

THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

INSIDE POLICY

AUGUST 2015



A politician of the Old School

Irwin Cotler leaves Parliament
with a legacy of pursuing justice

The Election Issue INSIDE:

Democratic reform:
Solution or more
problems?

Reviving
medicare as an
election issue

Five ideas for
transforming
Aboriginal affairs

A new government
needs to tackle
Canada Post





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From the editors

With the federal election call at the beginning of August, we are now in the midst of a formal campaign that will be the longest in modern history. One real benefit could be that voters will have more time to study the major parties' platforms, and determine which policy ideas they think are right for the country.

This issue of *Inside Policy*, intended for publication before the early election call as we do not usually publish during federal elections, is intended to serve as a guide to some of the many issues where MLI has shown thought leadership: democratic reform, health care, Aboriginal affairs, security and counterterrorism, national unity, the future of Canada Post, and that great favourite of politicians, income inequality.

But to begin, we profile the Hon. Irwin Cotler, who will be leaving politics after the election on Oct. 19. *Inside Policy's* **Robin Sears** sat down with the respected member of Parliament for Mount Royal as he recalled his stellar career as an academic and defender of human rights, and a reluctant politician who was involved in what Sears describes as "one of the most fascinating periods of law reform in recent Canadian history".

Also in this issue, **Dr. Merrilee Fullerton** calls for the revival of the national health care debate in this election, even as our federal politicians give this vital issue a wide berth.

On Aboriginal affairs, MLI Senior Fellow **Ken Coates** offers a prescription for what has been a difficult file for the current government. But rather than the sweeping and impractical promises made by opposition leaders, Coates proposes five policy ideas that could result in real change.

When it comes to how we vote and who we vote for, there is plenty of dissatisfaction with the status quo. But **Stanley H. Hartt** cautions that some of the appealing-sounding ideas for reforming Canada's appointed Senate and first-past-the-post voting system will cause more problems than they solve. He warns of the instability of systems that feature proportional representation, where "political horse trading trumps the public good almost inevitably". Also on the subject of how we vote, **Rachel Cunliffe** explains how people in Estonia not only vote online, nearly every interaction with government is conducted painlessly and easily using the Internet.

On counterterrorism, **Scott Newark** proposes a bold series of reforms to prevent the radicalization of susceptible young Canadians, and ensure authorities have the tools to break up terrorist plots. On income inequality, which was a major focus of our June issue, MLI Senior Fellow **Philip Cross** proclaims the death of the Great Gatsby Curve, the economic theory that equates income inequality with a lack of social mobility. On Post Office reform, Ian Lee, author of a recent MLI paper on the subject, says that controversial changes to mail delivery are only the beginning if Canada Post is to survive rising costs and sharply declining mail volumes. And finally, **Brian Lee Crowley** defends the *Clarity Act*, making a strong case that Canada can't be allowed to break up over a handful of votes in a Quebec referendum.

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With democratic reform, be careful what you wish for

While many are disenchanted with Parliament these days, Stanley H. Hartt writes that certain proposals to fix the ways Senators are appointed and MPs are elected will cause more problems than they will solve.

Stanley H. Hartt

The continuing saga of Honourable Senators exposed as proboscis-in-the-trough, high-living exploiters of the public purse, entitled to their entitlements, generates a feeling of digestive unease among Canadians. Citizens expect their appointed legislators to labour in the trenches of public service for the annual salary that goes with the honour of elevation to the upper chamber of our Parliament. This is something Senators were presumably aware of at the time they accepted their gig.

So the Auditor General's recent revelations of widespread abuse of expense claims, some justifying criminal investiga-

tion, make the shoulders sag. Thus we come to the "reform" initiatives that Opposition postulants for office present as instant fixes (sometimes even needing to open the *Constitution Act* for amendment, despite the fact that, as we have learned, constitutional tinkering has been a wasteland, inducing political annihilation for prior generations of great ideas).

We forget, because we are so focused on the excesses of self-indulgence, the characterization in his retirement address by Hugh Segal, an eminent, highly-qualified former Senator, a Conservative appointed by a Liberal Prime Minister, of his

colleagues in the Red Chamber as “academics, lawyers and physicians, researchers, nurses, teachers, provincial ministers, businessmen and women, First Nations leaders, mayors, police and military leaders, privy councillors, esteemed champion sports figures, including the best hockey coach in the history of the world, philanthropists, human rights advocates, former ministers, journalists and, yes, honourably serving politicians ...”

“Senators would be on a slippery democratic slope if they felt they could indefinitely thwart the decisions of the lower House even on matters of high principle.”

Prime Minister Stephen Harper would have preferred early on to have a Senate that was elected, equal, and effective. The “elected” would have given legitimacy to the power of the body of sober second thought to approve, amend, or reject legislative measures whether originating with the House of Commons or in the Senate itself. The “equal” was a genuflection to the role of the provinces to represent regional viewpoints without regard to weighting by population. The “effective” would derive from the first two, allowing the Senate to fulfill its role under Section 17 of the *Constitution Act, 1867*, as a vibrant part of the Parliament of Canada.

Since first being elected prime minister, his continued focus on Senate reform took on less ambitious, even if highly-desirable, goals such as term limits (eight years), and measures to make the Senate a more effective and independent body, including a process which would allow the government to consult Canadians on Senate appointments.

In April 2014, the Supreme Court of Canada ruled that Ottawa cannot act alone to reform the Senate, limit terms, or appoint only elected senators, but must have the consent of seven provinces with half the country’s population for such measures, and unanimous consent to abolish it altogether. Harper declared

that “significant reform and abolition are off the table.”

But, most recently, the Prime Minister has declared a moratorium on Senate appointments, as a way to put pressure on the provinces to agree to changes to, or elimination of, the Senate. The interests of various provinces differ as to whether they see the Senate as an important forum for regional voices, as a useful body justifying the trouble and expense of organizing “elections”, or a burden that we can all do without. We will see whether foregoing filling the current 22 vacancies, after filling 59 of them since he became Prime Minister, is a sustainable strategy. Harper might ultimately be obliged to shore up his majority in the chamber in the face of resignations, retirements, or deaths among the current membership if the provinces don’t blink. But this is a matter of speculation. There is also a view that the Prime Minister has a constitutional obligation to fill vacancies, albeit at a time of his choosing, and cannot resolutely decline to do so because certain current and former Senators have caused some political embarrassment.

Then there is Justin Trudeau: hoping to gain from the bad taste in the mouths of Canadians generated by the expenses plague, he first announced that Senators would no longer sit in the Liberal caucus. More recently, his party has pledged that “We stand for an open, transparent and non-partisan approach to appointing Senators – without reopening the Constitution. This process will be developed working with experts and informed by other non-partisan appointment processes, such as that of the Supreme Court Justices and Order of Canada recipients.”

There is only one problem with this – if we do not modify or limit the Senate’s statutory right to participate fully in the adoption of statutes, the roster of “approved” candidates would need to include persons who share the political philosophy, outlook, and agenda of the leaders of the elected chamber, since otherwise the will of the voters who elect Members of the House of Commons could be entirely frustrated by illustrious unelected philosopher kings. Senators would be on a slippery democratic slope if they felt they could indefinitely thwart the decisions of the lower House even on matters of high principle.

The system for appointing Supreme Court Justices has recently produced some anomalous results, because of the perceived need of the Prime Minister to dig deep to select candidates who might find Parliament’s legislative output constitutionally acceptable. But it is quite another thing to insert a House of the “best and the brightest” directly into our deliberative lawmaking machinery. Presuming Trudeau does not expect the PM’s hands to be tied by convention to slavishly

We have intentionally opted to bias our selection process towards the stability of majority outcomes. This fits well with our system of responsible government where the executive branch must retain the support of the House.

appoint whoever the potentates of process had placed on the list, the PM would either let vacancies sit or ask for additional names. The idea that we could constitute a 105-seat chamber of Order of Canada recipients who, answerable to nothing more than their consciences and conceit, could defy bills sent to them from below is an anti-democratic idea whose time has definitely not come.

While the US Senate routinely differs with the enactments produced by the House of Representatives, each chamber is directly elected. And when the presidency and the legislature are deadlocked because they are controlled by different political alignments, this is the result not of academic musings about what Plato's Utopia might look like, but of a hard-headed, intentional effort by the framers of the US Constitution to make decisions extremely difficult to attain unless they result from a general consensus within the nation. The US declared its independence at a time when the monarch's powers were not yet constitutionally curtailed and the colonists feared creating a new form of dictatorship, preferring to select by ballot those who would have authority over them.

This is the perfect segue to a discussion of proportional representation (PR) or other means of weighting the voting process, by preferential ballot or otherwise. PR is held by some to be better than the constituency-based "first past the post" system we now have because, allegedly, some votes count more than others in an election by plurality. It is the perfect segue because, in the Senate selection process proposed by Trudeau, if the candidates selected by the princes of prestige don't feel any onus to adopt laws approved by the elected representatives of the people, then no one's vote will count at all.

The Liberal Leader has promised that, if the Liberals form the government after October 19, it would be the last federal election

held under the current electoral system. A special, all-party parliamentary committee would examine proportional representation and other possible replacements for Canada's federal electoral process.

It is true that the way in which ballots are counted in the constituency-based Electoral District system mandated by the *Canada Elections Act* does permit, in some mathematical circumstances, a party that garners less than 40 percent of the national popular vote to win a majority government. That is a good, not a bad, thing. We have not blindly stumbled into a constitutional non-sequitur where we erroneously allowed our members of Parliament to claim their seats with the support of less than 50 percent of their electorate. We have intentionally opted to bias our selection process towards the stability of majority outcomes. This fits well with our system of responsible government where the executive branch must retain the support of the House, failing which, on any matter of confidence, the government falls, and, by convention, dissolution leads to an election where it is hoped that the will of the people will select representatives who can muster sufficient support to govern.

Where support of the legislative branch is not a pre-condition for the continued right of the executive branch to hold office, such as in the United States, this feature, plus fixed election dates, results in much less effective parliamentary discipline to ensure the consideration and adoption of the government's program. Indeed, as mentioned above, the US Constitution prefers broad consensus to whipped votes along party lines.

But in some European and other countries where proportional representation, or ranked, transferable ballots, or combinations such as mixed member representation (partly based on party lists, partly on direct election) are practised, we witness the instability of coalitions where political horse trading trumps the public good almost inevitably. Is that what we wish for? If the experts of electoral Eden prefer the chaos and dysfunctionality of those regimes to our supposed excessive central control over elected legislators, they are living in a world where the pursuit of perfection assures its own demise.

If the Liberal proposal is merely naïve and idealistic, NDP Leader Thomas Mulcair leapt onto the PR bandwagon with a more practical agenda. Remembering when the Liberals were guaranteed a free pass to power by the divided right of our political spectrum, and noticing that, once the Canadian Alliance and the Progressive Conservative parties merged, things have turned out

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Photo montage: Renée Depocas

Why voting, and nearly everything else, is better online in Estonia

This tiny Baltic nation allows nearly every citizen interaction with government to take place online, writes London-based CapX author Rachel Cunliffe, from voting to obtaining prescriptions. Why can't everyone else?

Rachel Cunliffe

One of my most vivid memories as a child was returning from school to find my mother kneeling on the living room floor, surrounded 360 degrees by stacks of paper. She would glance up as I came in, and try to extract herself from the paper flood, navigating her document towers to make her way to the door without stepping on anything. This happened in late October every year. My mother, a self-employed psychologist with her own business, was filing her taxes. This ordeal would last several days, during which time our household (and my mother's general demeanour) would be chaotic, to say the least. Somehow she never quite had the right codes, the necessary reference numbers, the complete set of receipts and invoices.

If she had been in Estonia, the entire process would have taken 30 seconds.

Describing Estonia's digital government makes it sound like a futuristic fantasy world. The list of bureaucratic tasks Estonians can complete online is seemingly endless: as well as completing tax returns, they can set up businesses, sign contracts, obtain prescriptions, manage pensions, interact with utilities companies, apply for visas and permits, and vote. The Prime Minister, Taavi Rõivas, can even approve government bills using his iPhone.

