more on education and infrastructure ultimately will boost productivity, so they hand-pick innovation hubs to lead the way.

In the hallowed name of progressiveness, this steady dribble of government interventions dulls incentives and pours sand in the gears of the private sector. The result is stifled businesses, as reflected in the abysmal performance of stock markets in Canada compared with the US since October 2016, the stagnation of business investment here even as money flows out of the country, and the plunge in the number of business start-ups in Canada.

The root of the problem is the faulty mindset that nothing beneficial occurs unless initiated by government. The everyday experience of Canadians proves the opposite. Almost all the big changes in our society – from the increasing participation of women in the labour force to the dazzling smartphone technology available at our fingertips – bubbled up from the millions of actions and decisions of Canadians, co-ordinated by markets, not memes. Unintended benefits were the basis of Adam Smith's description of how markets work. Governments in Canada seem to be losing faith and understanding of this fundamental mechanism of growth and progress.

The root of the problem is the faulty mindset that nothing beneficial occurs unless initiated by government.

Three years into its mandate and the cupboard of big new ideas is bare, now that comprehensive tax reform is dead after last summer's botched attempt – reducing this government to being pro clean drinking water and against tobacco. The shallowness of the Trudeau government is becoming increasingly apparent, revealing a government based mostly on posturing not principles, rhetoric not results, symbolism not substance, vapidity not vision.

Philip Cross *is a Munk Senior Fellow at MLI. This article first appeared in the* Financial Post.

What's the source of the federal deficit?

Comparing Harper and Trudeau budgets can provide some answers.

Sean Speer

The 2018 federal budget projects annual deficits for the foreseeable future. The deficit for the current year is even set to grow relative to last year. Red ink is the distinguishing mark of the Trudeau government's fiscal policy.

A post-budget debate has ensued about the source of Ottawa's deficits. The government and some of its supporters have pointed to a $70 billion drop in nominal GDP between budgets 2015 and 2016 as the principal source of its fiscal gap. Its critics have highlighted large-scale spending increases as the main cause of its budgetary challenges.

Who is right? What does the fiscal data tell us?

The best way to test these different perspectives is to compare the Harper government's final budget in 2015 to the Trudeau government's recent one. This enables us to see what budget inputs – including projections for revenues, program spending, and debt-service costs – have changed. Basically, it helps us to isolate the extent to which these different factors are driving the changes in fiscal outcomes.

Tables 1 and 2 set out the budget projections for the 2018 Budget and 2015 Budget for the fiscal period between 2015/16 and 2019/20. It excludes subsequent periods because they were not yet covered in the 2015 Budget.

Table 3 compares the differences between the two budgets across these various inputs and indicators to understand what has changed between the two. This can help us to understand what factors have driven the change in Ottawa's fiscal bottom line between Mr. Harper and Mr. Trudeau.

(Table 1) Budget 2018

IN BILLIONS	2015-16	2016-17	2017-18	2018-19	2019-20
Total revenues	295.5	293.5	309.6	323.4	335.5
Program spending	271	287.2	304.6	312.2	321.5
Debt charges	25.4	24.1	24.4	26.3	28.6
TOTAL SPENDING	**296.4**	**311.3**	**329**	**338.5**	**350**
Adjustment for risk				-3	-3
Surplus/Deficit	-1	-17.8	-19.4	-18.1	-17.5

(Table 2) Budget 2015

IN BILLIONS	2015-16	2016-17	2017-18	2018-19	2019-20
Total revenues	290.3	302.4	313.3	326.1	339.6
Program spending	263.2	274.3	282.7	293	302.6
Debt charges	25.7	26.4	28	30.5	32.1
TOTAL SPENDING	**288.9**	**300.7**	**310.7**	**323.5**	**334.7**
Adjustment for risk					
Surplus/Deficit	1.4	1.7	2.6	2.6	4.8

(Table 3) Differences: Budget 2018 and Budget 2015

IN BILLIONS	2015-16	2016-17	2017-18	2018-19	2019-20
Total revenues	5.2	-8.9	-3.7	-2.7	-4.1
Program spending	271	287.2	304.6	312.2	321.5
Debt charges	25.4	24.1	24.4	26.3	28.6
TOTAL SPENDING	**296.4**	**311.3**	**329**	**338.5**	**350**
Adjustment for risk				-3	-3
Surplus/Deficit	-1	-17.8	-19.4	-18.1	-17.5

The 2016/17 differences generally affirm the government's position. Revenues fell by $9 billion that year relative to what the 2015 Budget had projected. It is a sizeable drop representing more than 3 percent of total revenues. This means that irrespective of which party had won the 2015 election any government would have had to deal with a considerable fiscal gap and likely run a budgetary deficit. The government's critics must acknowledge this point.

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Why the time has come to block offshore pirate websites in Canada

Site blocking is consistent with net neutrality and freedom of expression.

Hugh Stephens

A lot of ink has been spilled over reports that Canadian content owners and broadcasters, led by Bell Media but including other content players such as Cineplex and broadcaster/ISPs (Rogers, Shaw), are finally proposing a solution to the problem of rogue offshore websites streaming pirated content to Canadian audiences.

