

THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

INSIDE POLICY

DECEMBER 2015



Justice Murray Sinclair Policy-Maker of the Year

Portrait of the man
healing the nation

Also INSIDE:

How reconciliation
is already
happening

A sickness
in the public
service

The trouble
with tanker
bans

Questions
answered on
the TPP





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THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

Published by the Macdonald-Laurier Institute

Brian Lee Crowley, Managing Director, mgdir@mli.ca
David Watson, Managing Editor and Communications Director

Past contributors

Thomas S. Axworthy	Laura Dawson	Carin Holroyd	Peggy Nash
Mary-Jane Bennett	Elaine Depow	Dean Karalekas	Linda Nazareth
Carolyn Bennett	Jeremy Depow	Paul Kennedy	Geoff Norquay
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Ken Coates	Daniel Gagnier	Velma McColl	Michael Watts
Celine Cooper	Guy Giorno	Ted Menzies	Alex Wilner
Philip Cross	Stephen Greene	Robert P. Murphy	

Cover photo: Courtesy of the Truth and Reconciliation Commission

Production designer: Renée Depocas

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For advertising information, please email: patricia.bouchard@macdonaldlaurier.ca

Subscriptions: \$39.95 per year; single issue, \$6.95. | ISSN 1929-9095 (Print) | ISSN 1929-9109 (Online)

Inside Policy: 8 York Street, Suite 200, Ottawa ON, Canada K1N 5S6, PH; 613-482-8327

From the editors

Awild year for federal politics and policy it has been, leaving the editorial staff at the Macdonald-Laurier Institute with a wealth of candidates for our Policy-Maker of the Year.

What about Gerald Butts, Justin Trudeau's principal secretary and the other policy architects of the Liberals' sweeping victory in October's election? They have certainly set a dramatic new course for Canada. There is also new Immigration Minister John McCallum or Environment Minister Catherine McKenna, tasked with urgent government priorities on refugees and climate change. But they haven't had much of the year to work with. There's also former Trade Minister Ed Fast, and lead negotiator Kirsten Hillman, who brought Canada into the Trans-Pacific Partnership, a trade-deal that links Canada to around 800 million customers in 11 other nations.

But if there was one event that shook this country like no other in 2015 it was the earthquake touched off by the summary report of the Residential Schools Truth and Reconciliation Commission, chaired by Justice Murray Sinclair. In a moving interview with *Inside Policy's* Robin Sears, Justice Sinclair recalls what he learned from the powerful testimony of 7,000 survivors in communities across the country, his personal connection to the tragedy of the residential schools program, and how he hopes his work changes Canada for the better. The TRC's full report will be released in mid-December. For exposing the lasting harm of this nation's most painful policy failure and galvanizing the country to forge a new relationship with Aboriginal peoples, Justice Sinclair is the clear choice for Policy-Maker of the Year.

In a companion piece to Sears' profile of Justice Sinclair, MLI's Senior Fellow **Ken Coates** applauds the nation's commitment to reconciliation. However, he points out, real reconciliation means economic prosperity for Aboriginal peoples, and there is real progress being made with Aboriginal engagement in the resource economy that we must build on. He cautions the Liberal government not to ignore what's working as it pledges a new relationship with Canada's Indigenous peoples.

Also in this issue, Professor **Bram Noble** explains how Canada's environmental assessment process is failing both Aboriginal people and resource developers alike, and former diplomat **Robert Hage** explains the trouble with banning oil tankers on the West Coast. Regular contributor **Stanley Hartt** warns the new Liberal government that the majority honeymoon won't last long, **Jack Stilborn** says parliamentary reformers are fighting lost battles, MLI interviews New Zealand High Commissioner Simon Tucker in a fascinating Q and A about the benefits of the TPP, **Richard Owens** takes on the TPP alarmists, **Rachael Cunliffe** of CapX finds that Uber has made New York cab rides much more pleasant, and Senior Fellow **Philip Cross** examines why federal public employees take so much sick leave. Finally, in an excerpt from his new book, *The Inequality Trap*, economics professor **William Watson** explains why poverty isn't what it used to be.

Merry Christmas and Happy New Year from all of us at MLI.

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Reality awaits the Liberal government after the honeymoon

As with every new majority government, Justin Trudeau's Liberals were elected with high expectations, writes Stanley Hartt. But as all governments discover, it isn't long before events require reversals on key promises.

Stanley H. Hartt

The honeymoon which follows the election of a new majority government is a dangerous time for anyone to attempt to analyze the results and make predictions about the consequences. Until the euphoria over the substantial changes in the political landscape turns into the inevitable disappointment brought about by actually governing, an observer, particularly a notoriously partisan one, runs the risk of being out of step with conventional wisdom.”

These words were not written on October 20, 2015. They were part of an address I gave to the Empire Club of Canada in Toronto on November 25, 1993, shortly after Jean Chrétien's Liberals had swept Prime Minister Kim

Campbell out of office with a humiliating defeat, leaving the party which had held a substantial majority in the House of Commons with only two seats.

One commentator noted that the remarks seemed like “sour grapes”, but events soon proved that, at worst, they were a statement of the obvious.

The Chrétien Liberals almost immediately reneged on two important pledges, to reject NAFTA and repeal the GST, which would have made some of their more ideological supporters terribly unhappy, but which nevertheless wisely paved the way for the spurt of economic growth which enabled them to balance the federal books.

Mr. Chrétien did manage an impressive series of successive electoral victories, largely because of the split on the right of the political spectrum which only ended in late 2003. Actually governing meant bearing the opprobrium for the near miss in the 1995 Quebec referendum on sovereignty and for a series of scandals related to Liberal Party fundraising.

But the essence of my thesis in 1993 was, and is again now, that a victorious political campaign can gain office for its candidates by promising a change in mood and style, but the inexorable pressure of the problems facing the nation, and the range of remedies available to deal with them, remain relatively static. So, for example, a small tweak to a forecast model can turn a \$1.4 trillion surplus (left by the Conservatives) into a \$3 trillion deficit (announced by the incoming Liberals) but political philosophy cannot change the fact that a significant drop in world commodity prices has left Canada's oil and gas and metals and mining sectors in a most challenging environment for its resource exports, impacting the value of our currency and producing a bleak outlook for our mid-term economic prospects.



*The old saw that the
'devil is in the details'
certainly applies here.*

It should not be a revelation that political bravado on the hustings often ignores the fact we live in a complex, interdependent world where problems are caused (and solutions lie) beyond the range of our government's writ and authority. Whether modest deficits of less than \$10 billion in each of the next two fiscal years ("to fund historic investments in infrastructure and our middle class") will have any stimulative effect at all on our two-trillion-dollar economy in the face of flat world-wide economic prospects is doubtful. Confronting the painful slowdown in international economic growth will be the real test for our newly-elected leaders.

All past administrations have learned, as former British Prime Minister Harold MacMillan is said to have observed, that the most carefully designed platform can be driven offside by events. In Brian Mulroney's case, it was his 1984 commitment

to generate substantial new employment ("jobs, jobs, jobs") by reducing the massive federal deficit as a way to drastically lower interest rates from the double digits experienced during the previous four years. He was thwarted by an economic downturn which ended an historic boom period. Not enough was done during the good years to build in the fiscal flexibility to combat the automatic stabilizers (declining tax revenues with increasing expenditures for employment insurance, welfare etc.) which produce deficits in time of recession. And no one remembers any longer the important inroads in deficit reduction achieved before circumstances caused a deficit at the end of the Mulroney years roughly as large as at the start.

In fairness, Mulroney spent his political capital consciously, doing things that he believed needed to be done regardless of their impact on his popularity, which completely changed the face of Canada: free trade, tax reform and the GST, and the valiant attempt at constitutional reform known as Meech Lake.

In Stephen Harper's case, many promises ended in the dust bin with the attendant price in terms of his poll numbers, the best example of which would be his commitment to Senate reform, beginning with the so-called "Triple E" ("elected, equal, effective") Senate and ending with the unanimous rejection by the Supreme Court of Canada of his more modest changes proposed in the Reference Re Senate Reform. The Conservative promises about cleaning up government after the sponsorship scandal led Canadians to believe that patronage appointments and expense abuses would be a thing of the past, but the Senate expenses scandal haunted them right to the end. And control of the operations of government from the "centre" was taken to have deprived MPs of their independence and handed too much power to unelected political staffers in the PMO.

The point is that either failure to achieve promised policy planks or actually succeeding in making momentous changes both erode political good will and generate opposition and disenchantment among voters and the honeymoon comes to an end.

The 2015 Trudeau Liberals packed their platform document with numerous promises that were intended to be refreshing and to delight the folks who were yearning for change. But the old saw that "the devil is in the details" is certain to apply here.

This platitudinous truth was amply demonstrated as the newly-sworn-in Ministers grappled gamely with the generous but over-the-top promise to land 25,000 Syrian refugees in Canada by the end of the year. As logistics, selection and security issues piled up with the clock ticking, a variety of compromises were reached: 25,000 yes, but not by year's end; 25,000 originally intended to

be government initiated newcomers in addition to any sponsored by private families or groups became 25,000 from all sources combined, and only by Spring, with the remainder trickling in by the end of 2016. Selection criteria excluding single men as a rough and ready proxy for enhanced security has come under criticism. Ultimately, the best evidence of policy-making on the fly were the back-to-back contradictory statements, first, from the Ministerial Committee tasked with this enormous endeavour that it was logistics, not security, that had caused the push-back of the deadline and, second, from the Prime Minister himself while in London to the effect that it was the Paris terrorist attacks that had resulted in the timing changes.

“*Perhaps the most likely issue to generate serious controversy will be electoral reform.*”

There are a series of social policy issues on the horizon whose solutions will likely please some and leave others quite unhappy. Take, for example, the promise to “legalize, regulate and restrict access to marijuana”. The idea would be to decriminalize the incidental use of pot but provide for more severe sanctions for operating a motor vehicle while under the drug’s influence, providing it to minors, or selling it outside the “regulatory framework” to be established (which will include two levels of governmental excise taxes).

Sounds easy, but don’t expect experts in public health, substance abuse and law enforcement to be equally enamoured of the concept. It will be difficult to ensure that a little freedom does not lead to a lot of excess or that the product does not make its way into the hands of criminal elements to avoid the fiscal revenue bonanza represented by the new taxes (as has happened in the case of cigarettes). The proposed measures may be popular until the first incident occurs that wasn’t supposed to happen (i.e. an accident involving a motor vehicle driven by a stoned minor who got his stash in a schoolyard from a thug).

Then there is physician assisted suicide to deal with. The

government has asked for an extension (six months) to the one year granted by the Supreme Court of Canada for the federal government to come up with a new law to replace the one the Court found unconstitutional banning the practice. The Court has set a trap for the new Cabinet by deciding to leave to a physician the determination of whether the decision to end the life of an incurably ill patient, in pain, without any prognosis for improvement or effective treatment options, is in fact fully informed, and free and voluntary. The potential for undue influence on the patient is not one that is within the ordinary physician’s expertise to detect. No doubt the Court did not wish to build in a more robust process to establish the patient’s consent for fear that an elaborate procedure would offend Section 7 Charter rights in the same way as the hospital committees on abortion that were struck down in the Morgentaler case.

Then there is the Trans-Pacific Partnership, the massive trade deal agreed to in principle in the dying days of the Harper administration. Mr. Trudeau wisely avoided making any electoral promise on the subject, preferring to have the formal text and the advice of senior officials available to him before deciding whether or not to endorse it. He had to endure the indignity of US President Barack Obama declaring that he was certain that “Justin” would affix Canada’s signature before Mr. Trudeau had had time, after his whirlwind world tour of summits, to make that determination. Again, some will rejoice if the TPP is ratified, and some supporters will be dissatisfied.

Perhaps the most likely issue to generate serious controversy will be electoral reform. Having promised that “2015 will be the last federal election conducted under the first-past-the-post voting system”, yet having won a significant majority in the House with only 39.47 percent of the vote, the Liberals are a classic example of how our system was designed to work. Majority government creates stability and predictability in the political environment. If the Liberals do indeed keep their platform promise, it would mean an end to their ability to produce “Real Change”, since they would forever be condemned to make compromises with the NDP or the Greens.

