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INSIDE POLICY

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CANADIAN DEMOCRACY
in an era of foreign interference

Is Canada doing enough to shield our institutions?

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MLI
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From the editors

For years MLI has warned Canadians that China was the 'Dragon at the Door' of Canadian democracy. Recent leaks from Canada's intelligence community surrounding Chinese interference in Canadian elections thrust the issue of foreign interference into the spotlight of Canadian media. The government's response to these leaks has been inadequate. Obfuscation, stonewalling, and deflecting anger towards the intelligence community has been the order of the day.

To lead our cover feature we are pleased to include a piece from **Charles Burton** and **Kaveh Shahrooz**. Burton and Shahrooz explore the reluctance of Canadian politicians to respond to the threat of foreign interference and they denounce the wrongheadedness of the claim that calls for a *Foreign Influence Registry Act* are motivated by racism. **Ryan Alford** further explores why NSICOP is ill-suited to investigate Beijing's electoral interference and makes a strong argument in favour of a public inquiry.

In addition, **Alexander Dalziel** and **Henri Vanhanen** explore what Canada can learn from its new NATO ally, Finland. Alex and Henri make clear that Finland is adapting to darkening geopolitical realities while Canadian leaders seem unable to galvanize support for increased attention to security, defence and foreign policy.

Looking towards the Middle East, **Tzvi Kahn** contributes an insightful article on Canada's unwillingness to recognize Iran's role in Gaza terror.

Richard Shimooka explains the need for Canada to move forward in procuring a functioning, modern submarine fleet. **Ann Fitz-Gerald** and **Jason Donville** encourage Canada to look to the war we are already fighting: a cyber-war.

Turning to Canada's energy policy, **Heather Exner-Pirot** contributes an assessment of the ineffectiveness of the *Impact Assessment Act* and its chilling effect on investment in Canada's natural resources.

Ken Coates and **J.P. Gladu** detail the important purchase of a $1.12-billion stake in seven Alberta pipelines to First Nations and Métis communities.

On the domestic file, **Josh Dehaas** argues that rather than bullying people into wearing the pride flag, we need a return to respectful dialogue and liberal-democratic values, and **Aaron Wudrick** and **Will Rinehart** assess the direction of Canada's competition policy.

Finally, this edition closes out with two excellent pieces touching Canada-US relations. **Christian Leuprecht** and **Guadalupe Correa-Cabrera** argue that closing the Roxham Road loophole is a benefit to all migrants. **Lawrence L. Herman** charts a course for Canada to avoid surprises in the upcoming round of North America trade negotiations.

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Buying back Canada: Indigenous investors are no longer small-time players

A landmark investment by indigenous communities is a sign of changing times.

Ken Coates and JP Gladu

The sale earlier this year of a $1.12-billion stake in seven Alberta pipelines to First Nation and Métis communities is one of the most important milestones in Canadian economic history.

The acquisition in April of Enbridge pipeline shares by Athabasca Indigenous Investments, which is owned by almost two dozen Treaty 6 and Treaty 8 First Nations and Métis governments, reinforced two important patterns: Indigenous economic engagement with the energy sector, and the growing Indigenous presence in Canadian prosperity.

> *Today, large-scale Indigenous investments are almost routine.*

Three decades ago it was news whenever a First Nations, Métis or Inuit purchased a small-town gas station, hotel or retail store (typically in an Indigenous community). For years, Inuit art sales were one of Canada's few sustained Indigenous commercial ventures that supported artistic expression, community development and personal incomes.

Indigenous entrepreneurship unfolded slowly, constrained by almost no access to investment capital, non-Indigenous resistance to First Nations, Métis and Inuit businesses, and limited experience in business.

Today, large-scale Indigenous investments are almost routine:

(Photos credits: top left: via twitter.com/ Canadian North (Frank Reardon); airnorth.com (Simon Blakesley); lower left: Revery Architecture/ Westbank/Squamish First Nation; wikipedia commons; iStock)

• In 2020, Nova Scotia's Membertou First Nation led the $1-billion purchase of one of Canada's largest seafood companies, Clearwater Seafoods.

• The Squamish and Musqueam First Nations are fronting separate large-scale residential projects in Vancouver.

• Suncor's partnership with the Fort McKay First Nation and Mikisew Cree First Nation saw the First Nations invest hundreds of millions of dollars in the oilsands supply chain.

• On the B.C. coast, First Nations have purchased several high-profile resorts and established Indigenous-themed tourism operations.

• In Yukon, the Vunta Gwitchin are major shareholders in regional airline Air North, while Canadian North, a major airline in the Northwest Territories and Nunavut, is owned by Makivik Corporation and the Inuvialuit Development Group.

These examples can be multiplied dozens of times. Indigenous communities are investing in renewable energy, including hydroelectric plants, solar panel installations and wind farms. Economically successful First Nation communities are involved in hotels, casinos, construction companies, food distributors, environmental management services, retailers, and so on.

Less noticeable but equally important are investments related to collaborations with mining, forestry, and energy sectors. From a near standing start 40 years ago, literally hundreds of service and supply companies are now owned and operated by First Nations, Métis, and Inuit peoples.

While most Indigenous investors focus on their own territories or regions, many opt to invest more broadly. Given the non-economic location of most reserves, many seek investments that are related to major cities or large resource projects. As with any sound strategy, this can give communities both immediate cash flow and long-term wealth creation. Such arrangements also produce own-source revenues, to be expended by the Indigenous governments without cumbersome, paternalistic federal government approvals.

We can expect to see more purchases like the stake in the Enbridge pipelines, especially through Indigenous consortia. Few communities have the finances to tackle massive investments on their own, however a combination of court judgments, claims settlements, resource revenue sharing arrangements, Treaty Land Entitlement agreements, and other revenue-producing opportunities are giving Indigenous Peoples serious investment capital for the first time.

Legal requirements for developers to consult with Indigenous Peoples have also opened doors for equity investments in major infrastructure projects, like the 10-per-cent stake that First Nations secured in the Coastal Gas Link pipeline. Ontario's Hydro One signed an agreement with the Gwayakocchigewin Limited Partnership (GLP) to build the Waasigan Transmission Line project in Northwestern Ontario, giving the nine First Nations access to a 50-per-cent stake in the project.

With stronger leadership from Indigenous governments, regional consortia and co-ordinating organizations like the First Nations Major Project Coalition, Indigenous communities are overcoming challenges like geographic isolation or limited financial resources to negotiate substantial deals with resource firms and infrastructure developers. That First Nations and Métis are still trying to purchase the Trans Mountain Pipeline, and are supporting a gas pipeline to Prince Rupert, B.C., shows the determination of Indigenous governments to end the poverty and economic marginalization that has defined their communities for generations.