Before I get into how this all works and why it matters, let me say one thing about voting online. A few weeks ago, I was at a forum discussing government attitudes to Millennials (those



One of the Baltic states, Estonia has a population of 1.325 million (2013). It has been often suggested that Estonia is Europe's most wired country.

born between the early 1980s and the early 2000s), and one point raised multiple times was that young people cannot expect their government to represent them if they do not vote. I pointed out that, in this country, voting practices are biased towards older people who do not regularly move house (and so only have to register once), and who can take time off work to physically visit a polling station. For young people, many of whom work unpredictable part-time hours in multiple locations, and who change addresses often as rents rise and job opportunities move, voting is much more logistically challenging than any of the handwringers lamenting the disengagement of this generation ever acknowledge. I suggested that, if it were possible to vote online, participation rates would skyrocket. I was laughed at from all sides of the table, and informed that the security risks of online voting are far too serious for that ever to be a possibility in Britain.

Almost a third of votes in Estonia's election in March were cast online. While there has been some controversy over the security of the e-voting system, Estonia has thought carefully about how to address these issues, and the fact that so many citizens choose the online option when they are free to go the polling station shows the confidence they have in the democratic process.

Online voting isn't the only feature of the e-government that Estonians enjoy. Each citizen is assigned a unique ID number at birth, which they use for all official interactions, whether with government departments, or with private companies that are integrated into the e-government system. They also have mandatory ID cards

– something that would cause contention here, but which allows Estonian citizens to be recognized across government departments, without needing to sign up individually. Estonians each have a 'digital signature', a unique cryptographic key which enables them to sign official contracts online. In January 2014, "between ID cards and mobile phones, more than a million Estonians have authenticated 230 million times and given 140 million legally binding signatures".

It is the integration between different systems that makes filling in tax returns so easy. Information concerning contracts, work permits, income, banking, pensions, charity donations, education and health care (to name but a few examples) is all linked to a citizen's ID number, meaning that, when they come to file their tax return, that information has already been included. All they need to do is check it is correct, and submit it – a process which takes five clicks.

This digital integration is not just useful from a user-perspective. Advocates of small government should be paying close attention to Estonia. In an interview last month, the Prime Minister pointed out that "with the register of social securities, we are now building a new information system which allows us to do the same things with far fewer people, around 20 percent less civil servants." According to Thomas Tamblin in the *Huffington Post*, "The introduction of the digital identity alone saves the country two percent of its annual GDP, and that's before you take into account the streamlining of each individual government service." And in terms of how much everything costs, Taavi Kotka, the undersecretary for information technology, has said that "All maintenance cost, salaries, investments together are around 50-60 million euros (\$72-\$87 million), honestly." In comparison, the Obamacare website cost over \$2 billion.

But for people in countries like Britain and the US, who are increasingly wary of government access to private information as new snooping scandals keep emerging, the extent of Estonia's digital government must seem terrifying. So why are citizens in Estonia, a country ravaged by Soviet control, so comfortable with it?

The answer should be obvious to anyone who has ever logged into Facebook, bought something off Amazon, booked an Uber, searched on Google, or used any Internet service company. In the 21st century, we are happy to give away access to our photos, travel movements, consumer habits, and innermost thoughts to anyone who might be able to make our lives just a little more convenient.

The Estonian government is making the same bargain with citizens as Facebook does with its users: sign up, and we will make the way you connect to everything around you so much easier. And unlike Facebook users, Estonian citizens own their data. Sten

The digital integration is not just useful from a user-perspective. Advocates of small government should be paying close attention to Estonia.

Tamkivi at the *Atlantic* wrote last year about how this works in practice: “in the case of fully digital health records and prescriptions, people can granularly assign access rights to the general practitioners and specialized doctors of their choosing. And in scenarios where they can’t legally block the state from seeing their information, as with Estonian e-policemen using real-time terminals, they at least get a record of who accessed their data and when. If an honest citizen learns that an official has been snooping on them without a valid reason, the person can file an inquiry and get the official fired.”

When it comes to both Internet consumerism and governments in most other countries, access to personal data is

nowhere near as safe, nor is there much in the way of substantial accountability. What punishment will the NSA face for the latest snooping scandal? What will happen to private data if Theresa May in the UK gets her way with the Snooper’s Charter, and who will hold her accountable? To look at Estonia and worry about 1984-esque scenarios is to miss the wider point that governments and corporations are already watching us. The question is, what should we get in return?

If the answer to that question is an end to bureaucracy, more efficient and cost-effective governance, higher voting participation rates, and a way to end the Kafka-esque frustration endured when applying for approval of anything from driving licences to starting a business, that’s an attractive proposal. Phone bills, arguing with officials in the wrong department, wasted paper, endless waiting periods, and the feeling of being helplessly lost in an impenetrable system could become a thing of the past. If I’m happy to trade my personal data so my friends can see my latest holiday photos online, I’d be happy to do the same so my mother didn’t have to waste three days filing her tax returns. ✱

Rachel Cunliffe is Deputy Editor of CapX.co, where this article first appeared.

Electoral Reform (Hartt)

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not so well for the left of centre parties, Mulcair suggested that the Liberals and the NDP don’t have to merge. They can merely propose a coalition.

Mulcair recalled the 2008 gambit by opposition parties to oust the minority Harper government. But that didn’t work for a number of reasons: it was proposed right after the Conservatives had won the largest number of seats and more popular votes than any other party. It looked like an attempt to usurp the democratically expressed will of the electorate. Moreover, to make it work, it required the support of the Bloc Québécois, not as sworn members of Cabinet mind you, but fully in support of the proposed legislative agenda of the Lib/Dip government. The “oops” was that this kingmaker role seemed inappropriate for a party committed to the breakup of Canada.

Now, Mulcair might reason, if we can just move to proportional representation, the Liberals and NDP in the future could form a coalition that could look only at numbers derived

from a pure, national popular vote. Legitimacy would be much easier to justify. The Bloc wouldn’t be needed with the same urgency as when attempting to usurp the recently expressed poll of registered voters known as an election.

If that is his calculation, it would test living memory to try to recall the last time a nation’s Constitution and electoral system were modified to suit the ambitions of one or more political formations. Yet we are led to believe this proposal is rooted in political science and conceptual purity. In matters of electoral reform, be careful what you wish for. ✱

Stanley Herbert Hartt, OC, QC is a lawyer, lecturer, businessman, and civil servant. He currently serves as counsel at Norton Rose Fulbright Canada. Previously Mr. Hartt was chairman of Macquarie Capital Markets Canada Ltd. Before this he practised law as a partner for 20 years at a leading Canadian business law firm and was chairman of Citigroup Global Markets Canada and its predecessor Salomon Smith Barney Canada. Mr. Hartt also served as chairman, president, and CEO of Campeau Corporation, deputy minister at the Department of Finance and, in the late 1980s, as chief of staff in the Office of the Prime Minister.



Irwin Cotler at a vigil for imprisoned Saudi blogger Raif Badawi.

Photo courtesy of Irwin Cotler's office

In the pursuit of justice

Reflecting a dignity and intellect that seem to belong in another era in an interview with Robin V. Sears, the Hon. Irwin Cotler looks back on a stellar career defending human rights across the globe and in Canada's Parliament, and toward life after politics.

Robin V. Sears

It would be wrong to call him a relic, as he is far too engaged and engaging to wear that label. But he is nonetheless an improbable member of Parliament who seems to have been teleported from an earlier time, from an era that valued intellect over show and unstinting courtesy over childish combat – an era that regarded self-promotion dimly.

A commitment to a series of causes, relentlessly, tirelessly nudging them forward with the help of colleagues on all sides of the House: that was once the convention for serious backbench MPs. Deep knowledge and expertise, often shared with colleagues and academics from a half a dozen places around the world, was not uncommon two generations ago, though by the 1970s such

comity had begun to fade.

Dozens of hours of research and interviews in anticipation of a parliamentary committee hearing, background reading by members themselves – not just scanning a one-page digest from an eager young staffer: while not always the norm, neither was it uncommon.

One can imagine Professor Irwin Cotler sitting in the old West Block cafeteria on a late afternoon, papers spread around the long tables, a cooling cup of tea at his elbow, holding forth – at some length, it must be said – on the importance of samizdat to Natan Sharansky's Soviet underground influence, or on why Raoul Wallenberg was the subject of so much baloney from

Moscow, or on why the latest change in the PLO leadership would not be very important to the stalled dialogue with the Israelis, or, well, a dozen other themes.

A formidable storyteller with a delightful, self-deprecating sense of humour, one shares a cup of tea with Cotler, both listening and watching his agile memory and intellect flick between one cause and another, one friend or geography and a second or third, and be astonished that more than an hour has gone by without one noticing.

Proof of his unique style is his honorary membership in the Liberal National Women's Caucus. Invited by caucus chair Carolyn Bennett to attend a meeting soon after he arrived in Ottawa, he asked if he could stay, becoming the inaugural – and still only permanent – honorary member. The story is iconic of his style and his charm. “We found his contribution to be invaluable. Sometimes he would offer legal gravitas like no one else. He called it his favorite meeting of the week,” says Bennett.

Before his election to Parliament, Cotler was a successful academic at McGill, an internationally respected expert on international law and human rights, and already a pioneer on apartheid, the Middle East, conflict resolution, Soviet dissidents, and a list of subsidiary causes too long to document. He was content with his life and he had reached a moment of serenity in his work.

The invitation to seek the Liberal nomination for the famous riding of Mont-Royal came in 1999 as a result of the previous occupant's being “elevated” – as we used to say in pre-Brazeau/Duffy era – to the Senate. The Liberal operatives locally and nationally were keen that this world-famous human rights activist and constitutional scholar should join the Red team.

The professor was not.

In fact, he was bound and determined not to succumb to their blandishments and to a broader no-so-subtle community pressure. They must have been dumbfounded by his truculence – this was Pierre Trudeau's own riding, for Pete's sake, one of the safest Liberal rotten boroughs in the nation. What was his problem, dammit?

The operatives increased the pressure by pushing other potential candidates aside, making it clear that the seat was not open for contention – a move, given the professor's stubborn refusal, that must have enraged other ambitious local Liberals. The matter was still not resolved by the weekend before the following week's published nomination day. Cotler was unmovable.

At a Saturday synagogue service, the defiant non-candidate was astonished when the rabbi concluded his sermon by saying

that Cotler must be the candidate, and that everyone was invited to his home after the service to help him see reason. He added that similar invitations were being delivered in synagogues and churches across the riding. The reluctant candidate came home to several hundred people milling about his house and property.

His wife had tried to encourage him to consider running and he had blown her off as well. But like most men in contests with their wives, over causes about which their partner is determined to prevail, he badly underestimated her guile.

“Look, Irwin,” she said soothingly, “I know you don't want to run, but I think you really should. Anyway, you're going on sabbatical next year. This is a by-election and there is only a year left until the general election, so it's really just a sabbatical in a different office. It'll make you a better law professor, seeing how Parliament works. When it's over you can say thanks very much, if you don't like it, and come home. There's really no difference ...”

*They must have been
dumbfounded by his truculence
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He won with 92 percent of the vote.

His son remained fiercely opposed to his running, and told a reporter at the nomination meeting that he thought his father was crazy. “Politicians don't ever do anything, some of them even get corrupt ... and there'll be a Monica Lewinsky waiting for him around every corner,” he added. When his father's massive victory was reported to him for reaction, he was not mollified. “So what? Donald Duck running as a Liberal would have got 92 percent of the vote in that riding.”

Cotler laughs at his naïveté as he tells this story, marveling all these years later at how expertly his wife corralled him. He

really had no excuse: when they met, Ariela Cotler had been the party whip in the Likud Party in the Israeli Knesset, and clearly knew the delicate art of managing political egos with gentle nudges and flattery. He admits that he was well into his first year before he realized that she had set the whole thing up.

There is also an air of Forrest Gump about Cotler, so long is the list of famous people, places, and events he has played bit parts in. Lecturing at the Al-Ahram Institute in Cairo in 1977, he was invited by Egypt's secretary of state for foreign affairs, Boutros Boutros-Ghali, an old friend, to meet with the president, Anwar Sadat. In the course of a private meeting, Sadat asked whether Cotler thought that it was really possible to negotiate with Menachem Begin.



Cotler's leadership and indefatigable campaigning on behalf of human rights causes crossed all party lines and continents.

It was an understandably doubtful query, given the hardline hawkish posture for which the leader of the Israeli right was famous. Cotler, an early advocate of a “two-state solution” between Israel and Palestine, was no Begin supporter. He was, and still is, nonetheless an acute observer of the nuances and complexities of the Israeli political spectrum, and he clearly understood how hungry Begin and Likud, only weeks after having broken the Labour Party's lock on power, were to demonstrate they were a responsible party of government. He told Sadat that he thought Begin would very much like to be the first Israeli leader to make peace with an Arab neighbour.