Moreover, it would likely mean that there would never be another Conservative government in Canada, so, on this issue, look for the Conservative majority in the Senate to create some significant roadblocks. Foreseeing this, and being understandably

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How Uber is making New York cab rides a lot more pleasant

CapX deputy editor Rachael Cunliffe observes that after years of dreading cab rides on visits to New York, she was pleasantly surprised by the immaculate taxi and pleasant driver she encountered. Thank Uber for breaking the grinding New York taxi monopoly.

Rachael Cunliffe

Oh, the joys of New York: sky-high tower blocks, legendary pizza, and the rudest taxi drivers on the planet.

On my previous trips to the Big Apple, my experience has been of drivers who jerk their way around corners, shout and swear at other vehicles, and behave like they are doing you a massive favour by allowing you into their shabby and odd-smelling car in the first place. Is it any wonder that Uber-founder Travis Kalanick chose New York as one of the cities to expand into?

So imagine my surprise when, arriving at JFK airport after a 7-hour journey, the driver of the yellow cab I hailed politely asked me how my flight had been. His car was immaculate, and his driving smooth but efficient. Rather than scrabbling for dollar bills at the bottom of my handbag, I was shocked to discover a working touch-screen and card reader in the backseat. And when I struggled with the instructions (Americans have yet to discover chip-and-pin, it seems), my driver helpfully took me through the payment process and wished me a pleasant stay in New York.

UBER : at a glance

operates in:

361
cities

67
countries

comparative cost per ride:



* in US\$

source: uber.com

I knew that yellow cabs were meant to be able to take cards, but somehow the card reader had always seemed to be ‘broken’ on previous trips. As for politeness, the last driver I had bluntly refused when I asked for a receipt and acted thoroughly inconvenienced by having to give me change. This time, the drivers I had could not have been more courteous. And they even have a shiny ride-hailing app called Arro, which advertises “no surge pricing!” in happy letters (as though surge pricing is an evil trick Uber plays, rather than an effective use of market forces to get more cabs on the roads).

I’ve written before about how Uber in London offers a service that is in many ways superior to traditional taxis (cheaper, more accountable, with mobile payment). The same is true in New York, and New Yorkers are voting with their taxi dollars – low-cost UberX rides over the course of 2014 shot up by 450 percent. And just like their counterparts across the world (most notably in France), New York taxi drivers have protested the ‘unfairness’ of a competitor who can do their job better and more cheaply than they can.

But the grinding monopoly on New York’s taxi market, which stymies the supply of drivers in one of the world’s busiest cities, isn’t the fault of the drivers alone. The city’s bureaucratic medallion system dictates the number of drivers legally allowed to serve New York. Such medallions are, of course, hugely expensive – and by expensive, I mean upwards of \$1 million.

Unsurprisingly, enterprising people trying to scrape a living in New York by working a classic newcomer job can hardly afford to buy one of the 13,500 medallions, even if one happened to be available at auction at the time. Instead, the vast majority of medallions are owned by companies, and drivers must pay to lease one in order to drive.

Enter Uber, and suddenly yellow cab drivers are realising maybe the fees aren’t worth it. Rather than pay thousands of dollars in fees to medallion holders, they could be driving for Uber, which takes 20 percent commission instead.

This has obviously not impressed the lucky owners of all those medallions. Gene Freidman, for example, owns over 1000 medallions, and helped push up the price by snapping them up any time one came up for auction, borrowing from credit unions to do so. Now that Uber has offered both consumers and drivers an alternative, the price of medallions is crashing (some can be bought for half of what they cost last year), and Freidman’s businesses can no longer make money off this rent-seeking practice. So now he’s hoping for a

bailout from New York taxpayers, rather than accept competition in a market he monopolised for so long.

Others are similarly incensed. Cab medallion owners have filed a lawsuit against New York City regulators for allowing Uber into the market, claiming the city is responsible for the drop in medallion prices and leasing fees, and must compensate them for it. They state that:

“As set forth below, Defendants’ deliberate evisceration of medallion taxicab hail exclusivity, and their ongoing arbitrary, disparate regulatory treatment of the medallion taxicab industry, has and continues to inflict catastrophic harm on this once iconic industry.”

If suing the city because you don’t like the competition and demanding a bailout because your business is no longer profitable seems an overreaction, I suppose New Yorkers should be thankful drivers aren’t setting fire to cars and blockading the streets. And, indeed, while some have responded by attacking Uber in any way they can, others have wondered if maybe the burden is on them to up their game a little.

And that’s why there are suddenly apps for yellow cabs, working card readers, polite drivers and clean cars. It wasn’t city regulators who mandated that the service had to improve – it was ordinary New Yorkers, who simply took their business elsewhere. If anything, those invested in the classic yellow taxis should be thanking Uber for raising the standard in the “once iconic industry”.

I can only hope that the courts see the irony, and treat the medallion owner’s lawsuit with the ridicule it deserves. ✱

Rachael Cunliffe is Deputy Editor of *CapX.co*.

All photos courtesy of the Truth and Reconciliation Commission



Murray Sinclair, Policy-Maker of the Year: The path to reconciliation

In a moving interview, Justice Sinclair tells Inside Policy's Robin Sears why chairing the Residential Schools Truth and Reconciliation Commission was something he 'was meant to do', and how he hopes it will change Canada for the better.

Robin V. Sears

At the end of a long emotionally candid conversation, Justice Murray Sinclair asks reflectively, “And you know what it will take for reconciliation?”

It's not a rhetorical question and he awaits an answer.

“Well, it's acceptance, it's forgiveness I guess ... it's ...” and I stumble into silence, knowing I have not passed his test.

“No, that comes later. First it is acknowledgement that our spirituality – Aboriginal spirituality - is the equal of yours. Without that it's just a campaign for slow assimilation.” It's a stark and surprising answer from this most gentle but powerful of voices.

Raised as a Catholic, Sinclair almost trained for the priesthood. He describes himself as a deeply spiritual person. But as his definition of reconciliation makes clear, his spirituality refuses to place one faith above another.

He quickly sketches the connection between the denigration by residential schools and Canadian society of the values and spiritual beliefs of Aboriginal peoples and the neglect, abuse and perhaps even criminal negligence leading to hundreds, maybe thousands, of deaths of children. Those boys and girls of First Nation, Métis and Inuit families were seized by the state and



Justice Murray Sinclair with Chief Wilton Littlechild and Marie Wilson at the Truth and Reconciliation Commission's Senate presentation.

imprisoned in residential schools designed to assimilate them into white society.

Murray Sinclair is not only an esteemed judge – Manitoba's first Indigenous senior justice – and teacher, he is a student of those like him who have devoted years to trying to resolve the meaning behind, and to begin the healing from, atrocity. He has read extensively about Gandhi, Mandela, Desmond Tutu and Martin Luther King and believes in their teachings of confrontation without violence. He believes in the importance of truth and respectful reconciliation, and he acknowledges the importance of working for reconciliation with an understanding of the role of forgiveness to personal healing. He recalls his conversation with Freddy Mutanguha, a survivor of the Rwanda genocide who is now Executive Director of the Kigali Memorial Centre of Rwanda, an archive and reconciliation centre devoted to the genocide. Mutanguha described his fight to get back to a functioning life, his struggle to find the path to forgiveness of his neighbours, who had hacked his family and friends to death.

Sinclair pauses, recalling the emotion of the moment. He talked about how Mutanguha had to go through a process of forgiveness in order to be able to do the work he does for reconciliation in his country and then said, "He told me that forgiving was not easy for him but he was able to do it, but that each morning, when he gets up, he has to begin the process all over again. Each day he must fight to forgive his neighbours and the thousands of other perpetrators all over again."

Sinclair doesn't say that this is his challenge. But you can tell that after the years and years of survivor testimony, the almost endless telling of the most horrific abuse of small children, forgiveness has been and still is a personal struggle for this impressive leader.

Earlier he discussed the gap between the silent Canadian

perpetrators and their victims. Since its launch in the 1880s a staggering 150,000 aboriginal children had been forced into the residential school system. Of the estimated 79,700 survivors of the 139 residential schools alive in 2006, almost half, or 37,000, reported having suffered serious physical or sexual abuse.

He acknowledges the importance of working for reconciliation with an understanding of the role of forgiveness.

"Now," he adds, "Consider this. We have no way of knowing how many victims each of the perpetrators typically abused. For the purposes of rough calculation, let's say it was roughly a dozen each. That means there were around 3,000 abusers of those children, many of whom would have been alive in 2006 as well. Some of them are no doubt still alive."

"Do you know how many have come forward voluntarily, to apologize, to seek forgiveness, to seek reconciliation with their victims? ... Precisely none. Zero."

The horror of that calculation sits heavily in the silence between us. I mutter overwhelmed, "... in Canada."

Sinclair adds that the horror for generations of Aboriginal children was not limited to residential schools. Many reports of the

systemic racism and abuse inflicted on Aboriginal students in the public school system in small towns across Canada, have also emerged in the TRC's work. Indigenous students in public schools were also shamed and dehumanized by a system that taught generations of children that Aboriginal people were heathens, savages, pagans, uncivilized, weak and inferior. It also taught that European societies were smarter, superior, more just and more civilized. This has created a great divide in society he points out, and why reconciliation is not just an Aboriginal problem, it's a Canadian one.

In short, stark phrases he sketches the cascading impacts of the destruction on generations of young Aboriginal lives and on the entire Aboriginal community in Canada. "It's not an exaggeration to say that there are few Aboriginal families that do not still bear the scars of this system." Institutionalization meant that there were no parents to teach parenting skills. Demeaning abuse for years led to deeply self-destructive later lives. Abuse beget abuse. And on and on.

Murray Sinclair arrived at the momentous responsibility of attempting to find a path forward from Canada's worst atrocity unwillingly and with deep hesitation. He turned down the task when first approached in 2007. As he recalled, he had already been through an inquiry in Manitoba into the deaths of children in the province's health care system. Emotionally exhausted from that experience, he withdrew from consideration of heading the TRC, knowing how emotionally grueling it would be.

However, the first attempt at starting the Truth and Reconciliation Commission collapsed in acrimony the following year, with a pained and angry Justice Harry Laforme's public dissection of the reasons for the commission's failure. Sinclair knew that it would be hard for him to refuse a second time. He knew how crushed the survivors and their families were by the TRC collapse.

When the call to head the Commission once again came in the spring of 2009, he consulted his family, his children, his friends. They helped him understand that it was something he "was meant to do." He could not say no, but as a seasoned judicial and political warrior he knew he could exact a price for his yes.

He won independence, financial control, and the final say in the choice of fellow commissioners and staff. The bevy of government employees who had been part of the first fiasco, on secondment from what was then still called the department of 'Indian Affairs,' were sent back to their employer, and the Commission headquarters were moved from Ottawa to Winnipeg.

Sinclair does not offer anything further about the reasons for that complete overhaul, but his message to government was clear – this is my task, and I will lead it with those I trust and choose to

assist us. He approved the choice of Marie Wilson, a former journalist, and Chief Willie Littlechild, a former MP and Alberta chief as the other two commissioners. They made an impressive team.

Born near Selkirk, Manitoba, in 1951, Murray Sinclair was raised by his grandparents and extended family, following the death of his mother when he was an infant. He credits his grandmother Catherine for the sense of duty and spirituality she imbued. She was clearly a powerful and positive influence, motivating him to become valedictorian and athlete of the year in high school. After working as a young assistant to then Manitoba Attorney General Howard Pawley, he worked his way through university, earning his law degree from the University of Manitoba. He established a reputation as a civil and criminal advocate and for his knowledge of human rights, as well as Treaty and Aboriginal rights, through his work as legal counsel for the Manitoba Human Rights Commission and legal counsel for the Manitoba Métis Federation and the Chiefs of Manitoba.