The online newsletter Canadaland claims it has obtained documents showing that Bell and others are seeking to establish a mechanism that would make recommendations to the Canadian Radio-television and Telecommunications Commission (CRTC) to require Canadian ISPs to block the most blatant of these sites – ones that are essentially set up to engage in infringing behaviour. This would mean that those Canadian consumers who want to indulge in taking for free what they should be paying for will no longer be able to do so with impunity. According to critics, such as anti-copyright commentator Michael Geist, the proposal is "dangerous, anti-speech, and anti-consumer."

The *Globe and Mail* weighed in its editorial page, conflating "site blocking" with "net neutrality," and urging that copyright infringement be handled by "Canada's robust laws against intellectual property theft." But that is precisely the problem. These sites are not set up just down the street within reach of Canadian courts. They have

> *These sites are not set up just down the street within reach of Canadian courts.*

deliberately established themselves in legal "no go" zones, somewhere in cyberspace in jurisdictions with no interest or capability in enforcing intellectual property laws. It is pointless to bring legal proceedings against them in Canada because they don't operate in Canada.

The solution, implemented or underway in more than 40 countries worldwide, including the UK, Australia, the continental EU, Korea, Singapore and others, is to establish a list of consistently and blatantly bad actors and then require ISPs operating in their national jurisdiction to block consumer access to those sites within that jurisdiction. In other words, it would enforce Canadian laws and regulations within Canada by keeping the infringing content out, in effect implementing Canadian standards at the electronic frontier.

Oh, the critics will cry. This will "break the Internet." It will offend the policy of "net neutrality." It will censor free expression on the Internet. It is anti-consumer. It is the start of the slippery slope to information control by government. All of this is hyperbole and, frankly, total nonsense.

Site blocking is undertaken all the time by ISPs for a variety of legally-sanctioned reasons. The most prominent is to stop access to child pornography but other reasons include blocking hate speech or protecting national security. Selective site blocking can be implemented in such a way as to have no negative impact on the operations of the Internet, as recent studies have shown. It has no impact on net neutrality, a policy which Canada has chosen to maintain at a time when the Federal Communications Commission in the United States is going in the opposite direction.

Net neutrality, as defined by the CRTC, is a policy requiring that "all traffic on the Internet should be given equal treatment by Internet providers with little to no manipulation, interference, prioritization, discrimination or preference given." At the same time, under the Telecommunications Act, the CRTC has authority to implement (or approve) the blocking of websites. Blocking illegal content is fully consistent with requiring ISPs to follow the rules of net neutrality (i.e., not to favour or disadvantage some content at the expense of others). By the same token, blocking offshore content theft websites in violation of Canadian law has no impact on net neutrality.

If site blocking is consistent with net neutrality, it is equally consistent with the protection of free expression on the Internet. All expression, in both the online and offline worlds, has limitations. The key of course, is to ensure that all legal content is protected and accessible. To ensure that what is blocked is not worthy of protection, a transparent adjudication mechanism with an appeal process must be established. This could be through the courts – although this can be slow and cumbersome, as the criminal elements that operate these offshore websites are skilled at hiding and changing their identity. Another option is to rely on a regulatory body, like the CRTC, which already has the authority.

Canadaland reported that the proposal being prepared by Bell and others would establish an "Internet Piracy Review Agency" to make recommendations to the CRTC. While this proposal has already drawn plenty of criticism even before officially seeing the light of day, there is logic in going to the agency that claims to have the statutory authority to regulate Internet content, using an adjudicative body to review and recommend which sites to block, based on transparent and stringent criteria.

This is a proposal that deserves serious consideration. Not only does it do no harm to net neutrality or free speech, it will protect rather than harm consumers by keeping them away from pirate offshore sites that are notorious for propagating malware and computer viruses. At the same time, it will ensure that those who wish to consume content pay for it fairly, thus ensuring re-investment into more content offerings. It is hard to see how this could be construed as "anti-consumer."

Piracy site blocking, more accurately described as "disabling access to offshore content theft websites," has proven to be an effective tool in the countries where it has been implemented. In the UK, a study by Carnegie Mellon University showed that consistent blocking of more than 50 pirate websites in Britain caused a 90 percent drop in visits to the blocked sites, leading to a 22 percent decrease in total piracy for all users and, significantly, an increase in visits to paid legal streaming sites and consumption of videos on legal ad-supported streaming sites like the BBC. Thus site blocking not only helps curtail consumption of infringing material by consumers but also encourages take-up of legal content.

The time to seriously consider using site blocking to protect the rights of content creators and owners has clearly come. Far from being negative for Internet users, the establishment of a site blocking mechanism in Canada will be positive for Canadian consumers, content producers, broadcasters and exhibitors. Let's give it a chance.

> *Blocking offshore content theft websites in violation of Canadian law has no impact on net neutrality.*

Hugh Stephens *is an Executive Fellow at the School of Public Policy at the University of Calgary. He also writes a blog on international copyright issues, hughstephensblog.net.*

Criminal justice system report card highlights need for reform

Leadership is needed to confront the mounting challenges to the criminal justice system.