Cotler no doubt surprised the Egyptian leader and his advisers with his enthusiasm for such an initiative. He was asked if he would carry a message to Begin from Sadat – an astute suggestion, given that if it were leaked or rejected, Cotler could easily have been dismissed as a naïve amateur.

On the way to Israel he stopped in Syria for meetings with

the oppressed and dwindling Jewish community there. Once in Jerusalem, he was invited by a political friend to a meeting of recently elected young members of the Israeli Parliament. He told the group that he was surprised but pleased to report that Syrian community leaders had hailed Begin's election and declared, “Now, we will be liberated!”

Ariela was among the group of young MPs. She was skeptical about this leftie Canadian visitor, whispering to a friend that he must be a spy to have had such access in strange places. (The idea of Cotler as a spy summons visions of Maxwell Smart, the hapless spy of the 1960s TV show, *Get Smart*.) Nonetheless, she was impressed by his report of the enthusiasm of Syrian Jews for her boss, and offered to set up a meeting.

During the discussion, Begin asked Cotler the same questions as Sadat: Was real negotiation possible? Could Sadat commit to peace? Cotler had judged Begin, whom he had never met, accurately. The new Israeli prime minister was willing to talk.

The Camp David process that Cotler's message unlocked was one of the high points in Israeli/Arab relations in the past 50 years. Years later, Cotler is circumspect for the record about his view of current Israeli politics and the stalled peace process.

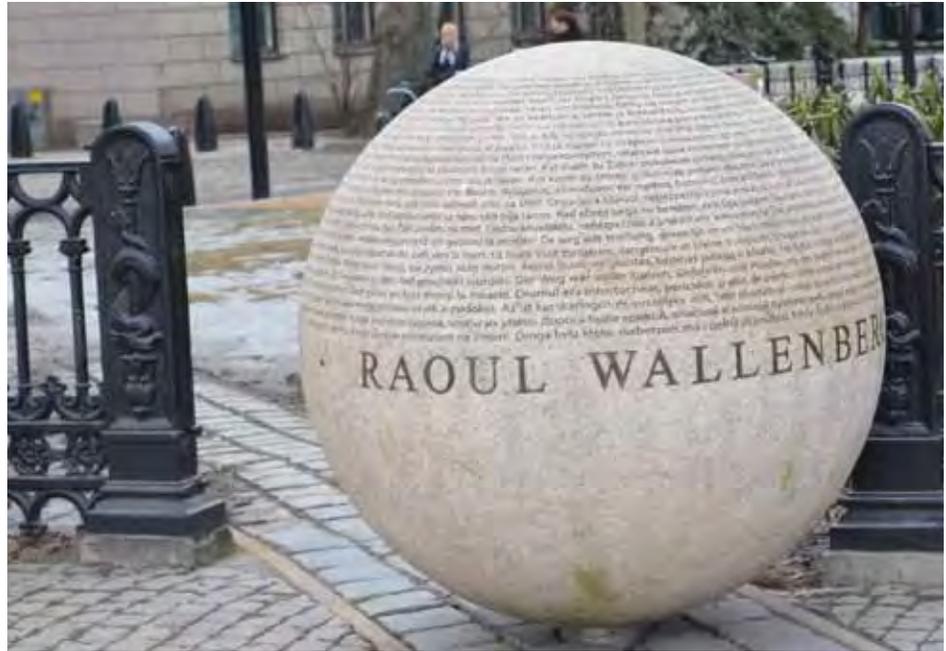
He clearly loves and admires his partner, describing their union as a “multiple mixed marriage on all levels”. Laughing, he recalls his son's defence for backing his mother in dinner-table political argument, supporting views he knew his son didn't agree with. “Dad, we love you, but we fear mommy...!”

And he recalls his first meeting with Yasser Arafat on a parliamentary delegation to Israel and Palestine shortly after his election. Ariela's parting words were, “Just one thing. Don't you dare shake that man's hand!”

Taking his wife's admonition seriously, Cotler tried to duck the receiving line, only to be admonished by Prime Minister Jean Chrétien, who warmly introduced his newest MP. Arafat wrapped Cotler in a long, tight Arab embrace. Chrétien's cameraman got the shot, leaving Cotler to plead with him – to no avail – not to include it in the day's coverage. His return to Chez Cotler was as frosty as he feared.

Cotler's leadership and indefatigable campaigning on behalf of human rights causes crossed all party lines and continents. He was an early apartheid opponent. He has championed the cause of Iranian political prisoners for decades, and of Venezuelans in more recent years. He has been loud in his denunciation of the brutal whipping of Raif Badawi, the imprisoned Saudi blogger. And he continues to strive for peace in the Middle East, trying

Stone globe in memory of Raoul Wallenberg, located in Stockholm, Sweden. Wallenberg was a Swedish diplomat, revered for his work helping Jews during the Holocaust, whose disappearance in 1945 Irwin Cotler helped to shed light on.



Karsten Ratzke

to build and maintain bridges between Palestinian and Israeli moderates during the tensest period in many decades.

His work on behalf of Soviet dissidents connected him to the famous Soviet physicist and political activist, Andrei Sakharov. Together they worked on the mystery of Raoul Wallenberg's disappearance in 1945. Cotler recalls meeting a Soviet general at the beginning of the short-lived glasnost era, who told him that the Soviets had indeed murdered the Swedish diplomat, a figure revered for his work helping Jews and political opponents to escape the Nazis in Hungary and elsewhere in occupied Europe. The general claimed that the KGB murdered Wallenberg because he knew too much about Soviet/Nazi collaboration, and their joint theft of gold and art from family and national treasuries. Cotler is unconvinced of the account that Wallenberg died in 1947, as there is too much witness testimony that he was alive in a Soviet prison until well into the 1950s.

Among his many adventures, dropped in passing, as if he were describing an unpleasant dinner party, was the attempt by the Russians to kill him on a return visit. Still very active in the Russian dissident world, Cotler was a friend of the recently murdered anti-Putin activist Boris Nemtsov. On a recent visit that brought him into contact with those trying to win international attention for the repression in Chechnya and elsewhere by the first Putin regime, Cotler – like several other troublemakers who have earned the displeasure of the Russian intelligence apparatus – was poisoned. The quick diagnosis of a Canadian

doctor at the embassy and his emergency medical evacuation probably saved his life.

Among his first tasks on retirement will be the creation of a Raoul Wallenberg Centre for International Justice, to be based in Montreal. The centre will be a base for Cotler to carry on his work in the name of one of the 20th century's towering figures in human rights leadership.

Cotler is the son of immigrants from Eastern Europe who imbued their son with a deep respect for the great institutions of democracy – parliament and the legal system, and the military sacrifices made to defend them. As an 11-year-old visitor to Ottawa, he was trooped by his dad from the Supreme Court, to the House of Commons, to the Soldiers' Memorial on Confederation Square, with each stop including a brief lecture on their majesty and the almost sacred reverence his lawyer father had for them.

As a long-haired Yale grad a decade later, he served in one of the most fascinating periods of law reform in recent Canadian history. As the house radical for Justice Minister John Turner, he worked with the team that set up the Law Reform Commission, liberated Canadian divorce law, and set in train the work that led to the Charter of Rights. His young staff colleagues included David Smith, Gerry Grafstein and Lloyd Axworthy – to whom he must have seemed like an unnecessary troublemaker.

In a great career-closing of the loop, Irwin Cotler became Justice Minister himself in the Martin government, and was

again at the centre during fascinating legal times. It was on his watch that the gay marriage reference to the Supreme Court was made. Ariela attacked his support of equal marriage publicly! He points out that it is not much noticed today that at Ariela's "suggestion," a test of the acceptability of civil unions be included as a compromise. The Court said no to that but did grant a religious exemption to those whose faith did not permit them to endorse equal marriage.

The Cotler years at Justice saw the government also tackle human trafficking and establish a tougher set of laws and regulations for the protection of children. Reflecting on the difference between his career as a law professor and as a minister, Cotler says as an academic you can conduct seminars for years on tough issues; as a minister you must decide. He clearly relishes the achievements of his years in Justice, both as a longhaired house radical and as a seasoned expert.

He recalls a lesson his mother offered when he was an aspiring legal academic: You must see injustice, you must feel what it is like to be the victim of injustice, if you are going to be an effective advocate for real justice – otherwise it will just be abstract and theory. It's a lesson he took to heart in struggling on behalf of political prisoners and other victims of injustice for more than 50 years.

Asked what he would like to be his epitaph, he takes some time and then says, simply, "He pursued justice to the best of his ability."

Cotler's office on the day of our meeting was a chaos of unsorted files, half-filled boxes, and the accumulated mess of souvenirs and gifts that a decade of political work generates. He had attended a retirement dinner for all departing MPs the night before and had been moved by the tributes and remembrances from all parties.

He was particularly touched by the comments of Alexandrine Latendresse, a young NDP MP from Quebec who is stepping down after only one term, citing the struggle she often felt to win respect in the House, and how unpleasant she found the toxic partisan atmosphere. Ms. Latendresse singled out Cotler as one of the only opposition members who had stayed one evening to listen to her maiden speech, and then came over to compliment her and offer her some tips on surviving as a newbie.

Asked what has changed the most in the 16 years he spent in Ottawa, Cotler sighs and says the collapse of cross-party friendships and dialogue is what saddens him the most. He cites a few places where the old traditions are respected: the unknown, but often hard-working specialist sub-committees of

the Commons, and the "take note" debates in the House where non-binding resolutions, often sponsored by MPs from different parties, attempt to turn a spotlight, however briefly, on ongoing injustices and unfolding disasters such as AIDS, or conflicts in South Sudan or the Congo.

He served for many years on the Human Rights Sub-Committee, helping it churn out cross-partisan appeals on behalf of political prisoners in a dozen countries, challenging the human rights abuses of governments of all stripes. In his last month as an MP the committee once again focused on the abuse of women, gays, activists, and others in Iran.

Asked to reflect on what had finally pushed him into agreeing to stay on as an MP, he said simply, "Rwanda."

Asked to reflect on what had finally pushed him into agreeing to stay on as an MP, he said simply, "Rwanda." He explained that if the world were ever to face another Rwandan-scale genocide, he would want to be one of the decision-makers, not merely one of the supplicants. As he returns to the supplicant side of the table, Canadian politics is poorer for his absence.

Perhaps his years conducting himself as a parliamentarian of the Old School will have made an impression on some members of the new generation. Perhaps his dogged, unflinching advocacy of causes that often took decades before real change resulted will inspire others not to give up at the first defeat, or to drop a cause in favour of what is today's Twitter sensation.

And perhaps his legacy will even include that small group of MPs and staffers, with whom he worked closely, who will in future, ask themselves and others: "What would Irwin have done?" ✨

Contributing writer Robin V. Sears, a former national director of the NDP, is a principal of the Earncliffe Strategy Group.



Photo montage: Renée Depocas

Reviving medicare as an election issue

Canadians are worried that their health system won't be sustainable in the future, with an aging population and other strains on provincial budgets, writes Dr. Merrilee Fullerton. The federal government's attempts to buy change haven't worked. As we head into another election, federal politicians need to lose their aversion to talking about new ideas for health care reform.

Dr. Merrilee Fullerton

Despite the reality that Canadian health care is under increasing pressure on many fronts including demographics, economic conditions, and scientific advances, so far the federal political campaigns have shown a paucity of health-related content. The areas that are being raised for consideration are big new federal programs such as a national pharmacare program or a national seniors strategy.

Although these well-intended concepts are gaining traction among some interest groups, there has been no demonstration that they are taking a firmer shape at the political level, which is perhaps for the best. Adding major federally funded programs at a time of already constrained costs is a dubious proposition.

Predictions that creating a national pharmacare program will result in savings on drug costs are arguable. They have been

developed without consideration of new pharmacological advancements whose impact has yet to be fully understood. Public pressure on politicians tends to drive up health program spending. This must be appreciated in the context of a national pharmacare program.

Similarly, a national seniors' strategy would seem to make sense intuitively given Canada's aging population, but it must be implemented locally. Given previous federal efforts to influence change in provincial health care programs through additional funding or through setting requirements for funding, we should approach this idea with caution.

Canadians don't need another big federal program. What is needed is fresh thinking that goes beyond tinkering around the edges of medicare. Many politicians are reticent to even to discuss the issue. Why?

Political fear

It is becoming clear that more public funding is not the solution to ever-increasing health care demand. Politicians and specifically Health Ministers are caught between a rock and a hard place. They cannot openly admit that the current health care structure is exhausted and they cannot continue to fund it in ever-increasing amounts by running annual deficits and increasing debt. They fear public backlash if they open a serious debate about the future of health care.