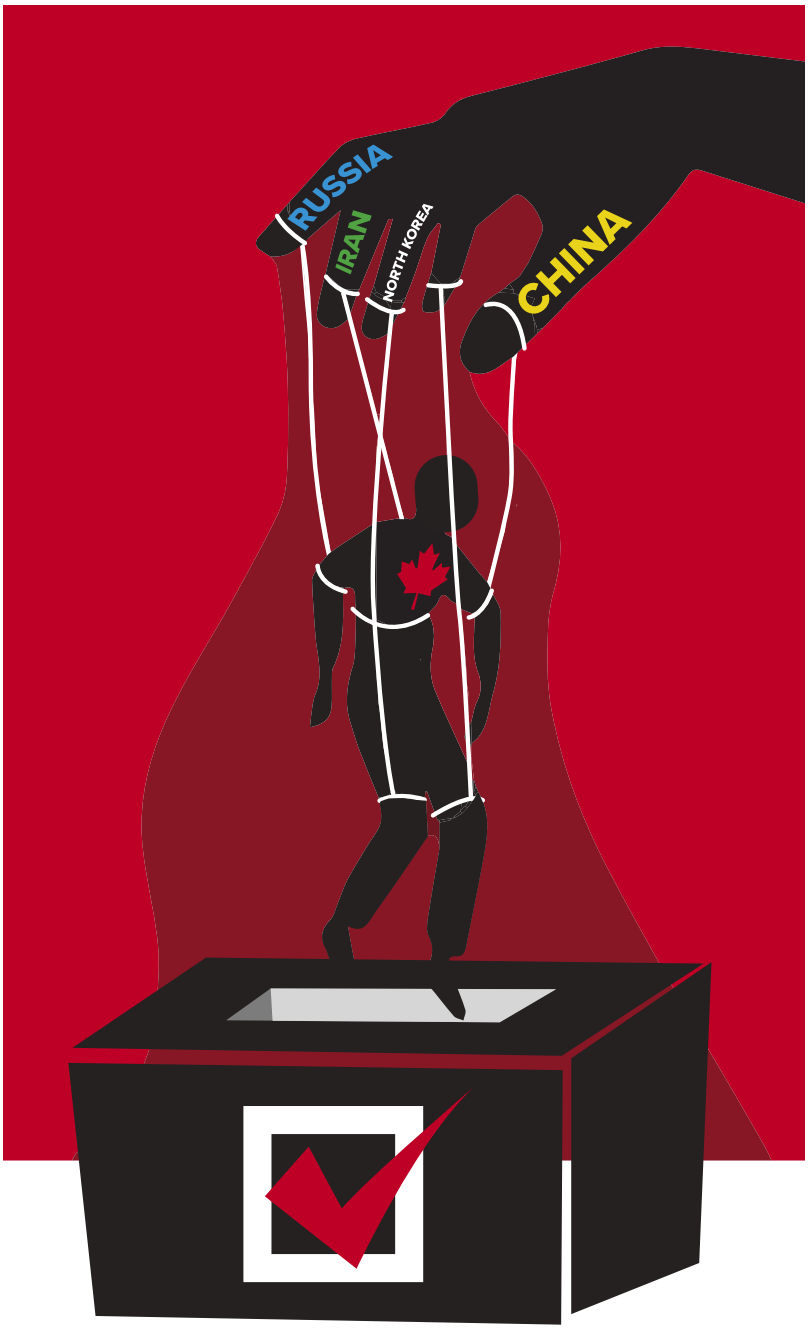
The Enbridge pipeline deal won't be the last major agreement involving Indigenous governments and the private sector. Barred by government policy and centuries of racial discrimination from sharing in Canadian prosperity, and empowered by decades of legal victories that recognized their role in Canada, First Nations, Métis and Inuit people are now players at the table.

> *Barred by government policy and centuries of racial discrimination ..., and empowered by decades of legal victories ..., First Nations, Métis and Inuit people are now players at the table.*

They are taking back their country – and our country – in a stepwise fashion, using their resources to buy companies, infrastructure, and revenue-producing assets that will generate the money needed to determine their destiny. And this, fellow Canadians, is one of the most exciting things to happen in Canada in decades.

Ken Coates *is a Distinguished Fellow and Director of Indigenous Affairs at MLI and a Canada Research Chair at the University of Saskatchewan.* **JP Gladu** *is a Senior Fellow at MLI and an Indigenous business leader. This article originally appeared in the* Toronto Star.

Exactly whose interests would be revealed in a *Foreign Influence Registry Act*?



Charles Burton and Kaveh Shahrooz

Canadians are alarmed at the spectre of foreign states hijacking our democracy, but our own government appears reluctant to confront this threat.

Politicians or civil servants with even the slightest role in shaping Canada's foreign policy should be prohibited – including after they return to the private sector – from receiving payments or gifts for supporting a foreign nation's agenda in Canada. They should also be required to declare all foreign sources of income to allay any concerns about a possible conflict of interest.

To ensure such safeguards, we need appropriate legislation.

The past year has seen rising public distress about the integrity of our policy processes, after media reports revealed classified documents about China's efforts to manipulate the outcomes of Canada's last two federal elections.

Canadians are alarmed at the spectre of foreign states hijacking our democracy, but confidence has also been piqued by our own government's apparent reluctance to visibly and energetically confront this threat.

After years of resisting calls for such a measure, the federal government has begun hearing select public input on creating a new *Federal Influence Registry Act* (FIRA) to help track foreign meddling. In April, Public Safety Minister Marco Mendicino held "stakeholder consultations" in Vancouver with Chinese community members.

But even if Canadians can have a say about protecting our policies from outside sabotage, a vexing concern is whether their worries are shared by Canada's major political parties.

Our allies know the threat is real. Australia and the US have such laws in place, and the UK will soon enact its own legislation. Canada has given itself no such protections.

The path to achieving FIRA is fraught with challenges, not least because so many respected private-sector Canadian leaders – who associate with both major political parties – have through naivete or greed become beholden to regimes hostile to Canada's interests. Now these enablers find themselves quietly urging parliamentarians to let this pesky influence registry matter quietly slide out of sight.

There is also concern that any legislation meant to neutralize foreign subversion of Canada's institutions will fall short of our allies' strong measures, being kept weak so as not to not expose any ex-politicians now benefiting from significant income streams from Chinese regime-related sources, which have been described as "life transforming amounts of money."

As the Canadian Security Intelligence Service (CSIS) has exposed, the primary culprits behind the rise of foreign interference in Canada are China, North Korea, Iran and Russia. China's United Front Work Department has been the most active, launching disinformation campaigns aimed at undermining any legislative attempt to challenge Beijing's influence operations in Canada.

In an effort to distort and exploit this year's 100th anniversary of Canada's shameful *Chinese Exclusion Act* of 1923, Chinese operatives absurdly depict the proposed modern-day FIRA as equivalent to that racist legislation of a century ago, asking "how can we prevent this registry from becoming a modern form of Chinese exclusion?"

This assertion is repugnant, particularly to earlier generations of Canadians of Chinese origin and others who worked hard over many years to finally, in 2006, obtain an apology and compensation for the victims of the 1885 Chinese Head Tax legislation.

As Chinese-Canadian filmmaker and democracy activist Cheuk Kwan told the Commons Standing Committee on Access to Information, Privacy and Ethics, "The Chinese Canadian community together with the Uyghur community, Tibetan community and other people welcome this foreign agent registry. A registry on foreign agents is not the same as a registry on all Chinese Canadians."

Canada must have no toleration for racism in all its forms, old and new, but we must also recognize that alarmist claims about a foreign registry being racist are simply a red herring. The danger is that this kind of disinformation campaign could succeed in obscuring the real threat. Canada desperately needs to take real steps that counter efforts to subvert the stability of our country.

But even if Canadians can have a say about protecting our policies from outside sabotage, a vexing concern is whether their worries are shared by Canada's major political parties.