Benjamin Perrin

Richard Audas

If you could scrap our criminal justice system and start from scratch, what would it look like? This wasn't a question asked in an ivory tower somewhere. It's striking that it was asked by Prime Minister Justin Trudeau's government recently in a public consultation on transforming the criminal justice system. That's how serious the mounting challenges facing our justice system are seen by some.

Canada's criminal justice system is facing a litany of challenges including significant under-reporting of crime by victims, delays and inefficiencies, rising costs, and grave concerns about the treatment of Indigenous people – both as victims and offenders. But, as our second annual criminal justice report card with the Macdonald-Laurier Institute has found, it's not all bad news.

Using Statistics Canada data and quantitative statistical methods, we again assessed each province and territory's criminal justice system based on five major objectives: public safety, support for victims, costs and resources, fairness and access to justice, and efficiency. We also added a national overview this year to track trends across the country over time.

Nationally, there have been notable improvements in crime rates. The violent crime rate per capita declined by approximately 12.5 percent between 2012-2016. A major driver of this is understood to be demographics, related to an aging population. There are now fewer police officers required per capita, and there have been increases in legal aid expenditures per crime, which supports access to justice.

On the other hand, some problems have only gotten worse. The weighted non-violent crime clearance rate (which is a measure of the proportion of crimes that are solved) has steadily declined to 29.3 percent in 2016. The incidents of breach of probation per 1000 crimes have risen. The cost of corrections per capita has also gone up.

Alarmingly, the disproportionate number of Indigenous people sent to prison has continued unabated. In 2016, the ratio of Aboriginal people in total custodial admissions as a proportion of the Aboriginal population was 6.2. The problem is particularly acute in Alberta, British Columbia, Ontario, Saskatchewan, and Manitoba.

Indeed, much like the real estate market, to really understand what is going on requires drilling down from national statistics to get closer to the ground. At the provincial/territorial level, Ontario was the most-improved jurisdiction overall – its ranking improved dramatically to 4th place (from 7th place), due to relative improvements in public safety, and fairness and access to justice.

However, there are serious issues with efficiency in Ontario's justice system. It has the worst record in Canada for the proportion of charges stayed or withdrawn (43.4 percent), compared with a mere 7.4 percent in neighbouring Quebec. Ontario also has one of the highest numbers of accused persons on remand (in jail awaiting trial) per 1000 crimes in the entire country.

Both Quebec and British Columbia had significant declines in their overall rankings. Quebec's ranking declined to 6th place (from 4th place), owing to a relative decline in fairness and access to justice in the province.

British Columbia's ranking declined to 10th place (from 8th place), due to a relative decline in public safety, and fairness and access to justice in the province. BC received failing grades for its weighted clearance rates for violent crime (only 51.7 percent of violent crimes were resolved by police) and non-violent crime (a mere 20.4 percent).

> *The disproportionate number of Indigenous people sent to prison has continued unabated.*

Once again, Manitoba was the worst performing province and the Yukon was the worst performing territory. In responding to our inaugural report card on the criminal justice system, Manitoba promised to launch a review of its justice system while the Yukon criticized the way it was being assessed. Reforms take time to achieve results and we hope that underperforming jurisdictions will take these efforts seriously.

Without leadership, the serious problems with our criminal justice system will not resolve themselves. In fact, the trend is that they typically only get worse as time goes on if nothing is done. Our criminal justice system is in major need of reform in multiple areas, requiring substantial work by all the levels of government.

Benjamin Perrin *is a law professor at the University of British Columbia and a Munk Senior Fellow at MLI.* **Richard Audas** *is a health statistics and economics professor at Memorial University.* *This article first appeared in the* Toronto Sun.

Canadian courts still think intellectual-property laws matter

Canadian courts have occasionally gone along with poor IP judgments; but they have quickly come to their senses.

Richard Owens

A famous essay in an early issue of *Wired Magazine* attacked existing intellectual-property laws as inappropriate for the digital age. They were "old bottles for new wine." Well, let's say for the sake of argument that were so. What's wrong with old bottles? Wine bottles are so reliable, work for such a wide variety of liquids, and are of such consistent design that a wine producer could quite safely stockpile them for ages before using them. IP laws have proven themselves equally robust and current.

Yet, to listen to Canadian and international IP commentators even today, especially voices from Canadian law schools, one would think IP laws are inadequate, outdated, poorly conceived and changing profoundly. This negativism is not about promoting creativity in Canada but, rather, law professors' careers; still, it has an impact. Recently, the final text of the TPP agreement (officially the Comprehensive and Progressive Agreement for Trans-Pacific Partnership) was released. And it revealed that Canada cravenly led the suspension of the bulk of the IP chapter, which was in fact good for Canadian innovation.

The ongoing attacks on existing intellectual-property protections have also led to some odd and even risible legislative experiments in copyright law. Canadian courts have occasionally gone along with poor IP judgments; but they have quickly come to their senses. Take notice, potential infringers. Those expecting greater permissiveness from the courts, including the Supreme Court of Canada (SCC), will be severely disappointed.