Canada is certainly good at producing reports on health care, including those by Barer-Stoddart, Kirby, Mazankowski, Romanow, and Castonguay.

Over the past several decades, politicians and policy-makers have endeavored to reform and transform our health care system to create greater efficiencies, better cost control, and improved value for money to preserve our current system. However, the result has been significant rationing of services, hospital closures and amalgamations, bed reductions, restriction of operating room availability, imposed physician contracts, patient queues, and outright denial of care.

It is no wonder that political parties and politicians nudge Canadian medicare with trepidation. One false move and the special interest groups, labour organizations, and various health care advocates react. Occasionally, reforms are pushed through despite protestations and even then they frequently fail to create the desired outcome.

Measuring and monitoring patient wait times, one of the big ideas of the past decade, has not stopped them from growing significantly in many instances. The median wait time from referral by GP to treatment in Canada has increased almost 100 percent since 1993 and waits are measured in weeks to months, and even years in some cases. It would appear that these efforts

at reform have resulted in system-centric preservation rather than patient-centred transformation. In other words, the reforms serve the single-payer system instead of the patient. What is a federal government to do?

The blame game

There has been much speculation and study as to who is to blame for the laggard performance of our publicly funded and supposedly universal system. Some say it is the lack of leadership at the federal level. Others report it is stakeholder self-interest, or the economy. Providers often blame a health bureaucracy that has grown steadily.

Rather than laying blame, we should be asking how a system can be created that allows for flexibility and adaptability to serve patients better even if it requires moving to a hybrid system that combines public and private options for necessary medical care, such as those found in the better performing systems of many developed countries.

Canada is certainly good at producing reports on health care, including those by Barer-Stoddart, Kirby, Mazankowski, Romanow, and Castonguay. None of the resulting policy changes have succeeded in creating a more responsive system without breaking the public bank.

The catalyst for true reform is still missing. But this may come, not in the form of another commission or lengthy report, but in the form of the Charter Challenge in British Columbia set to be heard this fall after several delays. It is expected to last many months.

Dr. Brian Day, president and CEO of the Cambie Surgery Centre in Vancouver, argues that government failing to provide timely access to health care violates Section 7 of the *Canadian Charter of Rights and Freedoms* under the constitutional guarantee to “life, liberty and security of the person”. His clinic has been restricted from charging patients for publicly insured services. Day says it is “only common sense” that Canadians should be able to pay when they can’t get timely care from the public system, and he documents numerous cases of those who have suffered while on waiting lists for surgery.

The Supreme Court of Canada has already ruled in the case of *Chaoulli v Quebec* in 2005 that access to a wait list is not access to health care. Unlike the *Chaoulli* case, which was specific to Quebec, the ruling in this case will be precedent setting for the country.

If politicians are unwilling or unable to make the difficult decisions, the legal system must be called upon to judge the rights of citizens to access medical care beyond the government-funded status quo. The uncertainty surrounding timely access to care is

a thorn in the side of health ministries and politicians, although many Canadians have been oblivious until directly affected.

A complex system equals uncertainty

As health care has evolved over the past 50 years it has become an extremely complex system with associated uncertainty. Most efforts at reform to date have created new problems elsewhere.

Take for example the push to improve wait times in five priority areas since 2004. In Ontario, physicians were encouraged to increase their productivity by performing many more procedures which ultimately meant higher utilization costs for government. Physicians have now been held responsible for rising health care expenditures, with the Ontario government imposing a contract containing significant fee cuts for certain high-volume procedures. This in turn jeopardizes the progress made in improving primary care. When federal funding is used to create change at the local level, it is often not possible to predict the results.

Uncertainty for patients and health providers

Even Canada's ability to use its health human resources effectively has been negatively affected as a result of reforms intended to improve efficiencies and lower costs. Specialist physicians in multiple areas are unable to access publicly funded resources such as operating room time and hospital beds. They have found themselves unemployed without access to infrastructure they require to serve the thousands and thousands of patients waiting in queues for various types of care, including orthopedic and cataract surgeries, and cancer care. This occurs while operating rooms sit idle or are closed for weeks at a time to meet hospital budgetary constraints. Elective surgeries can be cancelled due to capacity issues related to lack of hospital beds and other publicly funded resources.

The Royal College of Physicians and Surgeons of Canada reported in 2013 that 16 percent of newly graduated medical specialists were unable to find work. This is despite the fact that Canada has a below average number of physicians per population compared to other developed countries. There is not a surplus of specialists; rather, there is inadequate publicly-funded infrastructure to meet demand for care.

ER crowding and primary care reform

Another area suffering from unanticipated effects of reforms is emergency room overcrowding. Primary care reforms in several provinces were expected to stem the tide of patients seeking care in the ER. They have not accomplished this in any significant way despite many millions in spending. It might seem intuitive that



Health care is like a balloon: squeeze one area and another bulges.

by providing care outside the hospital for more patients that ER waits would be reduced but multiple studies indicate that the ER capacity issues are related to lack of access to hospital beds and long-term care beds. Health care is like a balloon: squeeze one area and another bulges.

Primary care reform in Ontario included Family Health Teams (FHTs), which were hoped to improve access, costs, and outcomes. In 2011, the Ontario Auditor General flagged key problems with the new model including increased costs compared to Fee-For-Service. In 2014, a Conference Board of Canada review concluded that the model performed well in some ways but poorly in others. It could not demonstrate improved outcomes over the years studied. An Institute for Clinical Evaluative Sciences study found FHT patients used emergency departments more than would be expected.

We lack the ability to predict with certainty the results of policy changes in a complex system. The result is paralysis among political parties. Fear of uncertainty keeps health care from moving forward to a more resilient system that could absorb unexpected

events, disruptive technologies, or sheer service volume increases.

National strategies consisting of manipulating the current single-payer system will not solve this problem.

Fix for a generation?

Former Prime Minister Paul Martin's \$41-billion health accord reforms in 2004, which he called a "fix for a generation", were well-intended but the results were a disappointment. This federally guided cash infusion bought time but it is partly responsible for the delay in achieving a more modern and responsive health care system for our times.

The Health Council of Canada reported in 2013 that the changes created did not keep pace with evolving needs. The absence of federal leadership was cited as one of the reasons for the failure. However, health care is delivered locally. Regionally there are significant differences in need. If \$41-billion additional federal dollars earmarked for priority areas were unsuccessful in buying change, it is unlikely that any federal framework could achieve the transformation required at the local level.

Provincial health care systems fail to make difficult decisions

In several provinces, regional and local delivery mechanisms have not improved overall costs or accountability. Alberta's flip flop from central administration to regionalized health authorities and back to a Superboard is a prime example of uncertainty in cost-effective oversight of care. How a more distant federal influence could create an effective framework for locally delivered care that meets the challenge of regional variations in resources and patient needs is highly questionable.

Until the provinces make difficult decisions regarding their own spending, more and more federal funding will have limited success in improving care. As debt rises at both provincial and federal levels, servicing the debt costs even more, resulting in diminished ability to provide more public services over the long term.

Revisiting the *Canada Health Act*

It is time to consider the benefits of less government control over health care, not more.

At the federal level, the most significant leadership effort would be to amend the *Canada Health Act* to allow more freedom to innovate within Canada's health system towards a hybrid system. Foundational concepts can be found in all the many better performing universal access health care systems around

Even if the federal government chooses not to act to claw back transfers to provinces, the threat still exists and is a source of negative political optics.

the world. European hybrid systems, notably in Sweden and Germany, achieve universal care with a combination of public and private coverage for medically necessary care and pharmaceutical coverage. Their outcomes are better and access for those with lower incomes have generally not been adversely affected, contrary to the fears of Canadians.

While the *CHA* does not expressly prohibit private options for medically necessary care, its punitive approach through reductions in federal health transfers to provinces creates an obstacle to change. Even if the federal government chooses not to act to claw back transfers to provinces, the threat still exists and is a source of negative political optics.

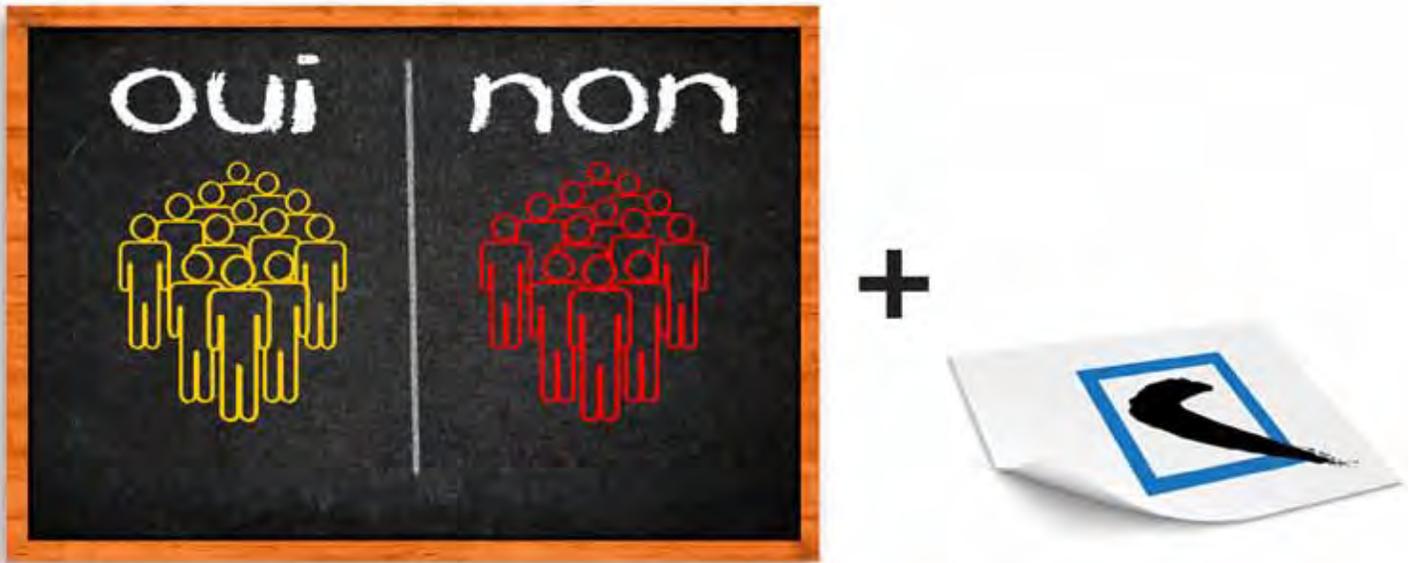
Another area of potential change involves the ability of provinces to permit financial contributions by patients. The *CHA* specifically prohibits user charges or extra-billing for services covered under provincial health insurance plans. This is problematic even by the standards of Tommy Douglas who was a proponent of patients sharing in their costs of care under conditions in which the system was being used excessively. Even though provinces have introduced various additional health premiums to citizens they have avoided outright "user fees" as required by the Act.

In its current form the *CHA* avoids defining "medically necessary" except in the broad sense. The Act makes a distinction between medically necessary "insured health services" and "extended health care services" that can be charged for at either full or partial private rates. Defining "medically necessary care" is needed to address the growing volume and variety of medical services emerging.

While significant change may be allowed under the current *CHA*, even the suggestion has been political poison in the past. Federal leadership is required to reset the national discussion.

Continued on page 20

Photo montage: Renée Desjardis



Canada is worth more than a handful of votes

The Clarity Act correctly places a high hurdle in the path of Quebec separatists. And Justin Trudeau is right to decry the NDP policy that would allow Quebec to separate with a bare majority in a referendum. Brian Lee Crowley explains why a simple majority is not enough for one province to break up the country.

Brian Lee Crowley

Paris was said to be worth a mass, but it is always distressing to discover how many people think Canada isn't worth more than a handful of votes.

There can be little surprise that both the Bloc Québécois and the Parti Québécois are opposed to federal "interference" in the decisions of Quebecers over their future within Canada. But in the lead up to the federal election in October, the NDP too is busy advertising how cheap they hold their country's integrity and future, a policy which Liberal leader Justin Trudeau is rightly decrying.

By adopting at their 2005 Sherbrooke convention the policy that Quebecers can vote to separate by a 50 percent plus one margin, the NDP is abandoning a long and proud tradition. This party has frequently stood four square behind Canada in the face of the separatist threat, and its courageous past leaders, such as David Lewis, Ed Broadbent, and Alexa McDonough spoke out passionately for Canada. Even the NDP's own party constitution requires

a super-majority for its amendment although the consequences for Canada of such amendments are hardly existential. Yet today the heirs of this proud tradition stand in the Commons and, without blushing, say that a majority of one vote in a referendum should be enough to set Quebec on the path of separation from Canada.