Charles Burton *and* **Kaveh Shahrooz** *are senior fellows at MLI. This article originally appeared in the* Toronto Star.

A committee for concealment

Why NSICOP is ill-suited to investigate Beijing's electoral interference

China's electoral interference jeopardizes the integrity of the democratic institutions that are among the biggest and strongest cornerstones of Candian society. The matter deserves a thorough, independent investigation. Only a public inquiry can achieve that.

Ryan Alford

The government of Canada was rocked this year by explosive allegations from leakers within the intelligence community that Beijing influenced the general elections of 2019 and 2021 in favour of the party forming government. The former leader of the Official Opposition Erin O'Toole believes this campaign cost his party eight or nine seats in Parliament.

Han Dong, now Member of Parliament for Don Valley North, was allegedly a "witting affiliate" in Beijing's electoral interference efforts during these elections. Dong had secured the Liberal Party's nomination for his riding after its incumbent, Geng Tan, was smeared by Beijing-affiliated media. That defamatory campaign had been spurred by Tan's promise to visit Taiwan.

Dong, who ultimately dissuaded Tan from making that visit, was supported in his nomination bid by Michael Chan, at the time MPP in the Ontario provincial legislature for Markham-Unionville, and Ontario's Minister of Citizenship, Immigration, and International Trade.

Chan had long been a subject of concern to the Canadian Security Intelligence Service (CSIS). Dalton McGuinty, then Premier of Ontario, was warned by CSIS in 2010 that Chan had very close associations with officials in the Chinese Consulate in Toronto. Five years later, Chan sued the *Globe and Mail* for reporting that his connections to officials in Beijing were the subject of a CSIS investigation. Numerous sources alleged that both the Ontario and the federal branch of the Liberal Party had rejected or downplayed CSIS's concerns about Chan because of his fundraising efforts on behalf of senior members of both parties, contribution bundling that had reportedly accorded him the status of a Liberal Party kingmaker.

Vincent Ke, MPP for Don Valley North, had been another subject of pressing concern to CSIS. According to the latest leaks, Ke and a federal staffer (presumably working for Han Dong, Ke's federal counterpart) funnelled approximately $250,000 from the Chinese consulate in Toronto to 11 candidates in the 2019 federal election. Ke has been linked not merely to Beijing or consular officials, but to the Chinese Communist Party's United Front Work Department, the principal agency tasked with money laundering during Beijing's electoral interference campaigns.

More recently it was alleged that shortly before that 2019 election, Dong initiated a meeting at Beijing's consulate in Toronto where he told the Consul that the Chinese Communist Party should not release Michael Spavor and Michael Kovrig before election day – as, in his estimation, this would influence the vote in the Conservatives' favour. The two Michaels were instead released on bail four days after the election.

Beijing's campaign of electoral interference was not limited to donations and actions designed to hinder the Conservative Party. Some of the Conservatives' best Chinese-Canadian candidates (such as Kenny Chiu, then MP for Steveston-Richmond East) were subjected to coordinated misinformation campaigns. Chiu, a trenchant and effective critic of Beijing's crackdown in Hong Kong and the destruction of its rule of law, lost his bid for re-election in 2021.

Prime Minister Justin Trudeau repeatedly denied being briefed about Beijing's efforts to fund federal candidates and that he had ignored CSIS's warnings about Dong in particular. However, the leaks have revealed more and more information about alarming reports that CSIS and other agencies had been presenting to Trudeau and the Cabinet. The government vigorously resisted calls for a Commission of Inquiry, instead unilaterally appointing former Governor General David Johnson as a "special rapporteur on electoral interference," a newly created role and title with a bespoke agenda – one carefully tailored by the Cabinet.

Johnson resigned in early June from the special rapporteur position, however the mandate for the role was remarkably myopic. It didn't mention Beijing or indeed China, and indicated that Johnson should engage with the Chair of the "National Security and Intelligence Committee of Parliamentarians [NSICOP] . . . to ascertain the extent of their respective work in the area of foreign interference, while ensuring the independence [of NSICOP] in the fulfillment of their mandates is respected." In other words, Johnson was to leave to the Chair of NSICOP those matters which they determine should be properly considered as within its exclusive remit.

Beijing's campaign of electoral interference was not limited to donations and actions designed to hinder the Conservative Party.

The problem with this arrangement is that NSICOP is not a parliamentary committee with full legislative prerogatives. As a "committee of parliamentarians," it is actually located within and largely subject to the control of the executive, which is to say Prime Minister Trudeau and his Cabinet. Unlike a parliamentary committee, the Chair (with whom Johnson was to consult on what should be considered outside his remit) is not chosen by the members of the committee, but rather directly by the prime minister. Its Chair (and indeed the only founding or even long-serving member) is David McGuinty, a second-generation Liberal politician, who happens to be the brother of the Ontario Premier who reportedly dismissed CSIS's concerns about Michael Chan.

Additionally, because NSICOP is located within the executive branch, the prime minister can ignore it at will.

Indeed, with respect to the issue of electoral interference, Trudeau has done so repeatedly. In 2019, NSICOP's report noted that, "If it is not addressed in a comprehensive, whole of government approach, foreign interference will slowly erode the foundation of our fundamental institutions, including our system of democracy itself." Not only did the government not implement its recommendations, Cabinet did not even bother to file an official response to the report, a step contemplated – but, crucially, not mandated – by NSICOP's statutory framework.

In the NSICOP's last annual report, it reiterated that it "encourages the government to respond to the recommendation of the committee's *seven previous reviews of critical issues in the security and intelligence community, including . . . the absence of a whole of government strategy to address foreign interference in Canada*" (emphasis added). When formally committing the issue of electoral interference to NSICOP (that is, yet again), Trudeau acknowledged that: "We have to do a better job on following up on these recommendations. I fully accept that."

Talk is cheap, and vague statements of an intention to "follow up" on the recommendations of a body that that prime minister controls are worthless. It should also be noted that Cabinet has the power to deny NSICOP any information that it deems "injurious to national security".

What's worse is that Cabinet intended that NSICOP members would be muzzled in the event that they believed they needed to blow the whistle on governmental abuses – or indeed on attempts to cover them up, which might extend to suppressing NSICOP reports. In other words, they could be prosecuted under the *Security of Information Act*. The statute that set up the Committee of Parliamentarians went so far as to contemplate prosecutions of its members for what they say to other MPs and Senators within the course of their legislative duties, namely to frame legislation to prevent further abuses. This provision was so egregious that it was struck down as unconstitutional in *Alford v. Canada (Attorney-General)* in 2022. [Full disclosure: the author of this article was the applicant who brought and litigated this constitutional challenge].

A public inquiry is necessary, and that inquiry must have the power to call any witness it chooses and obtain any document it requires, including those that relate to national security.

While the court found this section of the statute a surreptitious attempt to amend the Constitution of Canada's provisions for parliamentary privilege, the Privy Council Office (that is, Trudeau's Cabinet) made the decision to appeal the judgment to the Court of Appeal for Ontario. The hearing of that appeal may not take place until after the NSICOP completes the truncated investigation necessitated by the timeline established by the mandate that Cabinet issued to the "independent special rapporteur."