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The Canadian government needs to pay attention to what the courts are saying, not what IP faddists say.

Let's look at a couple of examples.

In *Access Copyright v. York University*, York decided that it no longer had to pay for the vast amounts of copyright-protected material it copied for its business. To do so, it relied on an aggressive and poorly grounded interpretation of some ill-considered SCC judgments. Access Copyright had been accustomed to collecting the royalties that York now refused to pay, and it sued to recoup them. It was an almost existential quest for the copyright collective, whose revenues had declined catastrophically, since other educational institutions had also taken York's position.

No question this dire situation was largely the doing of the SCC, whose recent precedents on copyright were, with all due respect, far from its usual standards of jurisprudence, with *CCH v. Law Society of Upper Canada and Alberta (Education)* being particularly egregious.

But to the rescue of the law rode the Federal Court. Justice Michael Phelan issued a scathing, and brilliant, judgment fixing the worst excesses of these SCC deviations and finding that York was entirely responsible for large sums of royalties to Access Copyright. York is appealing, but it won't win; its only hope is to delay execution of the original judgment. The Federal Court of Appeal will have no sympathy for York; and the SCC will readily adopt that court's way out of this self-created mess, if it even agrees to hear an appeal from the appellate court's judgment, for which odds are poor.

The case of the "promise doctrine" is an example of the SCC definitively reversing bad law. The promise doctrine was a rule of patent law requiring special "utility" of some patents, almost all of which were for pharmaceuticals. The rule was so baleful in its effects that it provoked drugmaker Eli Lilly and Co. to sue the government of Canada in a NAFTA challenge for $500 million, owing to three of its patents being invalidated by the promise doctrine – though valid everywhere else.

Although Lilly lost its challenge, the SCC ultimately agreed with its condemnation of the promise doctrine and in a recent case, *Astrazeneca v. Apotex*, simply overturned the rule and did away with it altogether. No hesitation or ambiguity. Now only one rule for utility applies,

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Constitutionality is key in Trans Mountain fight

Canadians should pay attention to interprovincial transport and the conflict between provincial laws and federal decisions.

Dwight Newman

British Columbia's announcement of plans to impose new regulations on bitumen transport through BC has already generated political controversy. When enacted, the regulations will bring legal controversy as well. Although the constitutional rules might seem complicated, their implications against BC's moves are fairly clear.

On its own, BC does have local jurisdiction over some environmental issues and could place regulations on the transport of bitumen within the province. But BC's moves arise in the context of statements by political leaders that they do whatever they can to interfere with Kinder Morgan's Trans Mountain pipeline, intended to carry bitumen from Alberta.

Jurisdiction over interprovincial transportation and communication is exclusively federal. This federal power comes from a section of the Constitution, section 92(10)(a), and there is ample case law stating that provinces cannot take steps that interfere with federal decisions.

We have seen that rule play out recently in a decision of the National Energy Board against the City of Burnaby which had been delaying granting permits under municipal bylaws for local work related to Trans Mountain's construction. This case brought to the fore two constitutional doctrines that say that the province – or a municipality – cannot lawfully interfere with the federal decision on the pipeline.

One doctrine is called paramountcy. When there is a conflict between a legally valid provincial law and a legally valid federal decision, the federal decision has paramountcy over provincial law. To whatever extent the provincial law would interfere, the Board or a court would declare that it no longer operates.

> *Interprovincial transport might not seem like the sexiest topic, but Canadians must pay attention.*

The other is a complicated doctrine called interjurisdictional immunity. If a province's laws would interfere unduly with the core of an area of federal jurisdiction or of a federally regulated entity, then the Board or a court declares them not to apply.

Unsurprisingly, Trans Mountain won on both of these issues. Burnaby's mere delaying of permits was found to be an unconstitutional action. If BC proceeds with regulations that interfere with Trans Mountain's approval or viable ability to operate, there is every reason to think that those regulations would fall in exactly the same way.

Of course, BC's premier has had legal advice, which, in some ways, makes matters worse. If the regulations are designed in a way that interferes with the pipeline, then they are unconstitutional, and we have a province deliberately acting in a lawless manner. If they do not interfere, then they might well be constitutional, but we then have a province that is making a pretense of potentially imposing unconstitutional laws. Neither presents a pretty picture of British Columbia or of Canada.

Perhaps there are guileful lawyers who think they can somehow sneak down the middle between these two scenarios, creating enough uncertainty to drive away investment without being found to have quite acted unconstitutionally, a dangerous game for two reasons.

First, if such a law has negative effects on a company that was engaged in a lawful business with all the lawful approvals, we might yet see the courts developing some creative remedies. If they do, BC could face some creative liabilities.

Secondly, every time a province rips away at the threads of the federation because it disagrees with a particular federal decision, it does harm to Canada as a whole. The federal power to authorize interprovincial transport projects has been important right from the construction of the railway that brought Canada together.

Interprovincial transport might not seem like the sexiest topic, but Canadians must pay attention. These issues have the very real potential to tear Canada apart.