The frail reed on which the argument hangs is always that to set the bar for separation any higher is to betray Canada's commitment to democracy itself.

But as the Supreme Court wisely remarked when asked to rule on the legality of Quebec separation, democracy is part of a complex web of values. We cannot simply pick and choose the piece that pleases us (simple majority voting) and ignore the parts that are inconvenient (like obeying the law, respecting the Constitution, and protecting minority rights).

The Supreme Court found, not a constitutional right to secede, but a right for a province to put its case for secession to its partners in Confederation if that province met certain conditions. First on the list: a clear majority answering yes to a clear question on secession.

As others have pointed out, if the judges meant a “simple majority,” they just had to say so. They didn’t. They said a “clear majority.” It doesn’t require a Jesuitical mind to find that the legal requirement must therefore be something more than just 50 percent plus one.

Nor is there anything anti-democratic in the court’s rule. People who think otherwise are confusing two very different kinds of rules.

Some democratic decisions are made with a lot less than 50 percent plus one. Some of them are very important, such as elections. As everybody knows, you can win elections in Canada with a lot less than half the vote.

But there is a reason for that: somebody has to govern, and the least objectionable way to pick who should rule is to choose the party acceptable to the largest number of people. The fact that a majority of people may be opposed to the winner is irrelevant.

But the fact that we accept that outcome, that we might be governed by a party supported by only a minority of the population, is itself dependent on a bunch of other fundamental rules of fairness. For example, that all qualified citizens get a vote, that the decisions governments can make are subject to protections for minority rights, that governments are answerable before independent courts for their behaviour, and that Ottawa can do things that provinces can’t and vice versa.

These things are so fundamental to fairness and legitimacy that we don’t permit mere governments or even electoral majorities to change them on their own. We require big majorities before we allow

these “rules of the game” to be altered. In the case of amendments to the Constitution, for example, most of them require the agreement of Parliament plus at least seven of the 10 provinces representing a majority of the population. That is a triple majority: a majority in Parliament and among the population and a two-thirds majority among the provinces. And some changes require all the provinces to agree.

The government of Canada could hold a referendum to get approval to change the Constitution and they could get 90 percent of the population to vote yes and nothing would happen unless the change was approved by Parliament and two thirds of the legislatures representing a majority of the population. That’s not anti-democratic. It is the essence of democracy that fundamental rules require special procedures and broad consent to be changed.

That is what the Supreme Court meant when it said a clear majority of Quebecers needed to vote yes to a clear question before the rest of the country must sit down and discuss secession. Even after negotiating, both sides would have to ratify a constitutional amendment to effect secession. And those negotiations would have to consider the rights of minorities like Aboriginal people, and those who voted not to leave Canada.

The logic behind this is impeccable and, like it or not, it’s impeccably democratic too. ✦

Brian Lee Crowley is the managing director of the Macdonald-Laurier Institute. This article is an updated and edited version of a column that first ran in the *Ottawa Citizen* in 2013.

Medicare as election issue (Fullerton)

Continued from page 18

Public losing confidence and ready for change

Heading into the fall federal election, Canadians are worried. A 2015 Ipsos Reid poll indicates that the majority of Canadians are deeply concerned that their health care system is deteriorating, with 70 percent worrying that they’ll fall through the cracks in coming years, and 61 percent lacking confidence that hospitals and long-term care facilities can handle the needs of Canada’s elderly population. While concerns surrounding health care are not new, more and more Canadians are beginning to understand the need for change.

An Ipsos Reid Poll from June 2012 reported that 76 percent of Canadians think they should be able to buy private insurance for treatments outside the public system. It is clear that the public

in general is becoming increasingly aware of the need to transform to a more responsive system.

A resilient hybrid model

More federal funding for health care cannot address errors in provincial spending priorities.

To create a truly universal and patient-centred system that can be resilient in response to new demographic and scientific realities, as well as to errors of human policy-making and predictions, federal politicians and political parties need to look for inspiration to European hybrid models that perform much better than Canada’s health care system, which is designed for a bygone era. ✦

Dr. Merrilee Fullerton, *Family Physician Emeritus*, has 30 years of experience in health care delivery as well as extensive contributions in policy development at national, provincial, municipal, and local levels.

New government will have to deliver major changes at Canada Post

The end is in sight for letter mail, writes business professor Ian Lee. Our national mail carrier, Canada Post, needs a complete overhaul to adapt to declining mail volumes driven by the Internet and e-commerce.

Ian Lee

In the past, “neither snow nor rain nor heat nor gloom of night” could keep postal workers from their appointed rounds. So goes the famous quote carved on the main post office in New York City. But it is the Internet and the exploding number of alternative electronic communications technologies, not the elements, that will soon force dramatic changes to Canada Post Corporation (CPC).

The end is in sight for a form of communication that dates back to the system of horses and riders that crossed the Persian Empire in a week and evolved into the mighty Crown corporation that spans this nation with approximately 60,000 employees delivering mail five days a week to over 15 million addresses. In the 20th century, the Post Office became the partner of the banking and payments system, captured in one of the most famous phrases in the language: “the cheque is in the mail.”

Fifteen thousand of CPC’s 60,000 employees will leave within five years to retirement.

The federal government must face the realities forced on CPC: plummeting use of letter mail fuelled by adoption of electronic communications technologies such as e-billing, e-banking, e-deposit of paycheques and pensions, digital flyers, email, texting, and social media. Between 2006–2013, the volume of mail per address declined 30 percent, but the number of addresses serviced grew by 1.2 million, resulting in an unsustainable business model. By 2025, all letter mail and advertising mail in every part of the country is almost certain to disappear.

Letter mail, which is by far the most profitable product line of CPC, accounts for 50 percent of total annual postal volumes, while admail or “junk mail” accounts for another 20 percent by volume. Yet, unit volumes of these two products accounting for 70 percent of CPC volume are declining by 5 percent annually.

While home delivery was terminated for new residential communities in the 1980s – a third of a century ago – older



Photo montage: Rencé Depoens

communities in the urban core were grandfathered to continue to receive mail to the door. This created a two-tier postal service with 32 percent of Canadians receiving delivery to the door in older, mostly higher income neighborhoods such as Rockcliffe in Ottawa, Outremont in Montreal, The Beaches and The Annex in Toronto, and Shaughnessy in Vancouver while 68 percent of Canadians in the rest of Canada adjusted to community mailboxes.

In 2013, the government announced the phasing out of door-to-door delivery for the 32 percent of households that still receive it to generate an annual savings of \$500 million annually. However, the move to community mailboxes met with significant backlash from union groups. Both the NDP and the Liberal Party of Canada have promised to reverse the \$500 million savings decision, making it an issue for the 2015 election.

I propose policy changes that will allow a “bridge to the future” to facilitate CPC’s transformation from a highly regulated mail delivery entity where volume demand is collapsing. As 15,000 or 25 percent of CPC’s 60,000 employees will leave within five years to retirement, these changes can be addressed through attrition.

Recommendations:

Do not privatize Canada Post

Privatization will not fix the structural changes needed to address declining demand for delivery of letters and flyers; and no private sector actor would want to take on the current business model anyway.

Eliminate the postal monopoly or exclusive privilege to deliver letters

Electronic communications substitutes such as e-billing, and e-banking are already cherry-picking the lucrative parts of CPC’s business. Maintaining the monopoly simply slows the inevitable adjustments required.

Replace all door-to-door mail delivery with community mailboxes

Community mailboxes cost less than half the price of door-to-door delivery with savings of \$500 million annually. They service a quarter of Canadians already. All Canadians should receive the same level of postal service.

Reduce daily delivery to residential (not business) customers

Delivery is very labour-intensive. Declining volume reduces the need for daily delivery. However, businesses need to respond to customers who still use the physical post.

Franchise all corporately-owned post offices

In 1994, the Chrétien government imposed a moratorium on closing and/or converting corporately operated post offices in rural Canada. Many of the remaining 3400 post offices, especially those in rural areas, could be franchised, providing greater service and longer opening hours to residents. CPC estimates that 2/3 of total annual operating costs of a post office are eliminated by franchising.

Consolidate processing facilities

With a projected further 25 percent decline in postal volumes by 2020, in conjunction with much more efficient mail sorting technologies, we do not need to maintain the 21 processing plants currently working across the country.

Implement the Canada rural broadband strategy by 2020

The federal government has pledged to help the 20 percent of Canadians without high-speed Internet, mostly in rural areas, to gain access within five years. This would facilitate the transition away from letter mail.

Deregulate CPC post pricing for letter mail

Wage and price controls are widely recognized to be a failure. Several European countries have deregulated their postal services. Mail pricing should reflect the true cost of the mail service.

Revise the Canadian Postal Service Charter and the Universal Service Obligation

This is necessary to reduce the frequency of residential delivery and to support franchising and outsourcing. However, within five years, CPC should be given the discretion to determine the frequency of delivery based on its own assessment of demand.

While the government has implemented some effective changes, the rapidly changing market forces affecting mail delivery require even more dramatic reforms. If all the reforms proposed in this paper are implemented, the restructured CPC will be a quasi-virtual corporation with a government-owned head office to manage and supervise franchised outlets. ✦

Ian Lee, an Assistant Professor in the Sprott School of Business at Carleton University, was previously employed in CPC Head Office in the Finance and Treasury Group in 1983-84. He is the author of a Macdonald-Laurier Institute report titled “Is the Cheque Still in the Mail?” This article first appeared in the Financial Post.



iStock

Five ways to turn political rhetoric on Aboriginal affairs into real action by government

Macdonald-Laurier Institute Senior Fellow Ken S. Coates writes that Aboriginal affairs has been an incredibly difficult portfolio for past federal governments. He offers five ideas for the next government to seize the opportunity to make significant improvements to the lives of Aboriginal peoples.

Ken S. Coates

For the past 40 years, Aboriginal issues have been discussed at election time, but election promises have been honoured far more in the breach than in the observance once the ballots were counted.

After decades of commissions, discussions, and negotiations, Canadian skies are still cloudy, with a significant prospect for future storms in relations with First Nations, Métis, and Inuit peoples. What's different now is that Aboriginal peoples have gained significant power, particularly over resource development, thanks to victories in the courts such as the 2014 *Tsilhqot'in* decision on Aboriginal title, and developing law on the constitu-

tional duty to consult and accommodate Aboriginal communities.

The next federal government has an opportunity to make significant progress on improving the lives of Aboriginal peoples. But unrealistic promises, such as the opposition leaders' pledges to adopt all 94 recommendations of the report of the Truth and Reconciliation Commission (not budgeted or fully costed but likely in the tens of billions of dollars), are not the answer. Nor is the federal government's stubborn refusal to acknowledge the TRC's report, or the crisis in missing and murdered Aboriginal women, or the Idle No More movement. Aboriginal peoples must also expect more of their own leaders and should expect real

results. In short, there is a great opportunity to work together to adopt practical, targeted policies that could make a real difference.

Strong partnerships are forged based on mutual interest and need. For generations, the scales have been tipped against Aboriginal communities, with the colonial/federal government holding the power and generally treating Indigenous peoples as charity cases. That scale has tipped quite far the other way, but having influence over resource development is not enough to pay for schools, health care, cultural programs, or social initiatives. That influence must be converted into economic activity and opportunities that are appropriately shared with Aboriginal communities.

For generations, the scales have been tipped against Aboriginal communities, with the colonial/federal government holding the power and generally treating Indigenous peoples as charity cases.

Partnerships require real contributions from all sides. Under National Chief Perry Bellegarde, the Assembly of First Nations has made it clear that it will defend Aboriginal and treaty rights and that it expects a lot from Canadian governments. Chief Bellegarde is also a pragmatist who knows full well the importance of delivering real results for Indigenous peoples. So, any meaningful agenda for sustained change requires Aboriginal engagement and compromise on all sides. If the Government of Canada has an obligation not to offend Aboriginal people gratuitously – and it does – First Nations too might wish to consider tempering their approach to whatever government emerges after October 19 by focusing on the broader picture and not making every issue a make-or-break deal. Hard as it is, particularly when facing such disturbing socio-economic realities and cultural loss, it is essential that Aboriginal leaders approach the Government of Canada with a focus on precise and deliverable outcomes.