Justice Sinclair won independence, financial control and the final say in the choice of fellow commissioners and staff.

Appointed as Associate Chief Judge of the Provincial Court of Manitoba in 1988, Justice Sinclair became Manitoba's first Aboriginal judge. In neat serendipity, in one of his first boss' final acts as premier, Howard Pawley named him as co-commissioner of Manitoba's Aboriginal Justice Inquiry. It was a powerful introduction to his subsequent work at the TRC, coming face-to-face with the Aboriginal victims of a flawed system of justice. In addition to

his work as a respected jurist, he also had to examine the failings of the healthcare system as the head of an inquiry into the deaths of 12 infants at a Winnipeg hospital. The reports he authored for both inquiries have influenced changes in the justice and health care systems across the country.

When Minister Chuck Strahl asked him to reconsider chairing the TRC, Justice Sinclair knew it would be a long and tough assignment. He did not expect that it would consume six and half years of his life ... so far. But an even bigger surprise awaited him nearly half way through his long journey.



The commission's achievement, Sinclair is determined, will be not to meet the same fate as the similarly vast Royal Commission on Aboriginal Peoples.

He had been through years of grueling testimony by that point and he wanted some quiet time with family. He visited a favorite uncle who stunned him with the news of his own link to the horrors of the residential schools. His uncle told him what he had never been told: that his own father had been a victim of abuse in residential schools.

As Sinclair described it to Postmedia's Mark Kennedy, suddenly "everything clicked into place for me to explain why my father was the way he was." A combat veteran, Henry Sinclair had died nearly two decades earlier after a life of struggle with alcohol, violence, loneliness, homelessness, and despair. While the birth of his grandchildren had brought his father to the point of redemption, sobriety and a sense of peace in his later years, he always presented to Justice Sinclair as a guarded man with secret pain that prevented him from sharing love or laughter with his

children, but which he could freely share with his grandchildren.

"I had challenged him to change when my son – his first grandchild - was born," Sinclair recalled, "and he did. I expressed to him my deepest thanks for having done so, as he lay in hospital waiting for his end to come, and he was grateful to hear that. I came to hear of similar events in the lives of many survivors, and I had been witness to just such a transformation with my father, without understanding its implications until that day with my uncle. It caused me to see the importance of intergenerational survivors forgiving their parents if they could, while they were still alive – the single most important act of reconciliation most survivors need and want."

The work of the Commission covered a vast terrain, both geographically and in the sheer volume of witness hearings and the thousands of Canadians who participated in the TRC's national events. The Commissioners traveled to dozens of communities from the far North to virtually every Canadian town and city – and heard from almost 7,000 of the survivors themselves.

Its recommendations cover the entire sweep of Canadian history, constitutional and civil law, and will require – with even partial implementation – enormous changes in the relationship not only between Canadians and Canada's Indigenous Peoples, but changes in the role of governments, the private sector and civil society at many levels.

Its achievement, Sinclair is determined, will be not to meet the same fate as the similarly vast Royal Commission on Aboriginal Peoples, that may have informed some Canadians, but did little to inform changes in public policy. Sinclair wants the work of the TRC to go on under the leadership of a National Council for Reconciliation, but points out that every Canadian has a role to play. At the Duff Roblin Award dinner in which he was recognized for leadership in the field of education, Justice Sinclair observed: "Reconciliation begins for each of us with one very simple concept reflected in the events at first contact and in the Treaties: I want to be your friend, and I want you to be mine. When you need me, I'll have your back, and when I need you, you'll have mine. We are going to be in this country together a long time and our ancestors knew that, but my ancestors believed, as do I, that we can walk together on this road, friends forever, without surrendering our sense of self, and yours did too."

The next major investigation of these sad chapters of Canadian history is about to be launched with the creation of an Inquiry into Murdered and Missing Indigenous Women and Girls. Its challenges will be even greater than those faced by Sinclair and his colleagues. They will face active opposition from some

institutions and groups of Canadians. The possibility of a bitter finger-pointing prosecutorial process is quite real, in the fears of some close to the leadership of First Nations communities. The new commissioners would be wise to spend some long hours with Justice Sinclair learning from his experience.

Asked to what he attributed the TRC's success, he says bluntly, "I knew where we needed to go. I wrote in detail what I wanted to achieve, and how I thought we could get there, before we even began." He adjusted the goals and the journey a little, but basically stuck to his roadmap even as the finish line appeared to keep receding in front of him.

It calls for complex changes, not the least of which is a change of attitude.

If he is successful in transforming the healing process he began into real change, he will have changed Canada – and probably have set new standards to be copied in the rest of the world on both the reset of relations with Indigenous peoples in many societies and on authentic reconciliation work. The massive final report will be presented to the government in mid-December. (Those interested in the source testimonies will find hundreds of hours of material at the commission's website, trc.ca.)

Sinclair and the Commissioners are clearly the beneficiaries of the new government; one with a prime minister and minister publicly committed to carrying out their recommendations. Carolyn Bennett, the new minister responsible for relations with Canada's indigenous peoples commented on Sinclair and the reconciliation process and offers him high praise, saying,

"Canada owes an enormous debt of gratitude to Murray Sinclair. He has taken great care to show Canada the best path toward reconciliation. I am honoured to take up Justice Sinclair's challenge of involving all Canadians in this unfinished work of Confederation."

The Commission has produced thousands of pages of documentation and Calls to Action, many of which are painful judgments on the role of the Government of Canada. It calls for

complex changes, not the least of which is a change of attitude. Sinclair acknowledges that many changes call for an expenditure of funds, but challenges all critics to consider what "the cost of doing nothing" is going to be. "We are spending billions of dollars per year in maintaining a broken relationship and funding a system of governance that has proven over many generations that it is never going to fix things. It's time to fix this relationship and the way we are doing business, properly."

It is hard to imagine any previous prime minister making such a sweeping commitment to a report like this. Hard to recall, either, such a ringing endorsement of a commissioner offering such tough medicine from any previous minister.

It will be Bennett's challenge to unite the entire Cabinet and government behind their commitment to make the process real. A tough former family doctor used to marshaling recalcitrant patients, Bennett has devoted years to work in the First Nations. She will not be easily deterred by the foot-dragging of a department famous for its ability to slow-walk ministers into frustrated paralysis.

As Sinclair finished this chapter of the Commission's work, he is clearly proud of the achievement, prouder still that both his son and daughters are now employed in reconciliation work in separate projects.

Decompressing from the years of almost daily emotional stress is something he is clearly relishing. He chuckles at his satisfaction in just having spent several hours raking his yard and cleaning his garage in preparation for winter. Perhaps he will write, he says, maybe teach, but not right away.

Given his tremendous success at a task that looked hopeless only a few years ago, one suspects that his phone may ring again. The path to reconciliation that he and his fellow commissioners have blazed for Canadians will not be smooth, short or free of future roadblocks. Many times past, Canadians have failed at completing the work of genuine reconciliation.

Canada is indeed fortunate to have had such an inspirational leader come forward at a moment when we face a potentially fateful fork in the road between another Oka – the very real prospect of violent confrontation – and Justice Sinclair's path.

We may again need his unique blend of wisdom and gentle humour, his quiet, courteous, but relentless determination to set us firmly down the right path one more time. ✦

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



Image courtesy Mining Industry Human Resources Council

The resource economy and the front lines of reconciliation

With the impressive impact of Justice Murray Sinclair's Truth and Reconciliation Commission, Canadians want a new and more positive course for relations with Aboriginal peoples. Here's how it's already happening, writes MLI Senior Fellow Ken S. Coates.

Ken S. Coates

After many decades of neglect and procrastination, Canada is finally open for reconciliation with Indigenous peoples.

Consider the impact of the Residential Schools Truth and Reconciliation Commission, chaired by *Inside Policy* magazine's 2015 Policy-Maker of the Year, Murray Sinclair. The TRC travelled the country hearing from thousands of witnesses about the horrors they themselves endured after being removed from their families, and the lasting legacy of despair and dysfunction that grips so many communities. Contrast the nation's reaction to the TRC with the much more tepid, long-delayed and largely inconsequential reaction to the even more extensive and detailed 1996 report of the Royal Commission on Aboriginal Peoples. Canadians are, it seems, finally attentive.

The work of the TRC, whose final report will be released this month, has caused a tremendously positive public response, including the prominent place of pro-Indigenous policies in the 2015 federal electoral strategies of the Liberal Party and the New Democratic Party, and the post-election Liberal government policy. Let us not forget the important step taken by the previous government, in formally apologizing for the grievous harm caused by residential schools and commissioning the TRC. And then there were the strong words of Supreme Court Chief Justice Beverley McLachlin, who described Canada's past Indigenous policies as equivalent to a "cultural genocide".

The phrase is apt. Residential schools were likely the most destructive public policies in Canadian history. The Truth and Reconciliation Commission has laid out for all to see the intensity

of the residential school experience and the long-term legacy of this ill-advised, colonial system of cultural destruction.

Surely the country can agree that a dramatically different approach is required. But it is not clear that all of the 90+ recommendations of the TRC, which range from a national day of recognition and public memorials to additional funding for the CBC, and nation-wide educational interventions, will solve the problems so carefully documented by the Commission. Many would be very positive. Some are cost-prohibitive in the short term, or even impractical.



Reconciliation is, in practical and real terms, achievable in the short term.

We should be concerned about the emphasis some have placed on government programs to fix these problems. Recall that it was big government programs – residential schools, but also the Indian Act, reserve creation and many other federal initiatives – that caused this mess in the first place.

But the Trudeau government is determined to act, in keeping with its commitment to a more activist state. In a series of actions – symbolic, financial, practical and relational – Prime Minister Trudeau has made it clear that the Government of Canada intends to create new and different partnerships with First Nations, Métis and Inuit peoples. That the public appears on board with this collaborative approach and that the Prime Minister has been warmly welcomed by the Assembly of First Nations and other Indigenous groups augers well for improved relationships and overdue progress on issues that matter deeply to Indigenous peoples in Canada.

It would be wrong for Canadians to assume that, with the federal government on the case, that non-Aboriginal individuals, communities and organizations can assume the role of spectators. Real reconciliation will have occurred when Aboriginal people have comparable educational outcomes, enjoy healthy and safe

communities, have access to decent jobs, and experience a level of income and prosperity comparable to that of other Canadians. Substantial and sustainable reconciliation will be achieved when true equality of opportunity and a spirit of welcoming and inclusion exists across the land.

Reconciliation is, in practical and real terms, achievable in the short term. Indeed, even as the country focuses on the problems of the past, there are good reasons to see real progress and achievements in reconciliation already. Canadians can with cautious optimism, look to Aboriginal engagement in the natural resource sector as serving as the front lines of Canadian reconciliation.

The newly elected Liberal government has, as noted, made positive overtures to Indigenous peoples, although with less attention than the previous administration to resource issues. The NDP government in Alberta, has shown willingness to support the United Nations Declaration on the Rights of Indigenous Peoples, a commitment that is celebrated by Indigenous groups and is a matter of concern for resource companies, not for the spirit of UNDRIP but for the potential impact on development certainty.

The new approach by these governments to Indigenous affairs is matched by an aggressive agenda on climate change and environmental protection, which may be putting the brakes on global resource development. These initiatives, combined with declining oil prices and demand for commodities, have dampened enthusiasm for resource investments, ironic given the sector has demonstrated both engagement with Indigenous peoples and considerable success in responding to Inuit, Métis and First Nations expectations for sharing prosperity.

Canadians should remember that the country's market economy emerged on the basis of long-standing and constructive partnerships with Aboriginal people. The collaboration was strongest in the transcontinental fur trade, but was also a key element in the West Coast salmon fishery, logging and mineral exploration. Three of the four people credited with discovering gold in the Klondike Gold Rush were Indigenous, after all. These connections are often forgotten. The social challenges that expanded in the 1960s and 1970s largely erased memories of extensive Aboriginal involvement in the resource economy.