The NSICOP is firmly under the prime minister's thumb. He appoints its Chair, controls what information it receives, and ignores it at his pleasure. More fundamentally, it is an executive branch agency, and it cannot investigate serious allegations of wrongdoing by the executive without violating the most basic principle of natural justice: No one can be the judge of their own case.

A public inquiry is necessary, and that inquiry must have the power to call any witness it chooses and obtain any document it requires, including those that relate to national security. That is what Parliament voted for in the motion that it passed on March 23, and this is what the government should implement by means of the *Inquiries Act*. Most importantly, the Commissioner of the Inquiry – unlike David Johnson and Paul Rouleau – must be appointed by Parliament, and not by Cabinet.

Ryan Alford *is a professor in the Bora Laskin Faculty of Law at Lakehead University and a senior fellow at MLI.*

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Acceptance of diverse points of view about Pride? That's a very Canadian value

Citing recent events surrounding LGBTQ+ visibility, this personal essay reminds us that dialogue and healthy debate are cornerstones of our liberal democratic society.

Josh Dehaas

Growing up gay in northern Ontario in the early 2000s was uncomfortable. I wasn't 'out' in high school. I'd seen what happened to the kid with glitter in his locker. I didn't want to be him.

Back then, bullying kids who were openly gay or suspected of not being straight was common. Sexual orientation and gender identity were rarely discussed at school. The one time the subject came up in class was when a well-meaning teacher announced that roughly one in 10 people were gay or lesbian, so there were at least two in the room. I felt my face turn red.

Things changed rapidly. By 2005, 51 per cent of Canadians agreed that same-sex marriage ought to be legal and 60 per cent saw homosexuality as morally acceptable. Parliament responded with the *Civil Marriage Act*. Seeing gay marriages seemed to put many more people's fears to rest. By the time I was in grad school in 2009, support for same-sex marriage had risen to 61 per cent. I no longer felt any need to hide.

> *I'm pleased that in 2023 LGBT people can be themselves in public.*

Thanks to that rapid change, I didn't experience any discernable discrimination for being a gay man working in journalism or while training to be a lawyer. In fact, the only overt discrimination I can recall experiencing was when I was once told I couldn't have a promotion because that job "needs to go to a woman."

I'm pleased that in 2023 LGBT people can be themselves in public, and that there is zero tolerance for bullying in schools and workplaces. That said, I'm starting to worry that some LGBT people are becoming the new bullies.

Rather than demand that we be free from discrimination, many LGBT

activists now demand that people profess allegiance to a highly contested set of ideas about gender and sexuality by wearing the rainbow on their uniforms, hoisting the Pride Progress flag, or sending their children to schools where they're required to sit through performances by drag queens. The message has shifted from "love is love and everyone is equal" to "you will endorse the most radical viewpoints on sexuality and gender or else."

This change was captured recently in a viral recording of an Edmonton teacher berating Muslim students for skipping Pride celebrations at school. "We believe in freedom, we believe that people can marry whomever they want," she said. "That is in the law, and if you don't think that should be the law, you can't be Canadian, you don't belong here."

People who hold different viewpoints not only belong in Canada, they're protected by our Constitution. In Canada, while people have a right to be treated equally under the law, they also have the right to freedom of religion and conscience, and freedom of thought, belief, opinion, and expression. These rights are infringed when people are forced to profess or actively support ideas that they don't believe.

For many, a recent sign that the goalposts had shifted was when National Hockey League goalie James Reimer refused to wear the rainbow symbol because it conflicted with his Christian beliefs. Rather than using this as an opportunity to engage in dialogue to try to understand and possibly change his views, the self-appointed spokespeople for the LGBT community labelled Reimer a bigot and said he should comply or lose his job.

There is no reason to believe Reimer is hateful. He said he wouldn't wear the rainbow because he doesn't support an "activity or lifestyle" but that he strongly believes that every person has value and that LGBT people should be welcome in hockey. Reimer did not say that LGBT people should have fewer legal rights or be excluded. Rather, he seemed to be saying that he doesn't want to endorse gay sex or gay marriage. For many Canadians, these are incorrect or hurtful viewpoints, but the only way to change others' minds about them is through good-faith dialogue.

Another sign that the goalposts had shifted was when the Catholic school board in York Region, immediately north of Toronto, decided not to raise the Pride Progress flag outside its headquarters. Politicians like New Democratic MPP Kristyn Wong-Tam responded by demanding that flying the flag be mandated at every school. Doug Eyolfson, a former Liberal MP from Manitoba, expressed a common sentiment in a tweet that tied the flag to LGBT suicide rates. "To resist a simple gesture like a Pride flag is hate," Eyolfson wrote. "It is not 'a difference of opinion'. It is not 'religious principle'. It is hate, and it kills young people."

Refusing to raise the rainbow flag or the Pride Progress flag is not inherently hateful, and it's hard to believe kids would kill themselves because they don't see a flag in front of their schools. What's clear is that raising the flag is not a "simple gesture" for many people from religious backgrounds. To them, it amounts to actively participating in celebrating something that is inconsistent with sincerely held beliefs.

The politicians raising Pride Progress flags at schools, hospitals and police stations claim they are being "inclusive," but it's clear that they are making many Canadians feel excluded. When the Ottawa-Carleton District School Board announced Pride celebrations – a week after telling staff that students may not opt out of "2SLGBTQ+ learnings" – more than 40 per cent of kids at nine schools and more than 60 per cent of kids at two others stayed home.

In a way, I can relate. There are aspects of the LGBT culture that make me feel unwelcome. While I respect how drag queens turn the torment they receive for being effeminate into art that confidently celebrates their true selves, I would not be comfortable taking my nieces and nephews to a drag show.

> *"In Canada, while people have a right to be treated equally under the law, they also have the right to freedom of religion and conscience, and freedom of thought, belief, opinion, and expression.*

Drag as an artform developed in adult venues and is all about big breasts, skimpy dresses, and raunchy jokes. Society has long had a taboo against exposing kids to sex, and that may be a taboo worth keeping if it reduces the chances of kids becoming fodder for sexual predators or having sex before they're old enough to handle the consequences. Parents are wrong to assume that most drag queens are "groomers," but I can empathize with those parents who think kids should not be exposed to an overtly sexual artform – gay or straight – in middle school.

I also refuse to salute the Pride Progress flag. While the original rainbow represented diversity and equality, the Pride Progress flag represents the opposite. The Pride Progress flag has a jarring triangle

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Canada's competition laws should stay focussed on consumers

Competition law shouldn't be seen as a 'swiss army knife' capable of addressing a breadth of economic issues.

Aaron Wudrick

Will Rinehart

Digital commerce has for years been revolutionizing how Canadians interact, do business, and consume products, giving rise to new and important digital firms.

Last fall, the federal Minister of Innovation, Science and Industry launched a public consultation to determine whether some aspects of the *Competition Act* should be amended to reflect this new economic reality. As part of that process, a discussion paper prepared by the federal Competition Bureau laid out a number of proposed changes to the Act, flowing from the Bureau's concern that the power of digital firms has grown far beyond the reach of competition law in its present form.

In fact, a very different risk lurks: overreacting to unsupported assertions. Accordingly, Canada must guard carefully against making changes that are potentially damaging to sound competition law, and avoid following the same path as several peer nations, in particular the United States.

Canada must guard carefully against making changes that are potentially damaging to sound competition law.