We should acknowledge what has been done. Even though

the Harper administration has been severely criticized by Aboriginal leaders and their supporters – Idle No More seemed to many observers to be sharply focused on Stephen Harper himself – the Conservatives have actually made substantial financial commitments and policy initiatives on Indigenous affairs. They did, after all, sign the United Nations Declaration on the Rights of Indigenous Peoples, albeit later than most, improved the specific claims resolution process, funded the Truth and Reconciliation Commission, committed to a major expansion in educational funding, and made the territorial North a singular preoccupation of the government. And for this they have been vilified by Aboriginal peoples, opposition politicians, and advocates. Suffice it to say that no party will find this policy file to be easy.

But the country needs a new Aboriginal agenda created in partnership with Indigenous organizations, a specific priority list that is properly funded, administratively streamlined, and widely supported by political parties in Parliament and across the provinces and territories.

Where do we start? Rather than the TRC's 94 recommendations, or some other similarly daunting number, let's start with the five ideas identified below that, in my estimation, would make a significant and lasting impact on the life opportunities for Aboriginal peoples and communities in Canada.

Establish national service standards for Aboriginal communities

By almost any standard, from fire protection to housing, education to health care, First Nations and Inuit communities do not have the same level of government services available to most other Canadians. (There is a related issue, still before the courts, about the level of services to be provided to Métis and non-status Aboriginal communities.) Certainly, in a country as wealthy as Canada, the nation can make a simple declaration: the service standards for Aboriginal communities will be at or above the standards established for non-Aboriginal communities. This declaration would require provincial and territorial buy-in, as well as a firm federal commitment. But it is unacceptable that Aboriginal communities would have to accept lower quality water supplies, poorer fire protection, mediocre roads, and the like.

To move this idea along, the Government of Canada and Aboriginal communities would establish objective and verifiable standards for government services. Secondly, Aboriginal Affairs and Northern Development Canada, and Indigenous communities could complete a comprehensive audit of existing conditions and services. Much of this work has been done, although in some

areas, such as children's social welfare, Aboriginal leaders challenge the commitment and support provided by the Government of Canada. This review must include services provided by and through Aboriginal governments, providing a complete assessment of the current level of government-delivered services. The review should also identify barriers to full Indigenous participation in such opportunities as home ownership.

With this review in hand, the Government of Canada, provincial and territorial authorities, and Indigenous governments should prepare a national strategy for closing the gap in service delivery. This strategy must be accompanied by an annual progress report that demonstrates collective accountability.

Government cannot do everything for Aboriginal people, any more than they can for other Canadians. It will thus be important not to ignore the responsibilities of individuals and communities for providing their own services and support, where financial resources permit. Canadians have shown in many areas of public policy a willingness to support marginalized and disadvantaged populations. There is, however, a national expectation of self-help attached to this support. This element has rarely been discussed openly and constructively and has not yet been fully factored into the national debate about the condition of Aboriginal communities. The goal is not to penalize poor and marginalized peoples, but rather to ensure that they are full participants in and contributors to the step-wise improvement of conditions in their communities.

Properly fund Aboriginal education, but with increased emphasis on children from birth to five years of age

The Assembly of First Nations has been demanding funding equivalent to that provided to provincial and territorial schools for federally supported reserve schools, an assertion the Government rejects and that is difficult to untangle. It appears, when all is taken into account, that funding is approximately the same for First Nations schools, but that does not mean that the support matches demonstrable need. Aboriginal communities need and deserve equitable funding, or support that accounts for the additional costs of isolation, limited scale, and the composition and personal characteristics of the student population. In remote reserve communities, the cost of running an effective school is at least twice what it would be in an urban setting (as it is for non-Aboriginal schools in remote regions, incidentally, a reality that is rarely captured in funding arrangements).

But that is only part of the challenge. The reality is that children who arrive at school, in Kindergarten or Grade 1, often come out of traumatic home environments and without adequate nutrition, sleep, and personal support. Not surprisingly, they

typically struggle from the outset of their education. Without an educational reboot, defined and shaped by local conditions and community realities, most of the aspirations for First Nations in the coming decades will stumble, if not fail.

Dealing with such contributing causes of Aboriginal children at risk – poverty, poor housing, poor diet, domestic turmoil, and the like – will be extremely difficult. There is a large inter-generational cost, however, of not doing something soon – and something dramatic – for the youth of today. This likely involves day care arrangements, community nutrition programs, pre and post-natal care for expecting mothers and babies, and various other interventions, ideally managed, designed, and delivered by the community. Failure to look after children before they go to school reduces educational outcomes and undermines individual prospects and opportunities. It will take a long time to deal with the broad range of social challenges at the community level.



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Canada needs to do two things: create a comprehensive, community-based support program for Aboriginal children (urban and on-reserve), building on existing community, volunteer, and non-profit programming; and develop community and regional strategies for bringing Aboriginal education up to national standards. Even with these initiatives there will be no immediate reversal of fortunes. But with true and sustained commitment (not the traditional one- and two-year programs and short-term and uncertain funding), the direction in Aboriginal education and personal development can be changed dramatically.

The last education agreement, struck with former Assembly



Aboriginal Canadians took to the streets across Canada in support of the Idle No More movement. (Wikimedia commons)

of First Nations National Chief Shawn Atleo, founded, among other elements, on differences about the management of Aboriginal schools. The Government of Canada wanted a global agreement; the membership of the AFN wanted arrangements with individual First Nations. The latter is complicated, expensive, and difficult to implement. Central control is equally untenable to Aboriginal communities.

There is a middle ground, based on regional educational governance, tied to Tribal Councils or other regional administrative systems. To choose one example, the Prince Albert Grand Council represents a dozen First Nations in Saskatchewan. So, individual First Nations would have a greater voice, but the government won't face the impractical situation of negotiating individual agreements with more than 630 nations. Building economies of administrative scale by region, with Tribal Councils or linguistic/cultural groups, would respect both the Government of Canada's desire for manageable efficiency and the Indigenous communities' insistence on effective Aboriginal control of education.

Make a grand symbolic gesture, or two

As noted above, the Conservative government of Prime Minister Stephen Harper has made a greater contribution to Aboriginal issues than it generally receives credit for. It needs to be remembered also that the First Nations' rejection of the government-AFN education deal has, legitimately, made them wary of public commitments to Aboriginal issues.

But where the government has really fallen short, in Aboriginal eyes, has been in its tepid response to highly emotional events or issues. The slow response to the protest fast by Attawapiskat Chief Theresa Spence and, even more importantly, the neglect of

the youth marchers associated with the Idle No More movement, seemed unnecessary. The Prime Minister's response on the missing and murdered Aboriginal women's issue marked the government as insensitive. (Indigenous leaders doubt there would have been such apparent indifference if more than 1000 non-Aboriginal women had gone missing or been murdered.) The absence of an official response to the interim report of the Truth and Reconciliation Commission has also been viewed as a significant slight.

The Government of Canada needs to demonstrate that it will at times respond respectfully and quickly to the issues flagged for action by Aboriginal leaders and communities. This is not a blank cheque for Aboriginal leaders to spend government funds, but rather a commitment to listen more intently to First Nations and Inuit authorities and get their input into national priority settings. At other times, the issue is not money but attention. The missing and murdered Aboriginal women's issue, for example, could have resulted in a summit, led by the Prime Minister, of Aboriginal and other leaders to discuss solutions.

Goodwill could also be earned if senior Canadian officials met with their Aboriginal counterparts and agreed to focus on a few immediate and emotional issues. For example, the Government could, in discussion with Aboriginal leaders, agree to a policy-focused dialogue on the Truth and Reconciliation Commission and select one or two of the most urgent recommendations (a national commitment to Aboriginal language retention and training is desperately overdue) for immediate action.

Symbols matter. Silence, highly symbolic, is interpreted as showing a lack of respect and a lack of urgency about issues that are enormously important to Aboriginal people. No one realistically expects the Government of Canada to respond instantly and

unequivocally to every well-meaning call for action on behalf of Aboriginal peoples. The federal government has other constituents, and in any case, such uncritical reactions suggest a lack of sincerity and engagement. Few Aboriginal leaders believe the Liberals' and New Democrats' expansive promises. But a sincere and open discussion with Aboriginal leaders, backed by action and appropriate resources to fund the selected item(s), would show both attention to the issues, respect for Aboriginal opinions, and a collective sense of urgency.

Ultimately, the Government of Canada has to learn to trust Aboriginal governments and has to simplify and streamline its financial and administrative relationships.

Transform the Department of Aboriginal Affairs

Aboriginal Affairs and Northern Development/Indian Affairs has been a national punching bag for decades. While there are problems with the structure, the reality is that the federal department has hundreds of well-meaning, compassionate employees who care deeply about the challenges facing Indigenous peoples and communities.

The problem is much less about the people than the assumptions and processes that guide Aboriginal Affairs. More than 100 First Nations have opted out of the *Indian Act*, meaning that they no longer report to Aboriginal Affairs and Northern Development in the same way, have effective self-government, and exercise real autonomy. A comparable number are in the process of applying to leave. While it is too early to say definitively that separation from Aboriginal Affairs is producing better results, the prognosis of communities that have moved out from under the federal government is positive.

There is no single schedule or approach that will cover the more than 630 First Nations, but the reality is that the Government of Canada has to remove the intrusive administrative weight of Aboriginal Affairs without abrogating its commitments to Indigenous peoples. This means, among other things, a shift toward longer-term

funding arrangements, encouragement of self-government, public accountability, and governance systems that are based on traditional political structures and Indigenous principles. Most importantly, an effective transition requires the Government of Canada to accept that Aboriginal governments will, when the communities are ready and able, assume much greater control and decision-making authority for the delivery of government programs.

Indigenous affairs in Canada are too complex for centralized planning and policy-making. Squamish First Nation (B.C.) is not the same as Six Nations of the Grand River First Nation (Ontario), and certainly much different than Fond du Lac Denesuline Nation (northern Saskatchewan) and the Kluane First Nation (Yukon). Local or region-specific arrangements and approaches are required. At present, Aboriginal Affairs personnel are generally operating within national policy frameworks and strictures that aren't working for every Aboriginal community. They need greater capacity to innovate together with regional Indigenous groups.

Rather than the regular spate of federal announcements – \$100 million for this and \$50 million for that, with the money distributed in some opaque manner across all First Nations in the country – funding should be by way of a single annual transfer to Aboriginal governments. The resources would carry the expectation that they would cover required services (such as education, fire protection, and local infrastructure) and specific initiatives or programs that fill the greatest local need.

At present, First Nations receive funding based on per capita eligibility for national programs, community by community allocations for things such as housing, and program funds based on successful grant proposals under various targeted programs. The processes involved with applying for, administering, and reporting on the funds from a wide variety of internal Aboriginal Affairs programs are time-consuming and, ultimately, very controlling. A great deal of time and money would be saved with a central allocation to specific Aboriginal groups, either at the Tribal Council/regional government level (where service efficiencies are the highest) or at the level of the individual First Nation (where local control is the greatest). The current arrangements are a huge drain on the limited human resources in Aboriginal governments and Aboriginal Affairs and Northern Development. Most importantly, they are not producing the desired outcomes.

Ultimately, the Government of Canada has to learn to trust Aboriginal governments and has to simplify and streamline its financial and administrative relationships. The onus has to shift – as it is doing for Indigenous governments coming out of the

Indian Act – to local Aboriginal politicians and administrators.

Some Aboriginal governments, it needs to be understood, have clearly fallen short in the effective management of public funds, including a small number of scandalous examples. But there are many successful First Nations governments in Canada, effectively managing businesses, trust funds, and local governance matters.

The challenge of managing First Nations in financial distress – a process called Third Party Management, which removes the First Nation from direct management of its own funds – is a case in point. These are communities in distress, often with severe capacity issues, and significant management issues. There must be better ways to help First Nations communities recover from a financial meltdown.



*There must be better ways
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There is no objective reason why the much-despised processes of Third Party Management need to be funneled through Aboriginal Affairs (which typically sub-contracts the work to a non-Aboriginal firm). Aboriginal organizations, building on the work of such groups as National Centre for First Nations Governance and the First Nations Financial Management Board, can assume this role, providing more culturally-aware Indigenous support for communities at financial risk or in default. Maintaining the current arrangement, which smacks of old-style colonial governance, pits Aboriginal Affairs against Indigenous governance. It is profoundly disliked by Aboriginal communities, and re-enforces the worst elements and animosities of centralized control.

It is time to recast accountability from the ward-like arrangements of the past into structures closer to that experienced in the federal-provincial, federal-territorial, and provincial/territorial-municipal relationships.

Everyone knows that this is inevitable. Delaying the process is adding to the Aboriginal administrative burden and, equally important, stripping Indigenous governments of the opportunity to learn, develop experience, and exercise the much-desired and much needed autonomy.