Forty years ago, the resource sector was held up by Indigenous peoples as one of their top areas of concern. Aboriginal peoples were for too long on the outside looking in as resource development proliferated on their traditional lands. But recent years have been transformative times. Supreme Court cases from the 2004 Haida Nation decision that established the Crown's "duty to consult and accommodate" Aboriginal communities on issues

that affect them to the Tsilhqot'in decision on Aboriginal title 10 years later have given Aboriginal peoples tremendous new power to influence the terms of resource development. The resulting legal authority has been backed up by civil action, through the Idle No More movement, and through alliances with environmentalists against some resource projects.

There has been conflict, and many are still rightly cautious about the environmental and social implications of resource development. But there is also opportunity, as many resource firms have demonstrated a more open, collaborative approach.



Miners digging for gold at Hunter's Creek, Yukon Territory during the Klondike Gold Rush. Three of the four people credited with discovering gold were Indigenous.

The result on the ground for Indigenous peoples has been dramatic, and positive. There are now hundreds of collaboration agreements between resource developers and Indigenous groups, amounting to billions of dollars in jobs, skills training, business contracts, and payments to communities. More than 250 Aboriginal Economic Development Corporations are operating across the country, many with direct engagement in the resource sector. Many of these corporations have over \$100 million in annual revenues; some are accumulating substantial assets that are being used to support regional businesses or to provide long-term financial foundations for Indigenous communities and governments.

Canadians forget how much has changed in recent years. Resource revenue sharing, once a distant dream, exists or is under development across much of the country. An increasing

number of Indigenous communities are taking or considering equity positions on major resource projects. There are dozens of Aboriginal training and employment programs and there has been a dramatic expansion in Indigenous participation in college and university programs. The number, size and success of Aboriginal businesses has grown substantially, with many tied to the development sector, often capitalizing on preferential contracting arrangements that emerge from development agreements. Provincial and territorial governments have, in some instances, created positive space for Indigenous participation in environmental assessment, monitoring and remediation. While the collaboration may have been driven, in the first instance, by a combination of court decisions, an expanded sense of corporate social responsibility, and related business needs, it has produced positive results and growing business support. Reconciliation with Indigenous peoples – in the resource sector as elsewhere – is proving to be good for business and for all Canadians.

Aboriginal participation in the resource economy has been challenged by the 2014-2015 downturn in the commodity markets and the resulting sharp reductions in exploration and development expenditures. These occurred at precisely the time that Indigenous groups were expanding their presence in the sector and developing substantial economic partnerships and collaborations. The current slump, critically, must be used as a time to formalize and stabilize relations with the resource sector, to convince Canadians of the value of long-term collaborations with Indigenous peoples and to demonstrate to Aboriginal communities that resource development does hold the promise of real and sustainable change. This is, in fact, the time to strengthen, renew and expand partnerships with Aboriginal communities. In doing so, we can demonstrate that reconciliation is real and possible. There is reason for optimism.

As reconciliation emerges through business engagement, several areas have shown considerable promise. Companies have discovered the benefits of showing a common face with their Aboriginal partners to government, and of demonstrating mutual support as a means of advancing specific projects. Collective responses to environmental concerns and protests, likewise, demonstrate common cause and provide a counter-balance to external criticism about projects located on traditional Indigenous territories.

Perhaps the greatest opportunity for ongoing collaboration rests with the intersection of the economic development corporations and resource firms. These Aboriginal run corporations already have billions of dollars in assets, with a rapid expansion possible. The firms are increasingly knowledgeable about the resource

Canada can and must do much better than we have, and the Canadian public appears to agree.

sector, want to diversify their holdings, and are looking to take a large share of the financial returns from the resource economy.

There are ways to improve on the partnerships that are leading the way for reconciliation with Indigenous peoples in Canada. It can be as simple as sharing what we've learned; making best practices in negotiated agreements available for all Indigenous groups and resource firms is an excellent way of spreading economic success and collaboration. Similarly, a number of resource companies have solid track records for capacity building, producing a larger skilled work force, providing long-term employment within the mine and development operations, and demonstrating the value of preparing companies for working with Indigenous people and cultures.

The largest resource projects, such as Vale's Voisey's Bay nickel mine in Labrador to choose one excellent example, are multi-generational in nature, providing a unique opportunity to develop long-term employment, training and investment plans. This requires, in turn, corporate engagement in regional Indigenous education and training in order to ensure that the firms have the skilled workforce needed to sustain operations in the future.

(Hartt)

Continued from page 6

reluctant to render impossible any replication of the remarkable results of October 19, Mr. Trudeau might choose to study this issue to death in the promised Parliamentary Committee. He could then blame the complexity of the issue and the multiple options to be considered for breaking the vow to introduce legislation to enact electoral reform within 18 months of forming government.

The joy of accession to office is balanced by the burdens of power. Actually making choices erodes the initial elation which, sooner or later, starts to show up in the polls. Opposition leaders would be wise to allow the honeymoon process to run its course and avoid getting in the Liberals' way as they engage in actually

Indigenous peoples must be able to participate as meaningful partners throughout the development process. Collaboration from the outset – exploration, workforce development, environmental assessment, initial and long-term operations, environmental monitoring, post-project rehabilitation – would reassure Indigenous communities of the quality of the resource project and would maximize the potential return for the Indigenous peoples involved.

General commentary on the Canadian resource sector focuses more on protests – a legitimate part of the contemplation of resource development – than on collaboration. Criticism of Canadian mines, pipeline companies, oil and gas firms, hydro projects and the like garners a lot more attention than joint business ventures, training and employment programs, and increased revenues for Indigenous communities. But this imbalance in public awareness has masked a promising story, one of true and widespread reconciliation, where Indigenous communities and governments have learned to work together and share, to a significant degree, the economic benefits of resource development

Reconciliation needs a new story, one that looks to beyond the problems of the past and that focuses on the achievements of the present and the prospects to do even better in the future. Canada can and must do much better than we have, and the Canadian public appears to agree. Reconciliation through resource partnerships may well lead Canada toward a more equitable and shared future. ✨

Ken Coates is a Professor and Canada Research Chair in Regional Innovation in the Johnson-Shoyama Graduate School of Public Policy. He is also the Macdonald-Laurier Institute's Senior Policy Fellow in Aboriginal and Northern Canadian Issues.

governing. They will inevitably disillusion some electors on one policy or another until the initial period of apparent harmony and goodwill dissipates and Canadian politics are once again ready for alternative ideas and approaches. ✨

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.



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Parliamentary reform efforts are in serious need of reform

Party discipline isn't going away, but that doesn't mean Parliament's functioning can't be improved, writes Jack Stilborn. Reformers should concentrate on practical measures that will make parliamentary debate more useful and better hold politicians to account.

Jack Stilborn

In its Speech From the Throne, the new federal Liberal government reiterated campaign promises to make significant changes to both the electoral system and how Parliament works. Not surprisingly, the government has put the focus on practical steps rather than abstract principles. However, commitments to “give Canadians a stronger voice” in the House by expanding the use of free votes for backbenchers (campaign platform), and seek electoral reform “to make sure every vote counts,” (Throne Speech) strongly echo themes of a traditional reform discourse that has dominated Canadian debate since the 1960s.

The *Reform Act, 2015* – MP Michael Chong’s attempt to strengthen the hand of MPs in leadership change and candidate selection – is the most significant recent illustration of this Canadian tradition. The tradition holds that responsible government in Canada is on life support, but not yet beyond resuscitation. Procedural changes empowering backbench MPs

are seen as the key to restoring the credibility and effectiveness of the House as a representative institution, thereby enhancing the health of Canada’s democracy.

The tradition embodies widely held values but, inconveniently, it does not seem to be working. The long-term impacts of the *Reform Act* remain to be seen. However, its requirement for caucus votes on reform options at the beginning of each Parliament resulted, last November, in deferred decisions by two and the adoption of only minor elements by the third, hardly a convincing portent of change.

More broadly, the modern standing committee system, election of House Speakers by secret ballot, and other products of the reform tradition over the years have not significantly affected Parliament’s underlying problem. Public cynicism about Parliament and politicians has continued to increase, as has public disengagement, approximately in tandem with reform efforts. It

is now time to think critically about the reform tradition itself, starting with its unexamined assumptions.

The conventional parliamentary reform wisdom and its limitations

The modern reform tradition assumes that MPs, by virtue of being elected, remain uniquely qualified to represent local electorates. Party discipline reflecting the centralization of power in the hands of party leaders and unelected advisors is therefore conceived as a threat to democratic governance. However, central characteristics of both party discipline and modern electoral politics conflict with these assumptions.

The capacity of leaders to enforce party discipline is the product of caucus solidarity and support for the party leadership. It reflects caucus perceptions of the effectiveness of the party leadership in maintaining and enhancing the party's levels of public support and the electoral prospects of caucus members. As periods of discord in national party caucuses, and the more recent provincial examples of Newfoundland and Labrador, Alberta and Manitoba illustrate, caucus support cannot be taken for granted. While individuals MPs periodically protest about party discipline, the maintenance of party discipline ultimately occurs by and with the consent of caucus members.

The collaboration of MPs in the maintenance of party discipline reflects realities that continue to be sublimated within the parliamentary reform discourse. Electoral politics has come to be a team sport in which individual parliamentarians are linked to political parties by powerful ties of affiliation and practical dependence. The central representational function of the individual MP has come to be representing the party within the constituency, not the constituency on the floor of the House of Commons.

The eclipse of the traditional representative capacity of MPs, and the ties of affiliation and dependence between the individual MP and the political party, are deeply embedded within the character of modern electoral politics. The achievement of responsible government itself was an early milestone in this transformation. It made the life of a government dependent on continued support within the House, and thus provided governments with a new and compelling incentive to ensure reliable voting on the part of backbenchers.

The universal franchise was a second major milestone. Combined with population growth, it replaced constituency electorates of two or three thousand relatively homogenous voters in the 1870s (uniformly male, and meeting property/income qualifications) with the modern constituency. Today, MPs face the

task of somehow representing on average approximately 80,000 highly diverse electors, most of whom they will never meet.

The more impersonal relationship between MPs and electors in the modern riding, combined with electronic communications technologies, has shifted the focus of voting. In the national communications universe, operating 24-7, the focus on party leaders is relentless and party brands based on accumulated impressions are major influences on public opinion and voting.



*What happens inside
Parliament is all about
media attention and
public perceptions.*

Political parties are responding to these realities with increasingly sophisticated applications of marketing techniques to communications, policy-development, fund-raising and electoral campaigning. The importance of centralized party organizations as influences on the electoral future of individual MPs has steadily grown, undermining the capacity for autonomous action.

The rise of the modern interventionist state is also a central part of this story, although its implications are less obvious. It has replaced what would be seen, today, as a form of extremely limited government with something vastly broader in scope and complexity. The modern state operates pervasively across the full range of what are now conceived as abstract and highly technical “policy fields,” and generates a continuous stream of complex decisions for consideration in Parliament. Most of these are remote from local interests or preferences that could be represented in the House. Furthermore, affluence, education and social and economic diversification have contributed to the emergence of an increasingly fractured electorate, sceptical of governmental and political authority of all kinds, and chronically distracted from politics.

In combination, the impact of these changes on virtually all aspects of politics and governance has been transformational, and Parliament is no exception. Disciplined political parties, operating approximately as they do today, are deeply embedded within the structure of modern democratic practice. The modern reform tradition decries the marginalization of Parliament and

MPs, but has no credible response to its fundamental causes. Furthermore, its nostalgic fixation on lost independence diverts attention from centrally important dimensions of the modern role of both MPs and Parliament, along with more realistic expectations and reform options.



Needed: An alternative approach

Today, Parliament continues to play a central role in catalyzing democratic governance, and the individual MPs who bring a passionate interest in public affairs and opinions about the public interest to their work in Ottawa remain an invaluable part of the political process. But the central political role of Parliament is now as the location for a virtually continuous election campaign among competing political parties that occurs between the formal campaign periods. Party activity inside and outside the House is directed by party leaders and their advisors centrally on the basis of public opinion trends, party databases and electoral calculations.