Far too many of the critical citations in the Bureau's discussion paper – including those that do some of the heaviest lifting to support proposed changes – rely on unjustified assumptions that American analyses can be effectively substituted into the Canadian context, especially when there are significant differences in our respective economies and business cultures.

Clearly, the government has a role to play in fostering competition. The question is whether it risks inadvertently hampering robust competition by intervening too aggressively in areas where dynamic forces are evolving rapidly and are not well understood. In particular, the temptation to view the status quo in any given market as static must be resisted.

The digital economy certainly operates in novel and unique ways, so much so that the usual markers of anti-competitive behaviour in traditional business operations can, in digital businesses, be signals of healthy market competition that benefits consumers. This does not mean that policymakers should do nothing where it is clear and obvious anti-competitive behaviour. But it does mean that we require a better understanding of how digital platforms work in practice in order to parse the good from the bad.

Another major theme dominating the debate over reforming competition law grapples with the question of whether that law should be harnessed to address other pressing social concerns, such as inequality. Competition law is not a Swiss army knife,

but a surgical tool that should remain focused on the consumer welfare standard – the principle that competition is good because consumers benefit from greater choice and lower prices – and the government should address these other important challenges with more appropriate tools.

The current competition regime has a proven track record of promoting competition and protecting consumers. To take one example among many, the Act has prevented monopolies from dominating markets, which has encouraged innovation and generally ensured low costs for consumers. The Act does not need a fundamental overhaul of its mandate. Rather, it needs more resources so that organs of government, such as the Competition Bureau, can effectively administer the existing regime. In sectors where oligopolies do dominate, the root cause is not a lack of Bureau intervention but legal barriers erected by government, most commonly foreign ownership restrictions. For those truly concerned about Canada's lack of competition, these obstacles should be the main focus for repeal or reform.

If the framing of the Bureau's discussion paper is an indication of the intended direction for competition policy, we are headed down a perilous path. Toying with dramatic changes to the Act, based on dubious evidence, would substantially alter how business is conducted and is likely to trigger significant unintended consequences, with negative repercussions for our economy.

It is imperative that the Competition Bureau protect the interests of consumers by ensuring the Act remains focused on promoting the "efficiency and adaptability of the Canadian economy", and for this task the consumer welfare standard remains the proper tool.

Aaron Wudrick *is Director of the Domestic Policy Program at MLI.* **Will Rinehart** *is a Washington-based Senior Research Fellow at the Center for Growth and Opportunity, specializing in the public policy of technology and innovation.*

A very Canadian value (Dehass)

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with light blue, pink and white stripes to represent transgender people, and black and brown stripes to represent black and brown people. To me, it represents the faddish but wrongheaded idea that some people are more equal than others.

long as they recognize that others may also have different beliefs and express those disagreements peacefully.

In a well-functioning liberal democracy, progress occurs through peaceful dialogue and respect for fundamental freedoms like expression, conscience, and religion. It's no coincidence that LGBT people have made the most progress in countries that

Toni Reed

> *In a well-functioning liberal democracy, progress occurs through peaceful dialogue and respect for fundamental freedoms.*

A parent who shared the Edmonton teacher recording pointed to a recent public statement by Muslim scholars that is worth considering. In the scholars' interpretation of Islam, sexual relations are permitted only within marriage, can occur only between a man and a woman, and medical procedures to change the sex of individuals other than those born with disorders of sexual development are forbidden. The scholars reject the idea that moral disagreement amounts to "intolerance or incitement of violence" and affirm their right to express their beliefs "while simultaneously recognizing our constitutional obligation to exist peacefully with those whose beliefs differ from ours."

The imams may be wrong about gay marriage and gender identity, but they're right that, in a liberal democracy, they're entitled to hold different viewpoints so best uphold these values. Gallup's list of the places where the highest proportion of people believe it's a good place to be gay overlaps remarkably with Freedom House's ranking of countries that best protect civil liberties. Sweden and Norway are at the top with Canada close behind. Taiwan and Uruguay lead their continents.

Rather than bullying people into wearing the rainbow, flying the Pride Progress flag or sending their kids to watch drag queens, I implore my fellow LGBT people to recommit to respectful dialogue and other liberal democratic values. These values are the reason we have progressed so far so fast, and they're our best shot at making more progress in the long run.

Josh Dehaas *is a former journalist and graduate of Osgoode Hall Law School.*

Canada must recognize Iran's role in Gaza terror

Prime Minister Justin Trudeau missed an opportunity to clearly denounce terror.

Tzvi Kahn

Mohammed Ibrahim | unsplash

Prime Minister Justin Trudeau may need a crash course in basic Middle East geopolitics. This spring, in a statement issued as legions of Palestinian rockets were being fired toward Israeli territory, Ottawa rightly affirmed the Jewish state's "right to defend its security from terrorist attacks" by the terrorist group Islamic Jihad. Yet the statement contained a curious omission. It failed to attribute responsibility where it truly belongs: the Islamic Republic of Iran, the chief backer, funder, and military supplier of Islamic Jihad.

It was a missed opportunity. As a proxy of Iran, Islamic Jihad has the same objective as its patron: the destruction of Israel and the termination of Western political, military, and ideological influence in the Middle East. Islamic Jihad's manifesto repudiates "any peaceful solution to the Palestinian cause" and affirms "the Jihad solution and the martyrdom style as the only choice for liberation." The United States, the manifesto asserts, is the "Great-Satan."

Canada designated Islamic Jihad as a terrorist group pursuant to Canada's Criminal Code in 2002, and for good reason. It's "one of the most violent Palestinian terrorist groups," Ottawa explained, and "was among the first to use suicide bomb attacks against Israel." In the 1990s and 2000s, during the height of the Oslo peace process and its eventual collapse, Israel saw waves of attacks by Islamic Jihad. In 1996, for example, a suicide bomber blew himself up outside a Tel Aviv shopping mall, claiming the lives of 13 Israelis and wounding about 125. In 2005, a suicide bomber detonated his explosive device outside a Tel Aviv nightclub, killing five Israelis and wounding some 50.

Patrick Perkins

In this spring's latest eruption of the Gaza conflict, Islamic Jihad fired 1,468 rockets toward the Jewish state, according to the Israeli military. In the May 2021 war between Israel and Gaza, Islamic Jihad and other terrorist groups fired more than 4,000 rockets toward Israel. These projectiles deliberately targeted civilian areas. In many cases, the cowardly perpetrators tried to deter Israeli counterattacks by using Palestinian civilians as human shields.

Islamic Jihad's violence takes inspiration from Iran. Founded in 1981, the terrorist group has long regarded Tehran's repressive Islamist regime as the exemplar of an eventual Palestinian state that would replace Israel. In 1979, the

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What Canada can learn from its new NATO ally Finland

by Alexander Dalziel and Henri Vanhanen

The foreign policy debate in Finland has exemplified that the world has changed, and not for the better.

NATO via flickr.com/photos/nato

Ceremony for the accession of Finland to NATO, Brussels, April 23, 2023.

Finland's recent accession to NATO, to be followed by Sweden's in the coming months, marks a milestone. Geopolitically, the entry of these highly educated, well-governed, peaceful countries should prompt Canadians to reconsider strategic security in the Arctic, a region of utmost significance to Canada. But it also holds a lesson for Canadian politicians about leadership in matters of national security, defence and foreign policy.