Seek clarity in resource and infrastructure development

A combination of land claims agreements, Supreme Court decisions, and local-level mobilization have worried industry, Indigenous communities and governments alike about the future of resource and infrastructure development in traditional Aboriginal territories. While the reality is that Aboriginal people have generally been cautiously supportive of such development, high profile protests against the Northern Gateway Pipeline and selected mining ventures have created a growing unease in the country. While the Tshilqot'in Supreme Court decision left the mistaken impression with some people that First Nations had secured an effective veto over resource development, the truth is that most First Nations continue to work with resource and infrastructure companies on matters of joint interest and mutual benefit.

The country needs clarity and Aboriginal people must have their treaty, resource, and consultation rights respected. The problem in Canada is that the definitions and applicability of Aboriginal legal rights are vague and fluid, at best. For some First Nations, the medium-term prospects focus on additional legal challenges and the inevitable political and commercial uncertainty. Aboriginal victories, while not uniform, have been frequent and occasionally dramatic. There are many who would urge Aboriginal communities to continue to test the legal limits, but it is wrong, in the extreme, to assume that the country's resource sector is grinding to a halt because of Aboriginal opposition (environmental regulations and international squabbles, as over the Keystone Pipeline, are an equal if not greater barrier to the development of Canadian resources).

Canadians, therefore, face a decision between two primary options: ongoing legal battles that will stretch out for decades and have a dampening effect on resource development, or a joint government-Aboriginal effort to identify points of contention and to achieve a higher level of stability in the sector. No First Nation should or would surrender their right to litigate, but properly negotiated framework agreements between the Government and Aboriginal communities would go a long way toward clarifying future relationships.

This might involve, in areas of continuing debate, joint submissions to the Court on issues requiring adjudication, undertaken with a view to resolving disputes rather than adding to the points of contention. This may well be done on a regional rather than a national basis – the intensity and nature of the issues in

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The Great Gatsby curve is dead

Macdonald-Laurier Institute Senior Fellow Philip Cross uses an MLI report by former Chief Statistician Munir Sheikh to demonstrate that many tax and transfer programs intended to address income inequality have been decreasing social mobility for low-income Canadians. Cross says the report debunks the economic model known as the Great Gatsby Curve.

Philip Cross

There always was something fishy about the so-called *Great Gatsby curve*, which holds that countries with more income inequality will experience less mobility among income classes. Its literary metaphor misrepresents the Scott Fitzgerald novel (*Gatsby* doesn't inherit his wealth), while its economics relies on a limited sample and a poor understanding of the dynamics of inter-generational mobility.

But a Macdonald-Laurier Institute paper published this spring by Munir Sheikh, the former Chief Statistician of Canada, sheds more light on the weak thinking behind the *Great Gatsby curve*. Sheikh uses the concept of *Zero Dollar Linda*, a term coined by John Stapleton to describe a hypothetical recipient of government social assistance who decides that it is not worth working because of the many government benefits lost as her earned income increases (*Zero Dollar Linda* is not to be confused with the latest book sales report for crackpot author and NDP activist Linda McQuaig).

The lesson of *Zero Dollar Linda* is that incentives matter. Expanding the tax and transfer system to reduce income inequality as envisaged by proponents of the *Great Gatsby curve* ignores the impact these policies have on people's incentives to escape low income, which may actually lower social mobility by trapping people behind a welfare wall. Empirically, the *Zero Dollar Linda* model does a better job of explaining social mobility than the *Gatsby* model. This implies that low social mobility among the poor is partly a creation of the very policies intended to help low income earners. It is fitting that *Zero Dollar Linda* should slay the *Great Gatsby curve*, which blames lower social mobility on market forces while ignoring the role of government policies.

Sheikh's findings are supported by others who question the existence of a link between increased income inequality and reduced mobility among social classes. Instead of the trade-off portrayed by the *Gatsby* model, renowned economic historian Gregory Clark's new book *The Son Also Rises* finds a vertical line over long periods, demonstrating a constant rate of mobility is associated with different degrees of income inequality. Clark was able to calculate inter-generational mobility for many countries over centuries. His

main finding is that inter-generational mobility is constant across nations, with no difference from medieval England to today. This constant rate of mobility among classes means it's impervious to attempts by government to influence mobility.

The *Gatsby Curve* is floundering as a result of several mistakes. Most importantly, it ignored incentives and distortions introduced by the tax and transfer system. It avoided long-term trends, which lowers measured mobility. And its exclusive focus on income as the only determinant of social structures downplays the latter's true complexity, which originates in family and the inheritance of social status. It is simplistic to single out income to explain the relationship between generations. Several countries have confiscated the income of the rich, who nevertheless still transmit the most important advantage to their children – their genes. Nature dominates nurture; little inter-generational advantage is transmitted by access to resources. Maximizing the human capital you invest in your kids is largely wasted – you can email it in after passing on your genes. Clark estimates that equalizing the family environment for every child would change inter-generational outcomes by only a quarter.

Low mobility rates imply that outcomes for the rich and the poor will equalize eventually, but over 300 years, not in one generation. Why does the upper stratum eventually fall back into the pack? People select mates partly on their social status and income, which has a random element related to luck. "The curse of the elite is that they are surrounded by imposters," concludes Clark. The same is true for the lower class, which includes a portion of people with talented genes who, for whatever reason, slid down the status totem pole. Outcomes change only gradually, since they are embedded in dense social structures, not suddenly in response to government policy. To the degree that governments adopt income redistribution policies that inhibit economic growth, they hurt everyone while possibly hampering their goal of increased mobility. ✦

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The new reality: Fighting terrorism by preventing domestic radicalization

Security expert Scott Newark writes that Canadians and their leaders must accept that there is a serious threat from radical Islam in this country, and take significant steps to counter radicalization and potential acts of terror.

Scott Newark

It's time to confront the reality that a new front on the Islamist war has opened up and it's in our own backyard. It is all too easy for al-Qaeda, or ISIS, or whatever new Islamist group, to publish propaganda to incite radicalized or radically prone young Muslims living in the West, and to hand them chillingly accurate information to "build bombs in your mother's kitchen". They are recruited to kill soldiers, police, and civilians in their own countries. And while there has been some success in suppressing the capabilities of international Islamist networks, it is clear that, in Canada and the West, the threat itself has not gone away or even been diminished. And that in turn means our approach must also evolve.

First and foremost, it's time for a reminder that this threat comes from people and groups who have an extremist and unyield-

ing belief that their version of Islam calls for the submission of the world to its dictates, and that killing those who oppose or resist this is not only permissible but obligatory. We must never lose sight of this basic truth because this variety of terrorism is the attack dog of extremist Islam and, while it takes many shapes and has many targets, its motivation remains constant.

Second, it is long overdue that, uncomfortable or not, this "religious" motivation is candidly acknowledged by our official entities and the larger Muslim community within Western societies who want nothing to do with it and who reject its goals. For them, Islam may be a religion of peace that forbids the killing of innocent civilians, but for others, their version of Islam commands it. There are clearly different conclusions being reached but the

good guys and the bad guys are reading from the same book, and acknowledging this is essential if we're going to be successful in this struggle. Candour, however uncomfortable, is a better long-term strategy than forcing the RCMP to twist itself into pretzels at each new incident to avoid offending anyone.

The final reality that needs facing is that for those who would do us harm, there is a long-term goal of establishing a "global Caliphate", which involves different operational strategies. This includes the savagery that the Taliban and ISIS have wrought on their own people, al-Qaeda terrorism against Muslims and the West alike, Salafist and Wahabbi funding of extremist Islamic ideology in the West in the name of "religion", and the overt Islamist political efforts of the Muslim Brotherhood (MB), where democracy is but a means to their ultimate end, which is Islamist rule.



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For Western countries like Canada and the U.S, the Muslim Brotherhood has cleverly chosen a more opaque course through a shadowy network of benignly named groups that are actually dedicated to not only preventing Muslim integration into secular, liberty based, Western societies (which is what most Muslims left their home countries to achieve) but also to subvert Western societies from within. Lest there be anyone out there who still doubts the existence and clear purpose of this long-term strategy, let me suggest you read the judgment and supporting evidence in the *US v. Holy Land Foundation* case (www.investigativeproject.org/case/65) or the compelling 2011 book, *The Grand Jihad* by Andy McCarthy, who prosecuted the Blind Sheikh, Omar Abdel-Rahman, for the first World Trade Center bombing. You'll find it in the non-fiction section of your local bookstore.

Although the Holy Land Foundation prosecution was specifically focused on a phoney charity illegally raising and transferring money to Hamas, the evidence exposed intricate details

and recorded conversations and documents from a purposely constructed network of organizations with the ultimate goal of "destroying from within and sabotaging this miserable house" that is, for them, Western society. Those are quotes from intercepted conversations of persons who went on to lead various MB linked Islamic groups that remain active in the US and Canada. One other quote worth keeping in mind is the official motto of the Muslim Brotherhood, which says it all:

"God is our goal, Quran is our Constitution, the Prophet is our leader, struggle [jihad] is our way, and death in the service of God is the loftiest of our wishes."

As we enter this new phase of working to prevent the Islamist radicalization that leads to domestic terrorism, it is also important to understand that for the Muslim Brotherhood network of groups, "war is deception" and that lying to the *kuffar* (non-believers) is fully authorized by the Quran itself through the doctrine known as *taqiyya*.

Since 2006, Canada has experienced multiple incidents where radicalized young Muslims, including converts to Islam, are alleged to, and in some cases had confessed and been convicted of, having been involved in planning terrorist acts of mass casualty violence that were intended within Canada. These include the 2006 Toronto 18 cases, the 2010 Ottawa plot, the VIA rail plot, and the Canada Day plot in Victoria, and more. Tragically, to this litany of prevented attacks we must now add the recent premeditated murders of two Canadian soldiers by Islamist-inspired terrorists.

What's more, since the most recent terrorist killings in Quebec and Ottawa, we have learned from CSIS testimony before the Senate National Security Committee that more than 100 radicalized Canadians are believed to be abroad engaged in violent jihad and that in addition to that, approximately 80 persons who have been assisting Islamist terrorist groups in one way or another have actually *returned* to Canada and are here now.

While some cases have involved persons who appear to have received training abroad, the common theme in all these cases is that the radicalization that motivated these dangerous actions took place in Canada. That's a chilling reality that must no longer be ignored and that includes determining *how* it took place and *who* was involved. That hard truth was summed up by a parent of one of the young Toronto 18 would-be terrorists when he warned, "They're stealing our kids." It's time we started focusing on who "they" are.

The federal government's recently passed counterterrorism legislation, *Bill C-51* was largely, and appropriately, focused on measures to detect and interdict persons who have already become radicalized. It also includes new tools that may be useful in prevent-

In some ways, the strategy to combat domestic radicalization issues is similar to other specialized crime issues such as dealing with street gangs.

ing the radicalization itself, specifically, the information-sharing authorizations for Canadian authorities included in Part 1 of the bill. These are discretionary and not mandatory, and do not reduce any authority of the Privacy Commissioner as some have claimed, and may be of assistance in identifying persons or groups involved in radicalization. Most important, the Part 3 amendments to the Criminal Code, which now permit court-authorized seizure and Internet take down of terrorism propaganda, may be a significant tool to disrupt ongoing radicalization. Time will tell if the new authority is used that way as a preventive tool.

Also of relevance is the recently released interim report from the Senate National Security Committee on *Countering the Terrorist Threat in Canada*. The Senate committee wisely chose to focus on the issue of how radicalization is occurring in Canada and measures that can be taken to detect and prevent it. The committee heard blunt and informed evidence from multiple witnesses who reinforced the importance of better informed “outreach” by law enforcement, and proactive steps to ensure awareness of who is promoting what at mosques, learning centres, and other Islamic organizations in Canada, as well as where their money is actually coming from.

These kinds of strategic actions are more important than some of the interim recommendations that have received public attention such as “certifying” imams, removing Crown approval requirements for police seeking terrorism prevention recognizances, criminalizing “membership” in a terrorist group, and publicizing lists of inadmissible “radicals”. Although well meaning, these recommendations are a distraction from the larger goals of the report which include identifying and taking action against the various means of Islamist radicalization in Canada.

While there has been significant work done on analysing the general psychological profile of persons vulnerable to such radicalization, very few concrete measures have been taken to identify and then proactively target the means by which such

radicalization occurs. Inasmuch as the base motivation is linked to a “religion”, which itself is predominate within various visible minority communities, this kind of proactive approach no doubt causes anxiety in bureaucracies where risk avoidance is Rule No. 1.