The new role of Parliament is readily apparent in daily conduct within the House, from the speeches to empty House of Commons benches typical of the legislative process to the theatrics of Question Period. The traditional legislative and expenditure-related functions remain as constitutional formalities, but the critical decisions are made outside Parliament. What happens inside Parliament is all about media attention and public perceptions; about responding to the imperatives of the permanent election campaign. The conduct of parliamentarians and the character of Parliament can only be understood when that is recognized.

Instead of focussing on the restoration of responsible government and exploring how backbench MPs can be “empowered,” reformers need to accept disciplined political parties operating approximately as they do today as permanent features of parliamentary government. But this opens the door to a new reform objective: maximizing the contribution to democratic governance of political parties, party competition and the continuous election campaign that occurs within the House of Commons.

Unique advantages of the parliamentary forum can be leveraged in support of this objective. These include the capacity of the House to provide a level playing field for party competition, relatively impervious to differences in financial resources or even current popularity, and to expose parties and leaders to direct public questioning by competitors. As well, parliamentary proceedings catalyze public interactions between parliamentarians, the media and citizens, contributing to government responsiveness, public education and political engagement.

Reform inside Parliament

A comprehensive review of internal procedure is needed to respond to what is, in practical effect, a new role for the House of Commons. Three examples illustrate the scope of reform implied in this task.

Debates typically consist of repetitious exchanges scheduled over weeks or even months. This approach responds to the needs of deliberative debate, but its primary contribution today is to discourage consistent media attention and foster public boredom. Alternative models such as the nationally televised leaders’ electoral debates, especially when accompanied by pundit panels and real-time audience feedback, are far more successful in attracting attention and stimulating public engagement. Nationally marketed and televised debates of a limited number of bills or major motions selected by the parties could help to adapt Parliament to its new role.

Oral Question Period is now orchestrated by the political

parties. This has made the opposition parties the public accountability agents of Parliament while the role of government backbenchers is to absorb time and impede discussion. The procedure employed by the National Assembly of Quebec provides for a weekly scheduled interaction between a designated minister and opposition representatives on a single issue. It is sometimes praised as a more constructive alternative to Question Period. It also illustrates the potential of procedural reform.

*Effective reform, today,
needs to focus on realistic
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an evolving world.*

Consistent recognition of Parliament's new role provides a basis for addressing a range of contested issues. For example, since most electors now vote on the basis of party brand and leadership, crossing the floor to join a different political party needs to be ratified by electors in a by-election.

Also, op-ed columnists need to stop delegitimizing coalitions by describing them as exercises of a discretion allegedly conferred upon individual MPs at election time. Most electors do not choose local representatives as independent agents, but rather vote primarily for parties and the leaders who actually make the coalition decisions.

Finally, prorogations for the purpose of deferring uncomfortable proceedings in Parliament are unacceptable for approximately the same reasons that would apply to the unilateral suspension of an election campaign. Restrictions on the use of prorogations therefore need to be developed (perhaps by subjecting them to an all-party consent requirement outside a routine "prorogation window" in the fall of each year).

Outside Parliament

Electoral reform issues have been closely linked to those of parliamentary reform, although the reforms proposed above are more about adapting the House of Commons to current electoral realities.

If we are to consider options for electoral reform, we need to think about the resulting effect on the incentives governing MPs and political parties, especially for accountability, responsiveness, and public engagement. Preferential voting systems, for example, heighten incentives for courting supporters of competing parties, rather than the micro-targeting of potential supporters that is currently fostered by the first-past-the-post system. Potentially, preferential voting could have wide-ranging impacts both on the character of party messaging and the substance of public policy.

The importance of an informed and educated public in the achievement of democratic governance has been recognized since at least 1861, when John Stuart Mill wrote *Considerations on Representative Government*. Paradoxically, however, democratic reform proposals typically pay much more attention to relatively fine degrees of difference among procedural and electoral options than to the roots of democracy – the information base used for democratic decision-making and the skills needed in order to make full use of it. An understanding of politics, institutions, public policy options and the increasingly sophisticated political marketing techniques being used to influence electors is now an indispensable basis for effective public engagement. Education has the potential to do what procedural change can never do: foster understanding and realistic expectations, increase overall legitimacy and, ultimately, shift power from governments and party leaders to citizens.

Concluding observations

Parliamentary government in Canada and elsewhere appears to be undergoing profound transformation, perhaps akin to the great historical shifts to constitutional monarchy and cabinet government. In response, parliamentary reformers continue to focus on empowering backbench MPs through House and caucus procedural change without exploring the causes of disempowerment, much less providing plausible remedies.

It is entirely possible that specific reforms, when they occur, will transcend the limitations of the assumptions underlying them. If they are to be effective, they will need to move beyond the generalized nostalgia that, among too many parliamentary reformers, appears to substitute for thinking. Effective reform, today, needs to focus on realistic strategies that can strengthen democratic practice in an evolving world, not on the revival of parliamentary functions that have already disappeared. ✦

Jack Stilborn writes, teaches and consults on democratic governance issues. Until 2008, he worked for Parliament as a Principal Analyst in the Parliamentary Information and Research Service of the Library of Parliament.

West Coast tanker ban would open Pandora's box for Canada

The governing Liberals' planned oil tanker moratorium risks resurrecting unresolved disputes with the United States over Canada's historic claims to West Coast waters among other difficulties, writes former diplomat Robert Hage. If the government wants to kill Northern Gateway, there are easier ways.

Robert Hage

Upon being sworn in as Prime Minister, Justin Trudeau gave his new Transport Minister, Marc Garneau, a “top-priority” mandate to work with fellow cabinet ministers to “formalize a moratorium” on crude-oil tanker traffic on British Columbia’s North Coast. This is not a new idea.

In 2010, Joyce Murray, Liberal MP for Vancouver Quadra and a former provincial environment minister, introduced a private member’s bill to legislate a tanker ban off the BC coast. Her bill was one of five advanced between 2007 and 2011 by opposition Liberal and New Democratic members to stop the development of the Enbridge Northern Gateway oil pipeline and terminal project.



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Mr. Garneau’s mandate resuscitates these failed legislative attempts. But if the government wants to stop the pipeline, there are much easier ways to do so.

The earlier bills all proposed to amend relevant Canadian legislation to ban tanker traffic in the so-called Fishing Zone 3 north of Vancouver Island, an area comprising Dixon Entrance, Hecate Strait and Queen Charlotte Sound. To “formalize” an

effective moratorium or ban, as the Prime Minister proposes, the new government would seem to have little choice but to take such a legislative route. While the mandate does not define the “North Coast,” it would seem to parallel the area from previous proposals.

What has not been recognized in these proposals is that efforts to ban crude-oil tankers in this area open a Pandora’s box of issues involving the United States: Canada’s historic claims to some of these waters, the unresolved Alaska Panhandle boundary, the passage of US nuclear submarines through Dixon Entrance, innocent passage, freedom of navigation, fishing rights. Yet the new Foreign Affairs Minister was not included in Mr. Garneau’s mandated ministerial consultative group.

Since the 1890s, Canadian authorities have maintained that Dixon Entrance (just south of the Alaska Panhandle) and Hecate Strait (east of Haida Gwaii) are historic internal waters of Canada. Under international law, Canada has complete sovereignty over such waters and can legislate at will. In 1963, prime minister Lester Pearson advised the House of Commons that Canada would make its claim clear (as it subsequently did with the Northwest Passage in 1985) by drawing “straight baselines” across these waters as well as across Queen Charlotte Sound, southeast of Haida Gwaii. Canada took no action until 1971, when Pierre Trudeau’s government drew “fishing closing lines” around the same area to create an exclusive Canadian fishing zone.

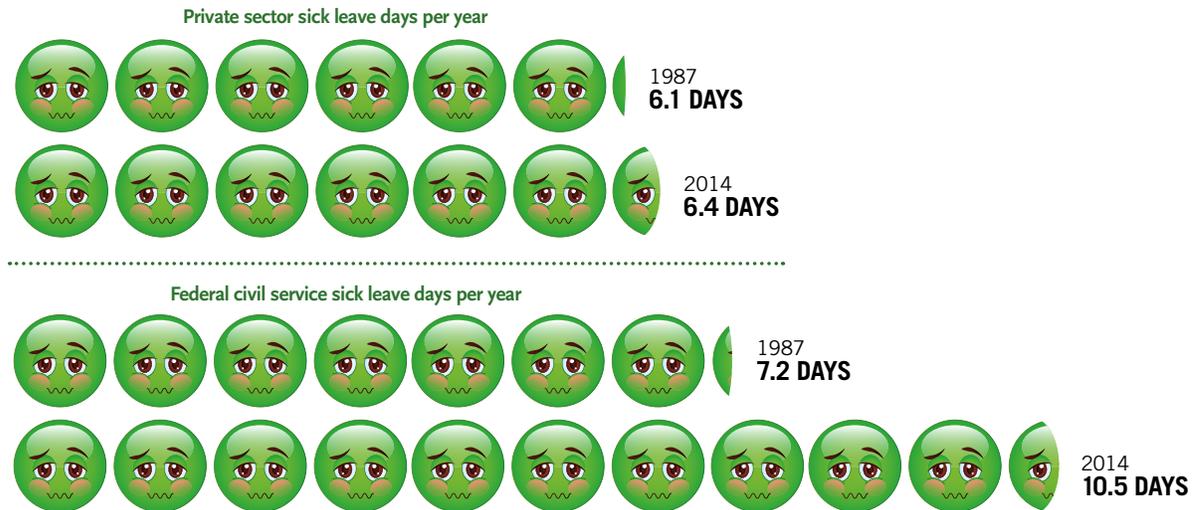
That the government refrained from sealing off this large area with straight baselines and denying foreign vessels the right of innocent passage was likely to avoid provoking the United States, which has been consistent in protesting against Canadian actions affecting what it regards as its maritime rights on the North Coast.

Canada’s actions rest on the supposition that these waters belong to Canada. Canada, one of the world’s largest coastal

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(Figure 1)

Sick leave in the private sector vs sick leave in the public sector



A sickness in the system

Both the level and growth trend of federal public sector use of sick days is troubling, writes former Statcan Chief Economist Philip Cross. The research suggests that the most important determinant of sick leave use is whether you are in the public or private sector, not your exposure to possible injury or illness in the workplace.

Philip Cross

Sick leave benefits for federal public employees became an issue in the 2015 federal election campaign, with the Liberal Party stating its opposition to legislation by the previous government that imposed a new sick-leave regime on public servants. The previous government had put reform of sick leave benefits at the centre of the current round of negotiations with all of its unions.

Why are sick days such a big issue? A useful contribution to this debate would be to assess how federal public servants use sick days, compared to the private sector, and in the context of other leave benefits.

The results are striking. Federal government employees took an average of 10.5 sick days per year, while private sector employees average 6.4 days. When you look at the public sector as a whole, including education and health care workers, the average is close to the federal average, with 10.6 sick days taken annually.

The gap between all public servants and private workers has grown dramatically over time. Since data were first collected in 1987, the average sick days used by a public sector worker grew from 7.2 days a year to 10.6 days, with all of the increase occurring after 1995. Conversely, sick leave use in the private sector was virtually the same in 2014 (6.4 days on average) as it was in 1987 (6.1 days).

Looking more closely, people who work indoors in the private sector, the environment most comparable to the public sector, use less than half the sick leave of the public sector.

Both the level and trend of sick leave use in the federal government and throughout the public sector is troubling. The research suggests that the most important determinant of sick leave use is whether you are in the public or private sector, not your exposure to possible injury or illness in the workplace.

Examples within occupational groups bear this out. The fact that senior managers invariably take less than four sick days off per

year, while clerks in business and finance take 9.0 sick leave days, suggests that motivation of the individual to work plays a large role.

High pay rates in the public sector have often been justified by employees having high levels of education and training and a large number of professionals and managers. However, in terms of their use of sick leave, public sector employees resemble more clerks and factory workers than professionals and managers.