So far, Russia's aggression in Ukraine has not sparked meaningful debate in Canada about its Arctic strategy, at least not in the same way that China's rise has pushed Ottawa to develop an Indo-Pacific strategy. Yet Russia has altered Arctic geopolitics in a way Ottawa must not ignore. NATO's Nordic enlargement reflects those changes and contains lessons that Canada should draw from. Finland in particular illustrates how Canada might reimagine its role.

First, Canadians need to better factor in hard power and deterrence in the Arctic. Finland, a peaceful country known for its adherence to international law and the ability to field an advanced military that is some 280,000 soldiers strong in wartime, has a strategic equation that mixes military deterrence and an unwavering commitment to dialogue. Canada's Arctic strategy is shaped by the view that military presence is provocative and destabilizing. A more sophisticated perspective will be required in the years ahead.

Second, having all the Nordic countries in NATO will itself bring strategic change. Alongside Denmark, Iceland and Norway, the arrival of Finland and Sweden will invigorate debate about the Alliance's "northern flank" and put pressure on Canada to define its posture. The Nordics have already announced a unified air defence to counter the rising threat from Russia. Furthermore, the Nordics have a long history of political coordination through bodies like the Nordic Council of Ministers that will transfer into their work in the North Atlantic Alliance.

In the past, uncertainty in Canada about hard power has impeded its ability to shape NATO discussions about the Arctic – even though the region is as much under the articles of the NATO treaty as any other – leaving it at times a hindrance

to the organization's strategizing. Ideally, Canada would find areas of alignment with a Nordic bloc and define a clear NATO Arctic posture. This would boost the prospects of altering big-power behaviour in favour of a rules-based system, influencing US policy and defanging the inevitable Russian and Chinese critiques of NATO's "militarizing" the Arctic. For Canada, such clarity is essential to remove uncertainty around how NATO would respond in the Arctic during a crisis.

Third, cooperation could extend beyond NATO and defence. Russia's irresponsible behaviour means Canada and the Nordics must make choices about how to involve non-Arctic states in the region. This positioning should be done in careful coordination, and cut across military and civilian domains. Canadian-Finnish engagement would build momentum for such an alignment.

One potential area is the A5 group of coastal Arctic Ocean states: Canada, Denmark, Norway, Russia and the United States. Ottawa might argue for Finland's (as well as Iceland's and Sweden's) full inclusion to counterbalance Russia's international recklessness. Such a move would show that Ottawa grasps the changing dynamics between democracies and authoritarians in the Arctic.

Fourth, Canadians should reflect on how Finland's clearly articulated foreign policy and security strategy fostered a transparent debate and gave legitimacy to a bold strategic shift. Its NATO accession was not just a bureaucratic process of leaping ratification hurdles, but the culmination of a considered 30-year process in which national goals were set, rules and dialogue were prioritized, and nuance was managed clearly. It allowed Helsinki to read the international situation, to keep it alert to mounting danger, and identify options to respond.

The foreign policy debate in Finland has exemplified that the world has changed, and not for the better; that old political commitments of the left and right are inadequate to adjust to it; that strategic reflexes must be reconsidered, reworked, or abandoned; that international relationships can change. These can serve as reference points in Canadian debate.

Canadian politicians should take note. For years, opinion polls showed Finns were cautious about NATO membership, but also showed that if their leaders felt NATO was the best way to protect their country, they would follow. And ultimately, it was centrist conservative President Sauli Niinisto and a progressive social democrat, Sanna Marin (who resigned as prime minister earlier this month) who came together to bring accession to the finish line, demonstrating a master-class in leadership and coalition-building for guiding a citizenry through change.

That elected office is a matter of leading public opinion, and not just conforming to it, is a lesson Canada's politicians might ponder at length.

Alexander Dalziel *is a Senior Fellow at MLI.* **Henri Vanhanen** *is a Research Fellow at the Finnish Institute of International Affairs. This article originally appeared in the* Globe and Mail.

Iran's role in Gaza terror (Kahn)

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year of the Islamic Revolution, Islamic Jihad's founder, Fathi Shikaki, published a book that voiced support for the Islamic Republic of Iran's founding father and first supreme leader, Ayatollah Ruhollah Khomeini. The publication approvingly quotes a fatwa issued by Khomeini stating that eliminating Israel constitutes a religious obligation.

Tehran has helped Islamic Jihad achieve this goal by providing the group with robust military and financial support. In 2002, some 18 months after the second intifada began, U.S. and Israeli officials told the *New York Times* that Iran provided Islamic Jihad with millions of dollars in cash bonuses for each attack against the Jewish state. Today, Iran provides Islamic Jihad with tens of millions of dollars annually.

In April, Islamic Jihad leader Ziyad Nakhalah said that if "Israel demolishes a house in the West Bank today – it is Iran that pays" to rebuild it. "Also, the weapons that the Palestinians use for fighting come from Iran – the Iranians either pay for these weapons or provide them. This has been going on for 30 years. If I calculate all the money the Iranians have paid the Palestinians in these 30 years – it's billions of dollars."

The Canadian government surely knows – or should know – all this. Yet Ottawa has said nothing about Iran's support for Islamic Jihad since the latest Gaza flare-up began. That's unfortunate, since Prime Minister Trudeau has pledged to hold Tehran accountable for an egregious crime against Canada: the 2020 downing of a Ukrainian airliner after it took off from a Tehran airport, killing all 176 people on board, including 85 Canadian citizens and permanent residents. In 2021, an Ontario judge ruled that the shootdown of flight PS752 was "intentional" and an "act of terrorism."

Trudeau doesn't seem to grasp that Israel and Canada are fighting the same war – and that the Islamic Revolutionary Guard Corps (IRGC) and Islamic Jihad constitute two sides of the same coin. Tehran facilitated Islamic Jihad's rocket volleys against Israel for the same reason the IRGC shot down a Ukrainian plane: Both attacks seek to terrorize and defeat Iran's Israeli and Western adversaries. And both attacks are the product of Tehran's radical Islamist creed.

Tzvi Kahn *is a research fellow and senior editor at the Foundation for Defense of Democracies in Washington, DC.*

NATO via flickr.com/photos/nato

Whether or not it's constitutional, the IAA simply has to go

The Impact Assessment Act *undermines economic, foreign and climate policy goals.*

Heather Exner-Pirot

In March, the Supreme Court of Canada held a hearing on the constitutionality of the *Impact Assessment Act* (IAA). This follows an Alberta Court of Appeal decision in May 2022 that the IAA represents fatal federal overreach. The federal government argues that their oversight is required to protect areas of the environment under its jurisdiction.

Regardless of whether the SCOC finds the IAA to be constitutional, it needs to go.

The IAA undermines the Liberals' own economic, foreign and climate policy goals. Canada will not develop critical minerals, meet zero-emission-vehicle (ZEV) targets, build a clean electricity grid by 2035, or fulfill our commitments to supply resources to our allies under the constraints of the IAA. In a speech in Washington, DC last October, Deputy Prime Minister Chrystia Freeland said Canada must fast-track the energy and mining projects our allies need. Not with the IAA we won't.

> *The federal government argues that their oversight is required to protect areas of the environment under its jurisdiction.*

The Liberals have conceded as much in Budget 2023, which announces that "by the end of 2023, the government will outline a concrete plan to improve the efficiency of the impact assessment and permitting processes for major projects."