Dwight Newman *is a Munk Senior Fellow at MLI and Professor of Law at the University of Saskatchewan.*
This article first appeared in the Toronto Sun.

The Trudeau government is building a wall to keep out life-saving drugs

If you don't know what the PMPRB is, you should – it holds the power of life and death over us.

Richard Owens

Do you know about the PMPRB? That is the Patented Medicine Prices Review Board, for the uninitiated. It's time to pay attention, because the PMPRB holds the power of life and death over us. It determines the prices at which patented pharmaceuticals will be sold in Canada – and this affects not only their affordability, but also their availability. The Trudeau government's policy is to change the regulations that govern the PMPRB. This will delay, and probably greatly delay, the entry of many important drugs and drug therapies into Canada.

The new regulations are intended to reduce drug prices steeply by changing the countries the PMPRB uses as price comparators – by no longer comparing us to Switzerland and the US, where prices are high, and instead adding more countries where prices are low, such as Spain and New Zealand. It will also add an entirely new process, pharmacoeconomics, to the price-adjustment process. This means trying to get at the "value" of the drug – an enquiry for which the PMPRB is ill-suited, and which arguably is not permitted under the governing statute. It is also worth noting that a pharmacoeconomic enquiry could very well result in an increased price rather than a reduced one, and it would vastly complicate and delay PMPRB proceedings. Drug manufacturers might just increase prices initially, since they may be able to argue the higher price to be justified pharmacoeconomically.

Meanwhile, the fact is that we simply do not have a problem with drug affordability in this country. Drug prices are now 25-percent lower than the median drug prices in foreign markets. Prices for drugs have not increased by even the rate of inflation in recent years and have even declined in some years. Drug spending as a proportion of health-care costs has remained constant for 15 years.

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The reasonably anticipated effects of these new regulations are not doubtful. Lower prices mean lower access. Consider New Zealand. In the name of "equality," it has the strictest drug-price regulation in the OECD. As a direct consequence, there is an average nine-month delay in the introduction of new drugs into that country. Suppose you had cancer. What would a nine-month delay mean to you?

What will happen in the light of such delays in drug introduction? Will unlicensed practitioners smuggle bootleg supplies in from the US? Will provincial health insurance plans have to bear the costs of sending people to the US? Or will the government's answer simply be, "If you want it, go and get it. If you cannot, because of budget or illness, then just be happy to be equal in suffering with others in your position."

So dire may be the impact that the regulations might be subject to a challenge using the *Canadian Charter of Rights and Freedoms*, under Section 7, guaranteeing the right to life and security of the person, which was used to successfully challenge the Quebec government's health-care monopoly in the Supreme Court's landmark *Chaoulli* decision in 2005.

One wonders whether this new regulatory policy is intended to counteract the potentially enormous prices of emerging biological treatments, which can run to hundreds of thousands of dollars for a single instance. If so, this would be one of the worst reasons for such a policy. Manufacturers of intellectual-property-based goods are inclined to price discriminate in favour of poorer jurisdictions only if the available supply exceeds the needs of richer jurisdictions. Particularly with these new biologics that is unlikely to be the case. If we do not pay market price, it will be a long time before we see such drugs, if ever. Yet these treatments, expensive though they may be, may nonetheless also be very cost-effective because of their outstanding results.

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Indigenomics: a seat at the economic table

Economic reconciliation is a requirement if First Nation and Indigenous people are to be empowered.

Carol Anne Hilton

First Nation economic development has a unique space within Canada. The systemic absence of Indigenous peoples at this country's economic table over the past 150 years has largely been facilitated through the *Indian Act* and other exclusionary policies and practices. Today's new reality is that First Nations are now emerging as economic powerhouses. Equipped with a formidable intent of recognition, and through the establishment of new legal and economic requirements, First Nations are securing our rightful place at the economic table of this country.

This new space at the economic table has been established in the Supreme Court of Canada – to be more precise, 255 times to date. And while costly and time consuming, these court challenges have shown through distinct and specific ways that First Nation rights existed, continue to exist and must be recognized, upheld and implemented.

This new legal and economic space has been the cause of a significant shift in Canada's approach to Indigenous relations, which has in turn formed the foundation for economic reconciliation today. This shift is characterized by a focus on recognition – that Indigenous self- empowerment, self-government and laws are critical to Canada's future. Indigenous inclusion and rights must be incorporated in all aspects of this evolving relationship. The economic table has been set. This is Indigenomics.

Economic reconciliation is the space between the lived realities of Indigenous peoples, the need to build understanding of the importance of the evolving Indigenous relationship, and the immediate requirement for progressive actions for economic inclusion. Indigenomics acts as a platform for economic reconciliation.

Recognition frames our modern relationship. We as a country need to understand that legal and economic recognition must come before economic reconciliation. We have to know what it is that we are recognizing before we can reconcile this. In the recent announcement that the government will develop a new "Recognition and Implementation of Indigenous Rights Framework," the Prime Minister made a defining statement: "We need to get to a place where Indigenous peoples in Canada are in control of their own destiny, and making their own decisions about their future." Economic reconciliation is an ongoing process that occurs in the context of evolving the Indigenous-Crown relationship.