Federal public servants receive a wide range of leave benefits on top of sick leave, including vacation, statutory holidays, personal and family leave. Combined leave benefits for an employee with 30-years' service amount to 65 days of paid leave, including 15 sick days, out of a possible 260 working days, a staggering 26 per cent.

There is considerable variation in sick leave use by industry, by occupation, and even within different federal ministries. This suggests a primordial role for motivation and cultural attitudes in taking sick days, rather than biology and medicine. Teachers, for example take the least sick leave in the public sector, partly because they can cash out some sick leave when retiring. Federal employees have the most generous overall compensation in Canada. Overhaul-

ing sick leave would be a small step in re-aligning federal pay and benefits with those of the private sector workers who ultimately pay those benefits.

Federal employees have the most generous compensation in Canada. They have the third highest pay scale of any industry, with almost no chance of losing their job. Their pension benefits are unparalleled. Benefits for both sick leave and other forms of time off are the most generous of any large employer in Canada.

Seen in this light, an overhaul of federal sick leave benefits could serve as the basis for reforms to re-align federal pay and benefits with those of private sector workers who ultimately pay for these benefits. This could also be fairer for federal employees, many of whom do not have the seniority to be ill or injured for a long period without a significant loss of income before qualifying for disability. ✱

Philip Cross is a Senior Fellow at the Macdonald-Laurier Institute and former Chief Economist at Statistics Canada. He is the author of the recent Macdonald-Laurier Institute report, "A Sickness in the System". This article first appeared in the National Post.

West Coast tanker ban (Hage)

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states, has been a champion of coastal state claims to wider areas of jurisdiction. The United States, a world maritime power, has been an advocate for the rights of flag states. Even though US tankers carrying crude oil from Alaska to the Lower 48 do not come along BC's North Coast, it is hard to imagine the United States not protesting against a Canadian tanker ban that rests on Canada's unilateral internal waters claim.

The proposed tanker moratorium raises other questions. The American-owned Kinder Morgan pipeline already ships Alberta bitumen to the Port of Vancouver for onward shipment to Asia through the Gulf Islands and Juan de Fuca Strait. The company has applied to triple the pipeline's capacity, but it would not be affected by the tanker moratorium.

Proposed tanker shipments of liquefied natural gas from locations along the North Coast would also not be affected, although the large LNG tankers would be the same size as those carrying crude and projected LNG tanker traffic would considerably exceed the traffic that would result from a Northern Gateway bitumen pipeline. The proposed moratorium would apply to crude oil, but it is not clear whether it would apply if the oil were

to be refined prior to shipment, in either Alberta or BC. Much of the oil sands' crude is "upgraded" prior to shipment. Would it be considered crude oil?

Throughout the debate on the status of BC's North Coast waters, Canada has adopted what has been called "a degree of ambiguity," avoiding unnecessary diplomatic confrontation. Is it in Canada's interest to change this approach? Above all, we would not want to undermine Canada's position on the unresolved Dixon Entrance maritime boundary between Alaska and BC.

If the government wants to stop Northern Gateway, it can simply do so, either by order-in-council or legislation. So why a tanker ban? Alternatively, it could do what the previous Conservative government failed to do – namely, to bring together Alberta, BC, the region's First Nations and relevant communities to discuss not just one project, but the sustainable development of the 19 proposed West Coast energy projects.

The "top priority" might well be to take some time and get this right. ✱

Robert Hage is a senior fellow at the University of Ottawa's Graduate School of Public and International Affairs and co-author of the 2012 Macdonald-Laurier Institute paper "Making Oil And Water Mix". This op-ed first appeared in the Globe and Mail.

Don't blame Paris attacks on intelligence 'failures'

Critics are quick to point the finger at the intelligence and law enforcement communities for not doing more to prevent the Paris attacks. But, writes Christian Leuprecht, we can't expect them to be effective if we don't send them into the battle against terrorism with the right equipment.

Christian Leuprecht

The fact that the presence in France of the mastermind of the Paris attacks appears to have eluded French intelligence, which apparently believed him to be in Syria, is being touted as a failure, made all the more epic by the relative ease with which the attacks in Paris were carried out. How could that happen given that the suspects were already known to security agencies? To point the finger at intelligence is to misdiagnose the problem.

First, democratic governments have imposed a litany of restrictions on the use and sharing of government data. By and large, in Canada, government data can only be used for the purpose for which it was collected. And since the Maher Arar case, Canadian agencies are loath to share intelligence with other departments, let alone countries. Bill C-51, however inchoate, pries that door open just a tad: Agencies may now share data on a specific individual if that person meets certain thresholds for concern.

Second, intelligence is a business built on trust, and trust is in short supply. For fear of misinterpretation or inadvertent revelation of methods of collection, collation and analysis, services are loath to share raw intelligence with just about anyone, including their partners and politicians. The “Five Eyes” community – the United States, Canada, Britain, Australia and New Zealand – benefits from an unprecedented degree of trust that catapults its members to the top of the international security pyramid. The alternative is continental Europe. The former director of the DGSR, France’s (rough) equivalent of CSIS, poignantly observed that domestic intelligence relies on its partners to share relevant information. But many regional partners are unreliable. Strains with Turkish intelligence are legendary, and most Eastern and Central European services are thought to be widely infiltrated by Russian operatives. Intelligence co-operation sounds good in theory, but its practice is

riddled with mistrust. The facts speak for themselves: French Salafist fanatics went undetected simply by hiding out in a suburb of Brussels whence they planned and executed attacks in Paris.

Let us send those on the front line of this fight into battle with the right equipment.

Third, in a target-rich environment, security intelligence faces painful trade-offs in allocating scarce resources. At the time of the Charlie Hebdo attacks in January, France’s infamous “s-Files” amounted to some 6,000 names. In the meantime, that list has grown to 10,000 names, at least 3,000 of which are thought to be hardened Salafists. Yet the FBI pointed out last week that it takes a minimum of 30 people to monitor a suspect physically, 24/7. By its own admission, even the FBI – the democratic world’s largest criminal intelligence agency – does not have enough resources to follow a few dozen suspects with that degree of scrutiny.

Fourth, intelligence services in constitutional democracies are bound by the rule of law. Security intelligence may have a

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Canada's EA process is failing Aboriginal peoples and developers alike

Bram Noble

During his election campaign, Prime Minister Justin Trudeau promised to make environmental assessments credible again. He committed to a new, fair environmental assessment (EA) process that will, among other things, respect the rights of those most affected, such as Indigenous communities, and provide ways for Canadians to express their views.

This commitment is welcome. Canadians have been hearing a lot about EA lately, as heated debates continue over major resource projects and their effects on both the ecosystem and on Aboriginal communities. Most people are at least passingly familiar with the epic review process for the proposed Enbridge Northern Gateway project, for example. Yet while the profile of the EA process is growing, so is dissatisfaction with the process and confusion about what it is intended to achieve.

EA is not intended as a forum for airing grievances about a particular resource industry such as the Oil Sands, or engaging in a broad-based debate on Aboriginal rights. It is a process at the federal or provincial level, conducted either by the responsible government authority or a review board, intended to identify and evaluate the potential environmental and social impacts of a particular proposed development, and find ways to mitigate them. What is becoming increasingly clear, however, is that the EA process is not currently serving the needs of Aboriginal communities or project proponents.

Trudeau's commitment is to undertake, in full partnership and consultation with First Nations, Inuit, and the Métis Nation, a review of EA laws, policies, and operational practices. This review must address two critical issues.

First, Aboriginal communities are frequently consulted too late in the game, often when the project's design and planning are already complete, and their concerns are not taken into consideration. This is creating conflict and unnecessary delay. The Assembly of First Nations has noted that minimizing the role of First Nations in EA leads "not only to an adversarial environment, but one marked by increased litigation".

Second, Aboriginal communities frequently lack the resources to analyse and respond to complex proposals, and many are dealing with several requests at once, resulting in inadequate engagement, participant fatigue, or both. For example, in Spectra Energy's 2014

EA application for the Westcoast Connector Gas Transmission Project, 17 of the 24 potentially affected First Nations indicated that they lacked the financial, organizational, and technical resources needed to effectively participate in the EA process.

Trudeau also notes that resource-based projects can create jobs and spur investments, and that decisions about project applications must serve the public's interest. Yet the President and CEO of the Canadian Chamber of Commerce has described the Canadian federal environmental regulatory system as "cumbersome" and "one of the top 10 barriers to Canadian competitiveness". Businesses also frequently find that the EA process is prolonged and combative, and in the end often does not forestall Aboriginal opposition.

How can environmental assessment work better for everyone? Governments and industry must invest resources in EA training programs to build educational and technical capacity in Aboriginal communities, and participant funding programs must be complemented by longer-term industry investments in Aboriginal engagement post project approval.

EA legislation should require more front-end, and culturally appropriate, engagement on behalf of the project proponent – at a point where decisions are being made about the intent to develop, and about the nature, rationale for, and intended design of a project (an excellent example of how this can work was the voluntary, cooperative approach to a 2004 federal-provincial EA process for a sand and gravel mine by Polaris Minerals and the 'Namgis First Nation on Northern Vancouver Island). Where applicable, the terms of reference for an EA should be developed in collaboration with the potentially affected communities.

Meaningful engagement of Aboriginal communities is unlikely to threaten the efficiency of environmental assessment. However, poor engagement or lack of engagement will invariably cause delays and add costs to projects. The stakes are high. Major resource developments are at risk, and so are the relationships between governments, industries, and Aboriginal communities. ✦

Bram Noble is a professor of environmental assessment at the University of Saskatchewan and the co-author of the MLI paper titled Protectors of the Land: Toward an EA Process that Works for Aboriginal Communities and Developers.



Straight Talk on the Trans-Pacific Partnership with Simon Tucker

For the latest instalment of its Straight Talk series of Q&As, the Macdonald-Laurier Institute spoke with New Zealand High Commissioner Simon Tucker about the momentous new free-trade deal involving our two countries, the Trans-Pacific Partnership.

Simon Tucker was appointed New Zealand High Commissioner to Canada in February 2013. He is concurrently High Commissioner to Jamaica.

Prior to taking up his appointment in Ottawa, Tucker spent ten years in the New Zealand dairy industry, including in leadership roles at DairyNZ, the Dairy Companies Association of New Zealand and Fonterra Cooperative Group, New Zealand's largest company and the world's leading exporter of dairy products.

Before he joined the dairy industry, Tucker spent 12 years at New Zealand's Ministry of Foreign Affairs and Trade with postings to Tehran and to Washington DC. He also spent several years working in Parliament as adviser to the New Zealand Minister for Trade.

MLI: You have been a vocal proponent of the Trans-Pacific Partnership in Canada, but for a long time few Canadians paid much attention. Can you give us an idea of the scale of this agreement? Why is it such a big deal?

Tucker: It's the biggest trade agreement the world has seen since the WTO Uruguay Round 25 years ago. To bring 12 economies together in a single, very-high quality free-trade agreement, I think is a big deal. And I have to say, it probably surprised me to some extent how much TPP flew under the radar in Canada for so long because I think it was a big opportunity. I mean in terms of numbers, you've got the world's first and third largest economies in the US and Japan. You've got major emerging markets, including Mexico, Viet-

nam, and Malaysia, joining other Latin American and other Asian countries as well.

And you've got a great geographical spread. The whole basis of TPP is linking together open market economies on both sides of the Pacific, Asian countries with Western Hemisphere countries, Pacific countries. I think it's exciting because it's showing that you can do good free-trade agreements on a much larger scale than just bilaterally.

MLI: Did it take longer than you anticipated to negotiate?

Tucker: Yes! It's been an interesting process because it's a good example that the car you think you're driving when you start off turns out to be quite a different car when you get to the destination. New Zealand really kicked this process off going back as far as the 1990s when we started talking to Singapore and Chile and others about trying to get some of the building blocks for Asia-Pacific free trade together. And along the way, this thing was growing and growing, which of course adds to its significance. So, some of the reason it took longer was because at various points we added in the US, which is no small thing. And then Japan, Canada, and Mexico came in – it wasn't that long ago really, three years or so.