The IAA was proposed during a time when well-meaning progressives could entertain the conceit that resource development is something a civilized country like Canada is above. Mining, oil

(Steven Guilbeault/twitter.com)

Steven Guilbeault, Minister of Environment and Climate Change: veto power

Cedar LNG in British Columbia, the only project give a green light by the IAA.

and gas, hydroelectric dams, and projects like transmission lines and pipelines were seen as a privilege, not a necessity. Any industry proponent seeking to advance such a project would need to meet the highest standard possible, regardless of cost, and woe unto them if they fell short.

To critics of IAA, its purpose was to stymie resource extraction, especially oil and gas. Branded the "no more pipelines" act when it was introduced in 2018 as Bill C-69, it's clear now that it is far worse than that. The IAA is the no more *anything* act.

Since becoming federal law in June 2019, only one major project has been approved under IAA: Cedar LNG, earlier in March. Veterans of Canada's regulatory system will shrug and say nobody expected projects to be approved in less than four years, Chinese and Russian dependence, inflation, and climate change be damned. A handful more are currently being assessed, but the IAA seems designed to provide a trickle, not a flood, of approved projects.

The IAA gives Ottawa the ability to designate for its review any project involving water or Indigenous peoples. As the Alberta Court of Appeal pointed out, that means every conceivable project in the country, each of which is then subject to a veto by the minister of environment of climate change. That's correct: former Greenpeace activist and current Minister Steven Guilbeault has the power to veto any resource project in Canada. Spare a thought for energy and mining CEOs going to London or New York seeking investment under those circumstances.

> *The federal government argues that their oversight is required to protect areas of the environment under its jurisdiction.*

As an enlightened assessment framework, the IAA also requires proponents to conduct an analysis indicating how different genders will experience a proposed project: "a way of thinking, as opposed to a unique set of prescribed methods," according to the guidelines. There is almost no way to get such opaque and subjective regulatory requirements right, but unlimited ways to get them wrong.

To be fair, the *Canadian Environmental Assessment Act*, which Stephen Harper's government passed in 2012, was also slow and burdensome. That it was passed by Conservatives is of no consolation to the resource sector, which suffered a lost decade of investment.

The process was allowed to become this obstructive because it came during an era of cheap energy, low interest rates, and a commodity down cycle. That meant resources could still be sourced elsewhere, the price imperative to develop was low, and the long timelines that characterize the Canadian system weren't as punitive.

But with new pressures for a global energy transition and supply disruptions caused by the Ukraine war, Canada's sluggishness not only inconveniences investors and proponents. It threatens our own prosperity, security and climate goals.

Even Canada's Natural Resources Minister Jonathan Wilkinson has lamented, "it cannot take us 12-15 years to open a mine in this country." Yet it does. And so long as the IAA is the law of the land, it will continue to.

The SCOC reference on the IAA has important constitutional implications for Canada and our system of federalism, but regardless of how the Court rules, the IAA itself will not enjoy a long tenure. Either the Liberals will change it, or the Conservatives will scrap it. Whichever happens first, it cannot come soon enough.

Heather Exner-Pirot *is a Senior Fellow and Director of Natural Resources, Energy and Environment at MLI.*

Derek R. Sanchez, US Navy via commons.wikimedia.org

A significant boost to security: Inside Canada's plans to replace its submarines

Submarines remain an essential naval capability in the 21st century.

Richard Shimooka

In recent weeks it has come to light that the government is moving ahead with a project to replace its aging *Victoria*-class submarines, known as the Canadian Patrol Submarine Project (CPSP). While the existing submarine fleet has experienced chequered history since its acquisition in the late 1990s, their replacement must go ahead as planned.

Submarines remain an essential naval capability in the 21st century – particularly for Canada's great power rivals. China's sub-building capacity has increased over the past decade, pointing to a major modernization of its undersea warfare capabilities, while Russia's fleet remains the most potent part of its navy. In reality, the best counter for one submarine is another one, particularly in the difficult conditions of the Arctic. In order to protect its national sovereignty and its maritime interests abroad, the Royal Canadian Navy (RCN) must develop its sub-surface warfare capability in order to meet the threats it faces.

To start, submarines operate in an operational-maintenance-training cycle, like many other military capabilities. However, more so than any other platform, a submarine fleet requires maintenance to keep the vessels operational and safe. Thus, whereas many capabilities operate roughly on a rule

An American Helicopter Sea Combat Squadron naval aircrewman lowers priority repair parts to the HMCS *Victoria* during a RIMPAC exercise in 2012.

of three, submarines tend to work on a rule of four – for one submarine to be continuously at sea at any one time, three additional hulls are required in various states of regeneration, training, and deep maintenance. A rough example can be seen with the Royal Navy's continuous at-sea deterrence, which requires four submarines in a class in order to sustain one operational vessel at sea.

While the RCN possesses four *Victoria*-class submarines, it has been unable to sustain a single vessel at sea consistently through the class's history and is unlikely to in the future. Perhaps the most serious event was the grounding of HMCS *Corner Brook* in 2011, followed by a series of incidents that has effectively kept the vessel out of service since. This has had consequences

File photo of *Victoria*-class long-range patrol submarine HMCS *Corner Brook* pulling out of her berthing after a five-day visit to US Submarine Base New London, Groton, CT in 2009.

US Navy (John Narewski/Released) via commons.wikimedia.org

across the entire submarine fleet, severely hampering the RCN's ability to generate boats for operational deployment.

Even when the *Corner Brook* re-enters service, the RCN faces other challenges. Maintenance cycles will take considerably longer and require more work as the fleet ages in future years to ensure that the submarines are safe to operate in an undersea environment. Furthermore, the armed forces face a severe personnel shortage, and the submarine force is no exception. While Canadian submarine crews are highly trained and are well regarded among our allies, they too have been hit hard by the recruiting and retention crisis. Submariners already operate in particularly challenging conditions that affect many of their willingness to remain in the service, but the current state of the submarine fleet is a serious contributing factor. The lack of time at sea, as well as manning a 30-year-old vessel, has seriously impacted the RCN's ability to generate crews for these vessels and maintain their high level of proficiency.

In light of these challenges and the remaining lifecycle of the *Victoria*-class, approximately 15-20 years, Canada must start the CPSP now in order to ensure an orderly transition to a new fleet. The RCN is looking at a major expansion of its submarine force – to either eight or, ideally, 12 vessels – this would essentially ensure that Canada would have at least two, if not three, submarines operating at sea at any one time. This would also enable having one available for two or even three coasts simultaneously, which would significantly enhance Canada's security. Such a fleet will come at a significant cost–potentially $60 billion according to some early discussions.

First off, acquiring submarines would not look like the Canadian Surface Combatant project or any other ship built as part of the National Shipbuilding Strategy. The boats will be of an existing design that will be constructed in a foreign yard, with some relatively limited modifications undertaken, either in that country or upon delivery in Canada. Greater modification entails increased costs and production time – which are aspects the RCN seems eager to avoid and has signalled its willingness to accept a less customized platform. If this is the case, the costs should be relatively close to the contractually agreed-upon cost, with limited potential for escalation.