At the centerpiece of this economic table, is the feast bowl of old; "To give new life to Section 35 of the *Constitution Act* of 1982 which recognizes and affirms Aboriginal and treaty rights." The progressive Indigenous economic relationship centres around this.

With a rapidly growing Indigenous economy, currently valued at $32 billion, the core question at this economic table must be: How can Canada prepare for the evolving $100 billion Indigenous economy when it arrives? Today this means inclusion and participation in the balance sheet of this country. This is economic reconciliation. The economic table has been set.

> *How can Canada prepare for the evolving $100 billion Indigenous economy when it arrives?*

It's time to bring leadership and shape the conversation at this economic table. The conversation needs to shape economic reconciliation through renewed nation-to-nation and government-to-government relationships based on recognition of rights, respect, co-operation, and economic partnership. This is the foundation for transforming economic change. It's time for progressive actions for Indigenous economic inclusion – to move over, to make space for, to include, to increase participation with the intent to shape Indigenous economic empowerment.

This new economic conversation must bravely ask the key questions of today;

'What does a supportive climate for Indigenous economic partnership look like?' or 'How can the resource development regulatory environment include Indigenous worldviews to better encompass higher environmental standards?' and 'What are

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MLI laments passing of one of Canada's greatest public policy minds: Stanley Hartt

MLI's Brian Lee Crowley offers his condolences on the passing of Stanley Hartt on January 3, 2018. Hartt was a founding director of MLI and a frequent contributor to Inside Policy.

Brian Lee Crowley

Stanley was not just a policy leader, but a prominent lawyer, businessman and investment banker. Stanley was a towering intellect in both the legal and financial fields with a long record of service to Canada in various senior positions, not least as Deputy Minister of Finance under Hon. Michael Wilson and Chief of Staff to former Prime Minister Brian Mulroney. In these positions he played key roles in the adoption of public policies that greatly benefited Canada, including the abolition of the Manufacturers' Sales Tax and its replacement by the GST, and the free trade agreement with the United States.

Stanley was also a keen early supporter of MLI, understanding, as few did at the time, how important it was to have a non-partisan national think tank in Ottawa to deal with all questions relating to the intelligent use of federal power for the benefit of all Canadians. He was a long-serving member of our Board of Directors and latterly sat on our Advisory Council. He was also a frequent contributor to our magazine, *Inside Policy*.

It would be fair to say that MLI strives in all it does to emulate the standards that this remarkable man embodied. There wasn't a public policy issue of any importance on which Stanley did not have an original, insightful and closely reasoned opinion while at the same time treating opposing views with respect and kindness. He was a personal mentor to me and both the Institute and I are much the poorer for his loss.

Brian Lee Crowley *is the Managing Director of MLI.*

NAFTA not whole game (Blank and Gattinger)

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growth and fiscal balance and will create political, economic, and social turmoil. We are also experiencing high levels of internal migration as people follow jobs – and, at the same time, decaying regions where people are unable to seek new work. We are set to face growing imbalances between supply and demand of medical and educational resources. Moreover, in a world in which migration crises are likely to worsen, we need to define some common baselines for dealing with these issues.

All told, the issues raised in this article are not trade or NAFTA issues. But NAFTA has become something like the Ambassador Bridge between Windsor and Detroit – aging and wobbly, but bearing a huge weight of Canada-US traffic. No doubt talented and dedicated Canadian and Mexican negotiators will continue to try to build some agreement with the Trumpist-tossed Americans. But attention, talent and ideas should not be focused exclusively on NAFTA. We need new ideas, new visions, and new bridges as we face – together whether we like it or not – the demands of the 21st century.

Stephen Blank *is Senior Fellow at the University of Ottawa's Institute for Science, Society and Policy (ISSP) and a Senior Fellow at MLI.* **Monica Gattinger** *is Director of the ISSP at the University of Ottawa.*

NAFTA (Cross)

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and governments in central Canada pushed higher costs on firms. Producers in low wage consumer goods industries such as clothing and furniture soon could no longer compete and these industries quickly disappeared or moved abroad. What remained in Canada's manufacturing sector were resource-based industries and capital goods, both of which pay high wages, along with some surviving assets in the auto industry.

Canada's changing role in the North American supply chain helps clarify what is at stake in the current blizzard of our trade negotiations and deals involving Europe, North America and Asia. While

trade deals with Europe and Asia have some importance to our producers of natural resources and our consumers of imports, we will never be an integral part of the European and Asian supply chains. Canada is simply too remote and has too high a cost structure.

Canada's future lies in finding its proper niche in the North American supply chain. Even with the loonie's devaluation after 2014, exports have stagnated because our high cost structure due to government policies towards energy, wages and regulations increasingly limits our role to producing raw materials, buying finished goods and supplying high cost capital goods such as aerospace and high tech equipment. This underscores the fundamental importance of both a successful renegotiation of NAFTA and lowering our costs. We cannot be fooled into thinking that trade deals with Europe and Asia will ever replace our need to successfully integrate into the North American production process.