I'm an impatient person. I think free trade, open trade, makes a huge amount of sense and so we should get there as quickly as we can. But I think when you look at the number of countries that joined along the way, and also the depth and complexity of this deal, it's perhaps not surprising – you could make the case that in fact it was done in pretty good order. When you consider the Doha Round really kicked off with a Uruguay Round built-in agenda in 1998 and still is nowhere near a decent conclusion, TPP looks like a pretty athletic animal by comparison.

MLI: What were some of the last issues to be resolved in talks in Hawaii and Atlanta?

Tucker: Back to my point about complexity: this is not just goods and tariffs. This agreement covered things like services, investment, intellectual property liberalization, broader trade-and-environment, and trade-and-labour provisions. One of the reasons for the amount of time was those issues.

It was interesting at the end because, I think as is now widely known, there were probably three big issues that were not resolved in Maui and in fact, they were the last issues to be resolved in Atlanta, and they were the automobiles rules of origin issue – which was really in a way a sort of NAFTA-Japan issue – and two other really big ones across the membership. One of those was patent rights of biological medicine and the other one – ironically in a way for a

21st century trade agreement – was very much a 19th century issue, which was market access barriers to agricultural products. I think in New Zealand, we always had a sense that talking about dairy market access would be the last issue to be resolved and at 5 o'clock on the last morning of the negotiation, sure enough, New Zealand was talking about dairy market access, so there you go.



*To bring 12 economies
together in a single,
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MLI: Why do you think Canadians should celebrate the agreement in principle on the TPP?

Tucker: I think for the reasons set out. Canada is a country which has prospered economically, has raised the standard of living of its people, and provided jobs, all by being a country that exports and imports, attracts foreign capital, and invests overseas. Canada is an economy that faces the world. I think what TPP has done, is it has hardwired Canada into the definitive piece of trade policy architecture in the Asia-Pacific region. And of course the Asia-Pacific region is the place of true economic dynamism in the world economy at the moment.

So I think there's a lot of good news for Canada. I think it's a very important agreement, and I think that Canada and Canadians will do very well out of it. The TPP is very significant in its own right but it's going to grow over time. I'm very confident of that. When you get in at the ground floor, there's a sort of automatic multiplier effect for countries like Canada and New Zealand as other economies seek to join TPP.

The New Zealand High Commission has travelled to all 10 provinces plus two territories talking TPP. We've met with a wide range of Canadians from political leaders to businesspeople to blueberry farmers in British Columbia, corn farmers in Saskatchewan, and fishermen in Newfoundland, and they're excited about it.

They “get it.” They understand the opportunity that the Asia Pacific region represents for their businesses and how TPP is going to help make it happen.

MLI: And why are New Zealanders celebrating the TPP?

Tucker: The same reasons. I think also New Zealand has been one of the global advocates for the benefits of open trade and investment. At its most fundamental, we’ve seen hundreds of millions of people in the Asia-Pacific region raised out of poverty through embracing open trade and investment. We’ve seen New Zealand’s economic future anchored on the idea of being an effective exporting nation, but also being an efficient economy that attracts investment and attracts imports. We see it as being one of the key planks underpinning our economic future to have really good trade linkages with big, dynamic economies. TPP, overnight, has contributed to that. We weren’t lucky enough to already have a free-trade agreement with the United States and we’ve got that through TPP. We didn’t have a free trade agreement with the other countries in NAFTA and we’ve got that through TPP. And then Japan, which is our third- or fourth-largest export market, the world’s second-largest economy, we’ve got a free-trade agreement with them. For a smaller economy like New Zealand, you get great bang for your buck with something like TPP. And I suspect we have got a higher quality deal through working with 12 countries than we would have if we had tried to knock off those 12 countries one by one.

MLI: Would you go as far as to say that many of the things that each country had to “give up”, such as lowering tariffs or improving intellectual property protection, should be regarded not as concessions, but worth doing in their own right?

Tucker: Certainly. New Zealand has some of the lowest average tariffs in the world. We have long recognized the benefits that come from providing our consumers and our companies with competitively priced products either as part of a business supply chain or for consumption. Similarly, it’s important to have cohesive, pro-commercial rules around things like intellectual property and investment because these are very good at home as well as internationally. It’s perhaps easiest to sell trade agreements politically by talking about the opportunities for export. But anyone with a basic knowledge of economics understands how beneficial it is to get rid of trade distortions in your own economy.

MLI: Now there is a sense among many in Canada, not a majority, but a good number, that we shouldn’t be making these decisions as part of trade agreements because that impacts our own sovereignty in terms of the regulations that we want to set. Have

you experienced that in New Zealand, and how do you address those issues?

Tucker: I think there’s been a good, healthy debate in New Zealand on TPP. There is a segment of the population who remain skeptical of the benefits of open trade and investment and they tend to argue such deals undermine sovereignty. My take on this personally, is when you look at the provisions of TPP I think the sorts of rules that are put in place are not so much about corporations violating state sovereignty. It’s really just around providing a degree of certainty against arbitrariness of regulation and I think all countries have been able to adequately protect their sovereign government’s ability to regulate in their public interest. We live in an interconnected world. We live in an increasingly globalizing economy and so inevitably, we have to have rules in place that allow our people and our businesses to engage in that, but that doesn’t necessarily mean that somehow we’re losing sovereign rights and interests.



There is an irreversible trend towards global supply chains.

MLI: I’m interested to know what the New Zealand experience can tell us about protectionism of the dairy sector in particular, an area you are very familiar with.

Tucker: New Zealand was a bit of a different case than Canada – Australia actually had more of a supply management system for their dairy industry. There are a couple of points here. One is that the food market, like most markets, is growing rapidly and globalizing, and 80 percent of Canada’s agriculture sector is recognizing that and doing extremely well out of it. There is an irreversible trend towards global supply chains, and the global integration of food markets, which is very good news for both producers and consumers of food. In general terms, I think TPP is very consistent with that and is a massive enabler for those of us exporting food to the growing middle class in the Asia Pacific.

RECOMMENDATIONS

MLI drew the following recommendations from our discussion with Simon Tucker:

1 Canada should ratify the Trans-Pacific Partnership. We can't afford to be left out of such a big deal.

2 Canadians should regard many of the "concessions" of free-trade deals as opportunities to make our industries more competitive and benefit consumers.

3 Canada should continue to seek opportunities to lower tariffs and eliminate trade distortions in our own economy.

The New Zealand experience of trying to protect and subsidize our agricultural sector back in the 1970s and 1980s was unfortunate. The value of those protections and subsidies get capitalized into the land and farming units. So in terms of overall competitiveness, you sort of take a double whammy. You're priced out of the market in terms of the cost of the product you're producing and meanwhile your farms and plants are getting more and more expensive because the value of the subsidies and protections is capitalized into them. You end up in a vicious spiral heading downwards. That was certainly the New Zealand experience. When we reformed, our agricultural sector took some pretty tough medicine, and it did disrupt the industry to some extent, although less than 1 percent of our farms went out of business. Productivity in the agriculture sector has outstripped the rest of the economy for the past couple of decades. And now, if you talk to New Zealand farmers, you will find no stronger proponent of getting rid of government protections and subsidies. They wouldn't have it any other way.

MLI: So would you say that in the next round of negotiations, New Zealand would be advocating even freer trade and lower tariffs for agriculture and dairy?

Tucker: Yeah, I think New Zealand's position in these things is, we are happy to go to zero tariffs and other market barriers with any country, any time. So that's our opening position. Obviously, we're also practical, can-do Kiwis and we bring an element of pragmatism. We're not blind to the fact that political challenges can exist in some countries to liberalising markets. In some situations there comes a time to take a good deal today rather than hope for a perfect deal in the future. It's fair to say some elements of the TPP recognize that.

MLI: How do you think having so many Pacific economies coming together in the TPP will affect China's influence on global trade?

Tucker: That's an interesting question. We have never seen TPP as in any way a means of China isolation or China containment. We would never agree with that characterization. New Zealand has a comprehensive free-trade agreement with China that's been massively important to our economy. Our closest neighbour, Australia, is in the process of enacting its own bilateral FTA with China. Our experience of talking with China is that they are very, very supportive of free-trade arrangements within the Asia-Pacific region. So, I would say China probably sees TPP as a positive trend and one in which I would imagine Beijing is going to be increasingly interested in engaging. I believe what we've done in TPP is very consistent with where China sees its interests in the Asia-Pacific region economically. And I think as you see other countries seeking to join TPP, already you've seen expressions from Korea, some of the other ASEAN (Association of Southeast Asian Nations) countries, even countries like Sri Lanka have started talking about joining TPP. I would say over time, you're going to see most of the countries in the Asia-Pacific region thinking very hard about joining TPP, China included.

MLI: What challenges remain to seeing the TPP ratified and implemented?

Tucker: Well there's one very obvious one to all of us! Every country has to undertake its own process to get the thing signed and enacted. But it's hardly a surprising thing to say that we will all be following the US legislative process with great interest. It seems to me, that is probably the most difficult series of issues to be resolved, but I was just recently in Washington. I remain optimistic. You've

got a clear majority on Capitol Hill in favour of trade agreements, and I think TPP is a very good trade agreement, and I think that the fundamental truth is that eventually it will go through. So I'm confident we'll get TPP in place, but obviously there's lots of work left to do.

MLI: And, what's next after this on the Pacific trade agenda? We've talked a little bit about other members perhaps, but what are going to be the big issues coming down in the next several years?

Tucker: Obviously TPP is exciting in terms of the potential to grow it. It was always established with this in mind. And you've got other high-quality trade initiatives in the region. The Pacific Alliance is a very interesting one and over time, that's going to grow as well and then maybe sort of a natural synergy will emerge between the Pacific Alliance and TPP, given that three of the four Pacific Alliance members are already in TPP.

But I think that the sort of bilateral FTA explosion of the past couple of decades, is to some extent going to lead to more of these plurilaterals as countries realize it could be an asset to group together bilateral agreements into multi-party ones. And I think that's an interesting conversation for us to continue to have. RCEP (Regional Comprehensive Economic Partnership) in the Asia Pacific region is an example of that.

New Zealand is hoping to be in a position to negotiate a free-trade agreement with Europe, ourselves. For us that's probably the last big piece of trade policy architecture we are missing. Then there's the question of India. A number of countries including Australia, New Zealand, and Canada are negotiating free-trade agreements with India, and that's obviously an important economy and I think there's a lot of interest there.

With the WTO, we've got a ministerial meeting in Nairobi coming up. It's frustrating, but I still believe that the WTO has got an important role to play, both in terms of being a multi-lateral forum for creating rules and solving disputes, but also for doing trade liberalization. There are still egregious trade distorting things like agricultural export subsidies that can really only be effectively dealt with in the WTO so we shouldn't lose sight of the WTO's role.

MLI: Are you looking forward to meeting the new Prime Minister of Canada and do you think TPP ratification will be on the agenda when you do?

Tucker: Yes, I think from the public pronouncement already made, we can have confidence that the Liberal government is going to embrace TPP. Certainly my past conversations with the previous Liberal caucus including Prime Minister Trudeau suggest to me that the Liberal government will welcome TPP. So, I think things are looking quite good. ✱

Paris attacks (Leuprecht)

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good idea of what is going on, but the evidence may be insufficient either for law enforcement to mount an investigation, or to have a reasonable chance of conviction. But what is the point of doing a good job identifying bad guys without the means to stop them?

Critics are quick to assail security intelligence and law enforcement for not doing more to prevent the attacks. Yet, they are up in arms about levelling the playing field with the bad guys. In a democracy, the people have the right to decide – and the people have the right to be wrong. But being wrong comes at a high price: hundreds of innocent dead, maimed, wounded and scarred; and, in the aftermath, the suspension of those same civil liberties the self-righteous critics are supposedly defending against the alleged trappings of the “surveillance state.” There's no better way to take life and undermine liberty

than by systematically disinforming the debate on calibrating those institutions that are tasked with protecting our democracy and keeping us safe in response to a rapidly evolving security environment.