No one understands this more than the bad guys who perceive and consciously use our society’s cherished civil protections as a weakness to be exploited, including claiming “Islamophobia” as a sword to prevent scrutiny of their behaviour. This also includes trying to paint actions taken by Western societies, including in countering radicalization, as simply another attack on Islam and Muslims generally. This is intended to reinforce the “us versus the non-believer world” philosophy which is at the core of the Caliphate message. These facts create enormous challenges, but the clear reality of the threat from Islamist radicalization is such that looking the other way is no longer an acceptable option.

In some ways, the strategy to combat domestic radicalization issues is similar to other specialized crime issues such as dealing with street gangs. Proactively working with appropriate members of local communities and taking informed measures to resist and prevent gang recruitment, while actively helping people leave the gang culture, has had some success and it may well serve as a template to prevent and reverse Islamist radicalization in Canada.

What’s needed is recognition of the reality of the threat of Islamist radicalization in Canada, and taking tangible and constitutionally permissible measures to deal with it effectively. At the same time, an upgraded series of proactive counter-terrorism measures to deal with the new iteration of Islamist terrorism is also advisable.

It should also be stated that what is proposed here is applicable to any religious group that is motivated by what they view as “religious duty” to cause death and destruction and the subversion of our Canadian society. The cold hard truth is, however, that there is only one such group with such an agenda today, but that must not be allowed to prevent us from taking action. What follows, therefore, are specific action item suggestions to confront and defeat this newest security threat.

Counter-radicalization actions

- 1. Ensure there is a clear and official awareness of the threat of extremist Islamism and domestic radicalization, and an understanding of the supportive Muslim Brotherhood’s long-term goals, including in Canada.*
- 2. Identify all Muslim Brotherhood links in Islamic groups including mosques and Islamic learning centres.*
- 3. Identify all Wahabbi/Saudi/Salafist linked funding of mosques and learning centres and Islamic organizations in Canada.*

This issue was the subject of reporting by CTV News and the *Globe and Mail* a number of years ago following like reporting in the United States. Given the charitable or non-profit status of such organizations, the required information should be available, although sorting through it and conducting link analysis to get an accurate picture will almost certainly be required.

4. Improve “community outreach” efforts.

Outreach to the Islamic community is a critical component of preventing radicalization, but it must be conducted on an informed basis so that the persons included are not pursuing a contrary agenda. This has demonstrably occurred in the US and UK. Authorities engaging in outreach activities must conduct sufficient background analysis to ensure that liaisons are established with persons genuinely seeking to prevent Islamist radicalization rather than with self-appointed “leaders” of the community whose views (public and private) are not representative of the communities they claim to represent.

The recent RCMP outreach debacle, where they were forced to withdraw their endorsement of a counter-radicalization document, authored in part by the National Council of Canadian Muslims, because of its content, demonstrates that the appropriate outreach metric of success is actually preventing and identifying radicalization, not some bureaucratic check list of “meetings held”.

5. Promote integration and identify segregation efforts.

Successful integration into Canadian multicultural society is likely the best protection against radicalization, and thus efforts to promote it should be recognized and supported. Conversely, deliberate efforts by mosques, learning centres, or Islamic organizations to promote segregation of Muslims away from the larger Canadian community should be recognized as cause for concern.

6. Use civil regulatory tools.

Use the full spectrum of civil regulatory tools to try and prevent publicly regulated facilities from being used to promote radicalization and terrorist recruitment or the promotion of eradication of free speech and secular democracy, or female subjugation, all of which are contrary to Charter-enshrined Canadian values. This strategy of “using all the tools in the toolbox” will be controversial but will also likely expose such anti-social practices to the light of day, which is a good thing.

7. Amend the Immigration and Refugee Protection Act and Citizenship Act.

These statutes could be amended to modernize inadmissibility criteria to persons who actively advocate or promote cultural, religious or racial intolerance, gender inequality, or the elimination of any of secular democracy, individual liberty, or the rule of secular

law for persons within Canada. It’s time we recognize that we do have a culture in Canada and it’s worth protecting and preserving. This could also be added as a ground for acquired citizenship revocation for persons who continue to engage in such conduct even after the law is changed to expressly create a consequence for doing so.

8. Proactive cyber efforts against recruitment/radicalization sites.

Self-radicalization, aided by jihadi websites, is a reality facing intelligence and law enforcement personnel. While monitoring such sites to stay on top of what’s being promoted and who’s visiting them is obviously a useful tactic, at some point the harm in allowing the glorification and recruitment outweighs the benefit of monitoring this activity. Deploying a proactive offensive cyber attack strategy to melt down the bad guys’ servers and websites is worth considering. The recent amendments in C-51 may prove to be an important step forward in this regard, especially if the authority is extended to social media applications which are demonstrably a key part of radicalization, recruitment, and terrorism facilitation.

Self-radicalization, aided by jihadi websites, is a reality facing intelligence and law enforcement personnel.

9. Use existing legal preventive tools.

There are a number of existing legal tools focused on prevention of terrorism, rather than “after the fact prosecution”, which could help prevent already radicalized persons from spreading their beliefs to vulnerable persons. These include supervision orders (with electronic monitoring) pursuant to s. 810.01 or s. 83.3 of the Criminal Code and the “Passenger Protect” database, whereby persons can be denied access to airplanes based on their perceived security risk. In the context, for example, of persons who have been fighting for al-Qaeda-linked groups in Syria, this could mean a dramatically reduced ability to return to Canada, and effective supervision, with penal consequences for any breach, for persons that do return. The RCMP should also bluntly be asked to explain why this existing tool has not been used as it could have been in cases such as those of Martin Rouleau, Farah Shirton,

Damian Clairmont, Hasibullah Yusufzai, or Ali Mohammed Dirie, or the returning jihadis now back in Canada. Amendments to s. 810.01 should also be considered to stipulate that a finding of attempting to or participating in terrorist activity abroad presumptively establishes the grounds for the order. Once again, the changes in *C-51* are a step in the right direction.

10. Protect children from radicalization by their parents.

Children living in Canada should receive the full benefit of our laws that are explicitly designed to protect them from harm, including anti-social indoctrination or abuse from their parents in the name of extremist Islam. This is not an academic situation as the experiences of the Khadr family and the fate of the murdered Aqsa Parvez and the Shafia sisters demonstrate. Surely, as residents of Canada they deserved better and we are obliged to ensure that such abuse does not continue because of some politically correct aversion to confronting the truth.

We need to consider refined domestic counterterrorism initiatives and priorities.

11. Track visits to defined countries of interest.

Canada has now begun a process whereby destination information on persons leaving Canada can be tracked and analysed for defined purposes. One such purpose could be to monitor persons visiting defined “countries of interest” with respect to Islamist indoctrination and training that are clearly relevant to the potential of radicalization in Canada. While persons may have a right to visit Yemen, Syria, Iraq, Somalia, or Afghanistan, the rest of us have a right to notice.

12. Deradicalization.

Develop and implement a “deradicalization” strategy to attempt to remove the motivation of would-be jihadis in Canada and those who return from abroad after being radicalized. Such a strategy will inherently involve members of the Muslim religious community who can demonstrate in relevant terms how their religion has been perverted for Islamist political purposes. This will not be easy, but like rehabilitation efforts in our justice system it is a necessary component to a public safety strategy. Deterrence and “punishment” are not enough.

Counter-terrorism actions

The reality of domestic radicalization and terrorism means that we must be increasingly prepared for terrorism threats from within Canada. We need to consider refined domestic counter-terrorism initiatives and priorities. The following actions should be considered:

1. Deploy a modernized face recognition biometrics and a Global Name Recognition national security “bad guy” database and lookout system at ports of entry, and before departure for persons departing for Canada under the Advanced Information Passenger Program that includes international participation to detect and interdict departing and returning jihadis.

2. Maximize the use of the international “No Fly” list with appropriate notification to those listed and a right for them to challenge such a designation.

3. Deploy specialized domain awareness technologies and targeted lookout screening at critical infrastructure facilities such as power plants and seaports for employees and for those seeking site access.

4. Deploy specialized Mass Population Venue security measures such as targeted screening and on-site surveillance for people identified as security threats with enhanced inter-agency communications to help secure against terrorist attacks where large populations gather.

5. Create an Office of the National Security Co-ordinator to ensure inter-agency co-ordination and independent operational oversight, and after the fact accountability.

This oversight body would cover the RCMP, CSIS, CBSA, CSE, local police, and potentially other agencies. It would be similar to the existing Integrated National Security Enforcement Team (INSET) model but with someone independent of the partner agencies to make sure that intended commitments, information sharing, and operational co-ordination are achieved. This is similar to what Justice John Major suggested in the Air India inquiry, which the federal government has not acted on to date.

6. Deploy automated analytical Canada-US border surveillance with Mobile Interdiction Teams that include Canada Border Service Agency (CBSA) and local police as well as US authorities.

7. Expand and improve Safe Third Country Agreements to prevent “asylum shopping”.

This would prevent persons from entering Canada from an already safe jurisdiction (the US, France) to make a refugee claim simply because they prefer to live in Canada or because they perceive Canada to be an easier place to gain refugee status.

8. Expand the authority of CBSA to deny entry to persons determined to be inadmissible on security and criminality grounds, with any appeal taken from outside Canada rather than from within.

9. Develop and deploy targeted cyber security systems, with mandatory breach reporting for critical infrastructure operators and personal information holders as well as Government and security-relevant industries.

Like other Western countries, Canada is facing an unprecedented threat to domestic security through the radicalization of persons to a nihilistic Islamist ideology, where death is a preferred tactic to discussion. While there is legitimate room for debating the extent and thus severity of the threat, there can be no doubt of its unprecedented nature and its growing presence.

The suggestions offered here will legitimately generate controversy precisely because they go to the core of the threat, which is violence predicated on religious beliefs. Rather than shy away from that controversy, we must confront it. This should begin with candid consultations with individual Muslims and Muslim

organizations in Canada that want no part of this radicalized political Islamist agenda, and who look to Canada for a tolerant multicultural society that ensures better lives for them and their families.

It is clearly a difficult challenge but one that must be undertaken with truth and candour as our guides. As the expression goes: If not us, then who? And if not now, then when? ✦

Scott Newark's 30-year criminal justice career began as an Alberta Crown Prosecutor, with subsequent roles as Executive Officer of the Canadian Police Association, Vice Chair and Special Counsel for the Ontario Office for Victims of Crime, Director of Operations for the DC based Investigative Project on Terrorism, and as a security and policy advisor to both the Ontario and federal Ministers of Public Safety. This article contains updated materials from the author's previous columns which have appeared in Front Line Security magazine.

From rhetoric to action (Coates)

Continued from page 28

northern British Columbia are dramatically different than those in New Brunswick – but the goal would be to provide an established framework for addressing Aboriginal concerns regarding natural resource development.

Indigenous peoples have already discovered that approval for resource development, secured through impact and benefit agreements, brings substantial revenue, employment, and business opportunities. Legal clarity will be beneficial to Aboriginal and non-Aboriginal Canadians alike.

Conclusion

The Government of Canada and Aboriginal agendas come together around these simple points: Aboriginal people need a new, expanded, and long-term commitment from Canada to better and more effective policy. Canada needs from Aboriginal people a clarification and simplification of the rules of engagement on natural resource and infrastructure development. Capitalizing on the country's resource wealth and having the capacity to build necessary infrastructure without undue delays and conflict is fundamental to Canada's long-term wealth and economic stability.

This, then, is Canada's first major 21st century challenge. Can the country respect the new power of Aboriginal people and offer real and lasting change in public policy, funding,

and government-to-government relationships? Can Aboriginal people and governments, in turn, make appropriate agreements with provincial, territorial, and national governments to ensure carefully planned and well-managed resource development that produces greater wealth and well-being in Canada? If the answer to both questions is yes, the country and Indigenous peoples have real potential to move forward.

No other answer will serve Canadians or Aboriginal people well. Absent Indigenous engagement in resource development, the country will have neither the will nor the funds to respond fully to Indigenous needs and aspirations. Absent a major federal commitment to addressing real and substantial Indigenous needs, there is no reason to expect that this country will be unable to unlock the opportunities – for Aboriginal communities and for all Canadians – in the resource sector.

The next Government of Canada, ultimately, has to move – and it has to do so decisively. It can share that choice with Aboriginal peoples and their governments. One only hopes that Canada seizes this opportunity to move beyond historical legacies and today's frustrations and embrace the prospects for a collaborative, mutually beneficial future. ✦

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