Concluding trade deals between Canada and other nations is complicated by the Trudeau government's fixation on 'progressive trade' issues such as higher labour and environmental standards and social goals surrounding gender and Aboriginals. All of these inevitably raise our cost structure, so it is easy to see why Canada wants other countries to commit to the progressive trade agenda or we risk losing even more cost competitiveness. By the same token, it is obviously in the interest of other countries to encourage Canada's fanciful pursuit of these policies while paying only lip service themselves. This is why progressive trade was only a non-binding side deal to the TPP and a non-starter in talks with both China and the US. This government says it will not sign a bad trade deal. Agreeing to trade deals while unilaterally saddling our businesses with higher costs would be even worse.

Philip Cross *is a Munk Senior Fellow at MLI. This article first appeared in the* Financial Post.

PRC-Australia trade (Pickford)

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changing dynamic on the Korean Peninsula, abandoning Washington for Beijing may not be only a bad moral decision by Canberra, but a bad strategic decision. Beijing understands these dynamics and will likely continue to link trade and political matters throughout 2018 and will have a clear interest in the 2019 Australian federal election.

In pursuing a PRC FTA, Ottawa should not naively expect Beijing to act in Canada's national interest, nor to separate political and economic issues. In many ways, influencing Canada may be more attractive than targeting Australia. After all, Canada is literally next door to the US, the PRC's primary strategic competitor. The experience in Australia shows the extent to which the PRC can influence a political system as trade ties deepen economic reliance. More worryingly for Canada is the PRC links with the Trudeau family, including the Pierre Elliott Trudeau Foundation through substantive donations, which were documented in *The Globe and Mail* on November 22, 2016, which may distort the cost-benefit analysis of any proposed deal.

Canada's involvement in the renamed Comprehensive and Progressive Agreement for Trans-Pacific Partnership is a positive development, even though actions by Trudeau in November 2017 almost derailed the entire agreement. Similarly, a positive conclusion to NAFTA would provide more flexibility. Aside from the negative impact of a rushed and poorly structured Canada-PRC trade deal, political leaders should consider carefully examining the experience of other Western democracies with the PRC.

Andrew Pickford *works between North America and Australia in the areas of strategy, economic analysis and energy with a range of organizations, both private and public.*

Bad old days (Subramanya)

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he must explicitly and in no uncertain terms distance himself from pro-Khalistan elements within his own party and the party's support base. Boycotting next year's Khalsa Day would send a good signal. Instructing his Sikh Canadian ministers and MPs to denounce the Khalistan movement in explicit terms and disassociate themselves from community events which appear to support the Khalistan movement would also help. Such actions must occur between official engagements with India. Boilerplate and bland denunciations of the type we've seen before this visit by Trudeau and his government are not fooling anyone in India. On the positive side, Trudeau ought to commit himself to a broader engagement with the Indo-Canadian community that doesn't fall into the trap of trying to court the pro-Khalistan Sikh vote. He can do this by explicitly reaching out to Sikhs who are opposed to Khalistan and to other groups within the Indo-Canadian community.

India and Canada are two major democracies that have much in common and the large diaspora should be functioning as a positive link to tie the two countries together rather than an obstacle keeping them apart. Prime Minister Stephen Harper and Prime Minister Narendra Modi made a good start to this endeavour but unfortunately Prime Minister Justin Trudeau has frittered away the goodwill and put the relationship into reverse gear. He still has time to learn the correct lessons and once again begin improving the bilateral relationship – which can only be good for all Indians and all Canadians, irrespective of their country of origin.

Rupa Subramanya *is an independent economist and researcher based out of Mumbai and Ottawa. She's co-author of* Indianomix: Making Sense of Modern India *(Random House 2012).*

Confronting Russia (Kolga)

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and their political support. Maintaining this system is at the core of every decision Putin makes.

The threat of disruption to the kleptocracy that Putin has created for himself and his friends is his Achilles heel. The network of corrupt officials and oligarchs who support him expect to vacation at villas in the French Riviera, ski at resorts in British Columbia, send their children to North American private schools and hide their assets in Western real estate, including in Canada.

In October 2017, Canada unanimously adopted Magnitsky legislation, which allows our government to place targeted sanctions against corrupt human rights abusers around the world, freezing their assets and banning their entry into Canada. The United States has adopted similar legislation and the UK currently has a visa ban law.

With the upcoming Group of Seven (G7) summit in Quebec, Canada has a unique opportunity to build on the international credibility it earned by adopting Magnitsky legislation by placing it on the G7 agenda.

France and Germany are likely motivated to find ways to hold accountable and deter those who meddle in their elections. A harmonized system of defensive G7 sanctions will create serious consequences for the Kremlin and like-minded regimes that seek to undermine our democratic systems, institutions and society.

This is a moment, not unlike the formation of NATO, when Canada can lead and make a lasting global impact to protect our own democracy and human rights activists around the world.