The deafening silence of those same critics in the aftermath of Paris proves the point: The greatest threat to our rights and freedoms is simplistic libertarianism that staunchly refuses to acknowledge that, now more than ever, democracy needs to be defended. Events in France expose an intelligence emperor with very few clothes. Let us send those on the front line of this fight into battle with the right equipment. Those powers need to be balanced with robust review to ensure that the spooks are playing by the rules. In the words of Ronald Reagan: Trust, but verify. ✱

Christian Leuprecht is a professor at the Royal Military College of Canada and Queen's University, and a senior fellow at the Macdonald-Laurier Institute. This article first appeared in the *Globe and Mail*.

Poverty isn't what it used to be

In an excerpt from his new book, The Inequality Trap: Fighting Capitalism Instead of Poverty, McGill economics professor William Watson explains the important differences between poverty and inequality, and why we should concentrate on fighting the former.

William Watson

Politicians often use “poverty” and “inequality” interchangeably. They shouldn't. Poverty is different from inequality. One can imagine a society in which everyone was poor but there was no inequality. With everyone having the same very low income, such a society would have no inequality problem, though that might be grim solace given universal poverty. In the same way, one can imagine a society in which there was inequality but no poverty. In fact, in the long view of history most Western countries are exactly that. Most Westerners are by historical standards phenomenally rich. Almost all of us live indoors, have safe plumbing, are inoculated against dangerous diseases, face no serious prospect of starvation, can read, and have at least minimal access to means of communication undreamt of until late in the last century.

Food, clothing, shelter, literacy, immunity from killing disease: these may seem like minimal advantages but twelfth-century kings would be agog at the consumption available to even the humblest among us.

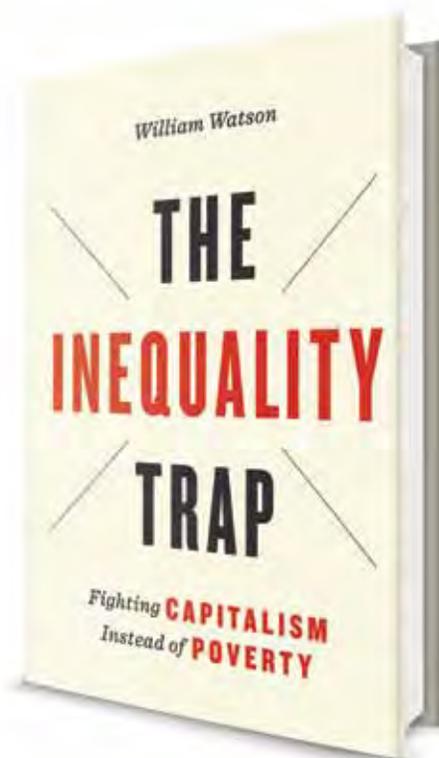
If the notion is offensive that contemporary Western society is poverty-free, consider an imaginary economy, perhaps the economy of 2500, in which the minimum – minimum – income is \$1 million in today's dollars. In fact, such a target is not far-fetched. If per capita income grows at just 1 per cent per year and if we assume the current minimum permissible income in the typical rich country is \$15,000 a year, then this minimum income hits \$1 million well before 2500, in 2436 to be precise. In the year 2525 (to quote Zager and Evans'

1969 hit song), this minimum income would be \$2.447 million. Over the long term, persistent economic growth is oceanic in its power. By our standards, even people in 2500 making only this minimum income would be very rich indeed. They would look back on us as having been pitifully deprived. Yet no doubt there might be people in their society – call them “bankers” – who made much more. So this society might still have an inequality problem. But by any absolute measure it would not have a poverty problem.

Absolute measures of poverty are not the only ones available, of course. There is the view that poverty, properly considered, is not an absolute but a relative concept. Knowing you are richer than people in earlier millennia is little consolation if you are poorer than everyone

else in your own millennium. People in 2500 making only \$1 million might well be stigmatized – “Only three Cadillac airmobiles and two vacation homes: How do they cope?” – suffer from low self-esteem, maybe even receive social assistance, though their absolute standard of living were well above what even many members of today's much-envied 1 per cent can aspire to.

Relative measures of poverty are in fact in common use in many countries. Though Canada's statistical agency produces no official poverty line, it does define people as being in “straits circumstances” if they spend 20 percentage points more of their income on food, clothing, and shelter than the



average household does. Thus if the average household spends 70 per cent on food, clothing, and shelter, people are not considered to be in straitened circumstances until 90 per cent of their income goes to such items. As the society becomes richer, spending on necessities declines as a share of most people's income. (In fact, spending less on necessities is a definition of becoming richer.) As a result, the poverty standard declines, too, in the sense that one's circumstances don't have to be as straitened as formerly in order to qualify as poor. The current Canadian standard of "poor" is 63 per cent of income spent on food, clothing, and shelter, the median being 43 per cent (though that hasn't been updated since 1992). As Canadian living standards continue to improve, the cut-off will fall lower and lower and people counted as poor will be richer and richer than their counterparts in previous generations.

There is nothing wrong with relative measures of poverty – so long as people understand that's what they are. Notions of what constitutes poverty clearly do change from generation to generation. In many Canadian municipalities during the Great Depression, ownership of such a luxury as a toothbrush was sufficient to have welfare or "relief" recipients barred from receiving assistance (I owe this fact to my former colleague, the late Mary MacKinnon, the accomplished Canadian economic historian).

Nowadays a toothbrush would be regarded as a necessity, and so might a telephone and television, not to mention the cable or wireless connections necessary to make effective use of them. But if we are going to use relative measures of poverty, we need to understand that poverty measured that way may prove stubbornly resistant to reduction. Incomes in a society might grow at Chinese rates – i.e., 10 per cent a year – but if all incomes grow at that rate, then the shape of the income distribution won't change. If 20 per cent of people were making less than half the median income 10 years ago, 20 per cent will be making less than half the median now, even after everyone's income has more than doubled. Though still at the bottom of the income distribution, these 20 per cent will be much richer than they had been, maybe rich enough, in fact, to start focusing not on where their next meal will come from or how to care for their sick child when they have no money for a doctor, but rather on where they stand in the income distribution and on how many "positional" goods they do or don't own. Being at the bottom may thus become a source of irritation for them, maybe even debilitating irritation. But the



*Poverty is different
from inequality.*

more important point is that they will no longer suffer the absolute privation that had ground them down and all their forebears before them. Their newfound irritation with their status may be politically important but seems not as urgent morally as their privation was.

At bottom, then, the question is whether relative or absolute poverty is the greater priority. It should not be controversial, though it often seems to be, to say our first concern should be cases of documentable, documented material misery, not how well or badly people feel about how much they have compared with what other people have. Taking that approach, how are we doing in reducing poverty?

The only answer the data allow is that in recent decades the world has been doing astonishingly well. Hundreds of millions of people in Asia, mainly in China and India, have been emerging from absolute poverty. The United Nations' number one "millennium development goal," set in 1990, of cutting in half the proportion of the world's population living on less than US\$1.25 a day was achieved three years before its quarter-century deadline of 2015. In China, that proportion fell from 60.2 per cent in 1990 to 13.1 per cent in 2008; in India from 49.4 per cent in 1990 to 32.7 per cent in 2010; and in Brazil from 17.2 per cent in 1990 to 6.1 per cent in 2009. The South now has more than half the world's middle-class people, its share of the total having increased from 26 per cent in 1990 to 58 per cent in 2010. That is correct: more than half the world's middle-class people live in what we have been accustomed to think of as poor countries. By 2030, according to some projections, that share may reach 80 per cent.

The good news is not unbounded, of course. At 63.3 years at birth in India and 72.1 years in China, life expectancies in the world's most populous poor countries are only just approaching rich-country levels. Almost a billion people do still live on less than \$1.25 a day, which in absolute terms is an enormous number of people living on very little income. And it is not the case that 58 per cent of Southerners are middle class: the statistic is that the Southern middle class is 58 per cent of the world's middle class. The South is so populous that its relatively smaller middle class nevertheless is now larger than the North's. In terms of hacking away at absolute deprivation, however, the news is overwhelmingly good and the trends, despite the crash of 2008, continue to give hope.

Is the good news sustainable? Insofar as it results from poor countries abandoning economic development models that clearly

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didn't work and moving towards more market-based systems, there is no reason to suppose it can't be. Nothing in logic requires these countries to return to systemic stupidity. On the other hand, as the twentieth-century economist Joseph Schumpeter argued, economic development often seems to encourage the political and social undermining of the very institutions – private property and capitalism – most responsible for it. If the newly rich countries do backslide into command-and-control or, as seems more likely, Western-style over-regulation, maybe they will revert to slower growth in future. On the other hand, if ossification and sclerosis don't occur until these countries have reached G7 levels of per capita income, enough absolute deprivation will have been eliminated by then that it may not matter much.

As for Canada, as measured by after-tax income, which includes the effects of cash transfers, tax credits, and taxes paid, poverty rates have declined despite [an] increase in inequality – and, even more surprisingly, despite the Great Recession. Not surprisingly, the decline was especially pronounced during the good economic years from 1995 through 2007, but in fact poverty rates continued to decline, albeit only slightly, in the aftermath of the financial crash of 2008. In 2010, the proportion of Canadians living below the “low-income cut-off” reached its lowest value, 9.0 per cent, since Statistics Canada started tracking this data in 1976. The number of people – mothers and children – living in families headed by single females and making less than the low-income cut-off for that group did rise slightly (by 3,000) in 2010. But it was more than 20,000 lower than in 2008 and more than 75,000 lower than in 2007. In total in 2010, the overall number of moms and kids below the cut-off was less than half what it had been in 2002 (just 323,000 in 2010 compared to 647,000 in 2002). In percentages, the rate of low income among single-mom families was 20.6 per cent in 2010, meaning 20.6

per cent of such families had incomes lower than the cut-off. That is the second lowest the rate has ever been, exceeding only the rate for 2009, also a post-crash year. If 20.6 – one in five – seems a high rate of poverty for a social group, and it is, consider that in 2000 the rate for this group was 40.1 per cent – not one in five but two in five. In just 10 years, the poverty rate for families headed by single moms was halved.

Robust economic growth was at least partly responsible for this result. But so were tax-and-transfer policies that targeted single-parent families and low-income workers, in particular the Goods and Services Tax Credit and the Canada Child Tax Benefit, a refundable tax benefit introduced in the 1990s that goes to lower-income parents exclusively. In a 2012 study, Kevin Milligan of the University of British Columbia calculated that without the credits, the percentage of people falling under the low-income cut-off – the poverty rate, to use the unsanctioned term – would have been more or less flat after 2000. Instead, it declined markedly. Milligan's conclusion is that “by many measures, inequality in the bottom half of the income distribution has diminished [since 1980]. The primary driver of this change at the bottom has been policy – in particular the growth of refundable tax credits since 1990”.

So inequality is not the same as poverty. Nor does inequality necessarily cause poverty. As inequality has been rising, poverty has been falling or at worst stagnant. That's hardly surprising: people at the top can't get richer ripping off people at the bottom. There's not enough potential plunder there. Steve Jobs, Sidney Crosby, and Jamie Dimon didn't get rich exploiting poor people. Poor people can't afford Apple computers and phones, Pittsburgh Penguins hockey tickets, or the financial services of JPMorgan Chase. They got rich selling goods and services to mainly middle-class people who could afford them.

These are important considerations when judging the merits of any social system that does generate inequality. Even so, poverty is something we generally want to see less of. It may purify. It may ennoble. It may bring people closer to God or other forms of spirituality. Many who experience it may be happy with their condition, happier even than rich people are. In general, however, that's not the case. In general, both within and across countries, those with more money rate themselves higher on the happiness scale. ✦

William Watson teaches economics at McGill University and is a weekly columnist for the National Post and Ottawa Citizen. This article is excerpted from *The Inequality Trap: Fighting Capitalism Instead of Poverty*, copyright University of Toronto Press 2015.



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