Marcus Kolga *is a documentary filmmaker, human rights advocate and an expert on disinformation, sanctions and Russian foreign policy. He is a senior fellow at the Macdonald-Laurier Institute's Centre for Advancing Canada's Interests Abroad. This article first appeared in the* Toronto Star.

Budget 2018 (Speer)

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The story in subsequent years is less forgiving for the government. Revenue projections have been revised downward a bit relative to the 2015 Budget. But these downward revisions only represent about 1 percent of total revenues. It is thus less a significant revenue drop and more a case of the usual churn evident in budget forecasting.

It is also important to note that these revenue changes are also offset or nearly offset by lower debt charges. Look at 2018/19. Revenue projections are now $2.7 billion lower than in the 2015 Budget, but debt charges are $4.2 billion lower. The result is that the government's fiscal position is actually $1.5 billion better than in the 2015 Budget before any incremental spending.

The point is that the government's departure from its election commitment of three, $10 billion deficits is mostly a result of discretionary spending choices and not uncontrollable economic or fiscal changes. Those pointing to the post-2015 Budget drop in nominal GDP are overstating their case.

As for the composition of this discretionary spending, it seems increasingly clear that it is comprised less and less of infrastructure spending. The 2018 Budget provides an update on the "reprofiling" of infrastructure funding and the trend of pushing resources into subsequent years continues unabated. Nearly $5 billion is being delayed from 2017/18 and 2018/19. That is on top of roughly $2 billion from the previous year. Some has even been completely reallocated to fund non-infrastructure priorities such as veterans' benefits.

This is not necessarily a critique of infrastructure delays or veterans programming so much as it is to emphasize that the deficit is less about infrastructure spending and more about run-of-the-mill spending on various government priorities. One can of course agree or disagree about the utility of this spending. The point is the notion that incremental spending is principally about infrastructure investment is also overstated. This does not even account for the extent that the infrastructure spending that is occurring involves a loose definition of "infrastructure."

What is the key takeaway? The good news is that fiscal improvement is entirely within Ottawa's control. The bad news is it will require a deviation from recent fiscal behaviour. Until then the budget will continue to be written in red ink.

Sean Speer *is a Munk Senior Fellow at MLI.*

Life-saving drugs (Owens)

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Finally, the regulations are profoundly anti-innovative. The PMPRB is established under the *Patent Act*, a statute overseen by the Ministry of Innovation, Science and Economic Development (ISED). However, these proposed regulations are put forward by Health Canada. This is less surprising when one considers how very anti-innovation these regulations are. Drug-price regulation correlates strongly with declining investment in pharmaceutical R&D, and the stronger the regulation, the less the R&D expenditure. Canada's record on R&D generally, and health specifically, is dreadful. We are the only country in the OECD, except for South Africa, to see recent year-over-year declines in R&D investment.

Consultation on these regulations is already wrapping up. Is ISED awake on this file at all? If not, let's hope it wakes up soon. And let's hope Canadians do too, or they'll wake up later to find someone they love dying from the effects of this baleful policy.

Richard C. Owens *is a Munk Senior Fellow at MLI and an adjunct professor at the University of Toronto Faculty of Law. This article first appeared in the* Financial Post.

Intellectual-property laws (Owens)

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ending the nonsensical situation of having different rules for otherwise similar patents. Yet still some commentators have mourned the promise doctrine's demise, among other reasons for taking a negotiating chip off the NAFTA table – as though we should maintain a supply of self-inflicted wounds to agree to mend in the event of trade negotiations.

And so on. In *Harvard College v. Canada (Commissioner of Patents)*, the SCC ruled that higher life forms could not be patentable; in *Schmeiser v. Monsanto*, it effectively reversed that decision. Chalk up another win for IP. And, in a similar vein, the SCC stepped forward to strongly protect IP in *Equustek v. Google*. In *Equustek* the SCC required Google to de-index worldwide references to providers of equipment infringing Equustek technology.

Whether by reversal or distinguishing of prior decisions, or new law, courts are sustaining traditional IP protections. Canadian opinions that are anti-IP are being marginalized, as they should be.

Richard C. Owens *is a Munk Senior Fellow at MLI and an adjunct professor at the University of Toronto Faculty of Law. This article first appeared in the* Financial Post.

Indigenomics (Hilton)

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the specific tools of a new Indigenous fiscal relationship?' and 'How specifically can a national Indigenous procurement strategy nurture Indigenous economic growth now?' Further, 'In what ways can we address the investment/capital/equity gap in First Nation economic development processes?' These questions can directly connect to the value chain of this country. These power questions form the heart of the narrative at this modern economic table. This is Indigenous economic design.

The empowered Indigenous relationship can help establish a collective national economic agenda, moving from the risk side of the equation to the cause side of collaborative Indigenous economic prosperity. It's time to shift from risk to strategic advantage in our evolving Indigenous relationship. Is this the time that Canada will finally get it – that Indigenous peoples are integral to the value chain of this country? Here's to the next 150 years – let's sit collectively at the economic table of this country. This is Indigenomics and the time is now. Let's have the courage to do this together.

Carol Anne Hilton *is CEO/Founder of the Indigenomics Institute and CEO of Transformation International.*


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