Instead, the main cost driver is likely to be Canada's requirement for offsets for any amount spent abroad to be reinvested by the foreign firm back in Canada – known as the Industrial Technical Benefits policy, and the Value Proposition (ITB/VP). Offsets are widely regarded in the academic literature and many developed states as economically inefficient as they drive up contract costs– which can reach as high as 30 percent depending on the situation– and are inefficient at delivering industrial outcomes. Yet Canada remains wedded to this approach, despite its obvious failings.

Some attention should be paid to the potential requirements the RCN will demand, which will dramatically narrow the potential market options. Two are likely to be paramount. The first will be long-range, in large part driven by a desire to undertake Arctic patrols with the vessel. Transiting to the north from Halifax or Esquimalt and having a meaningful time on station will all but rule out all but the largest classes of diesel-electric submarines available on the international market. This requirement will also aid in Canada's ability to increase its presence in other key strategic areas, like the Indo-Pacific.

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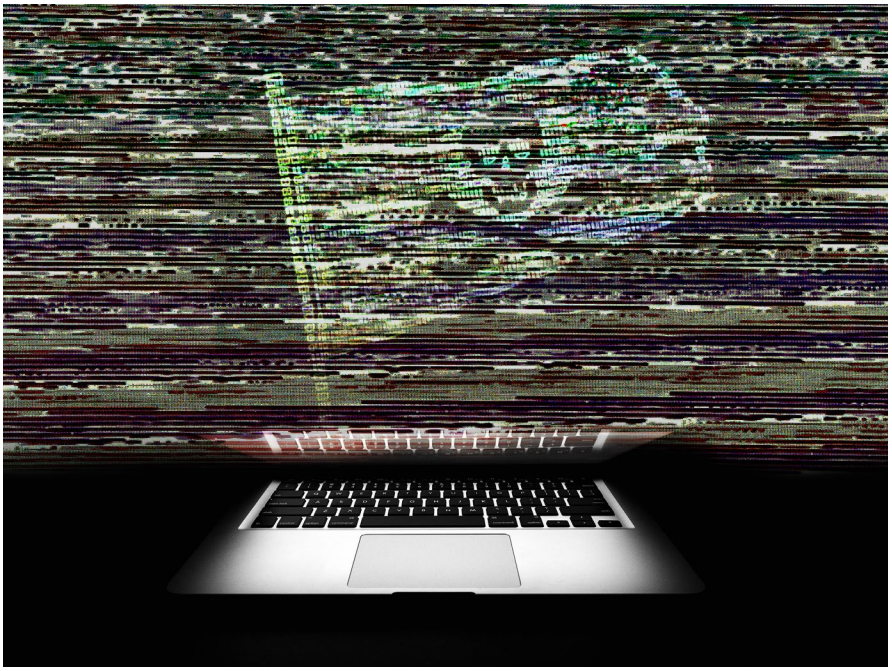
Canada's defence policy needs to focus on the war we are already fighting

Canadians understand the need for, and are ready to support, increased attention to our cybersecurity.

Ann Fitz-Gerald
Jason Donville



Renée Depocas (Rupixen | Michael Dziedzic)

By admission of the country's Chief of Defence Staff himself, the Canadian Armed Forces (CAF) are facing a crisis. This point has been substantiated by the CAF's inability to respond to routine operational demands both in Canada and internationally. The breakdown is also seen by our allies, which have publicly questioned Canada's commitment to collective defense, and our military recruiters, who have indicated that attrition is now at critical levels.

Rather than focusing on how we arrived at this situation, it would be more productive to rebuild based on the type of armed forces the Canadian public is prepared to support. Given the competing demands for taxpayer dollars, and the decades-long diminishing investment in defence, rebuilding plans should strike a mutually reinforcing balance between the investment required to meet our allied commitments, and an investment supporting a niche capability of world class excellence that would be valued both domestically and internationally. Canada should therefore commit to creating a national armed forces that projects strength and impact in something that the average Canadian can relate to and support. That focus should be on cybersecurity.

Canada is already at war. The daily headlines are filled with stories of one Canadian entity or another under cyber attack. These attacks target institutions ranging from non-profits to public corporations. Virtually every organization in Canada has either been attacked or is preparing itself for an inevitable attack. Few Canadians would require convincing. According to the Canadian Federation of Independent Businesses, nearly half of all small businesses surveyed have experienced a cyber attack in the past year, which is an alarming number.

> *The federal government argues that their oversight is required to protect areas of the environment under its jurisdiction.*

Cybercrime has been identified as Canada's most significant national security threat, and our allies are also likely to view that threat as their highest national security priority. If Canada could develop an above average cybersecurity skillset it would win the country a great deal of credibility in the eyes of our allies, and would mitigate the risk of being left out of major allied defence and security discussions and formal agreements. In addition, developing a world-class cyber security skillset is relatively inexpensive considering that a single frigate costs $1.2 billion, and that a single F-35 fighter jet costs $100 million – and Canada needs more than 100 F-35s. At the same time, the armed forces are struggling to attract recruits because it is seen as an underfunded organization, with outdated assets.

An armed forces focused on cybersecurity could attract both domestic

and international support; an armed forces committed to leading-edge technology is far more likely to attract recruits who, on leaving the armed forces, could also be productive in most areas of the Canadian economy.

Can Canada devise a defense strategy focused on Cybersecurity excellence, whilst meeting its international defence spending commitments? Yes, it can, and it could do so reasonably quickly. Canada is one of the world's leading Artificial Intelligence (AI) centers, and its universities produce world-class tech talent. A cybersecurity focus is (1)politically realistic, (2) relatively inexpensive to develop, and (3) essential to our responsibilities under collective defence in the North Atlantic Treaty Organization (NATO) and the North American Aerospace Defence Command (NORAD).

Most importantly, the global recognition that the Canadian military could win for its leadership in cyber defence – with such leadership and capability also recognized and appreciated domestically – would help restore a much-needed sense of pride in the CAF and support the broader investment the institution requires to retain its membership and standing in the organizations of its like-minded allies.

While many Canadians may not see, or experience, the direct utility and value in procuring planes, ships, and tanks, there is broad support for investments in world-class cyber security capabilities that protect Canadian communities everywhere from attacks, including bank fraud, community service disruptions, election interference, and disinformation. An investment in a tank is primarily an investment in a piece of hardware that will never be deployed on Canadian soil. A cyber-security investment is mainly an investment in people; and a capability that will be deployed in a war that Canadians can understand and are already seeking protection from.

The decision to invest aggressively in cybersecurity assets does not obviate the need for Canada to invest in new ships and fighter jets. Even with a leading-edge cybersecurity capability, conventional assets will still need to be deployed as part of our collective defense obligations in NORAD, NATO, and the United Nations – and also in aid of our civil powers. A productive, and mutually reinforcing balance needs to be struck; a balance which recognizes the importance of public support for defence, and the reality that the next war is not likely to be fought with tanks rolling through the streets of a Canadian city.

The next war has already started, and it's a digital war. Canadians understand this because they see and experience this phenomenon every day. It's time for our defense policy to better reflect what Canadians already know they need and what they are prepared to support.

Ann Fitz-Gerald *is the Director of the Balsillie School of International Affairs.* **Jason Donville** *is a Toronto-based hedge fund manager. Both are graduates of the Royal Military College of Canada.*

Replacing Canada's submarines (Shimooka)

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The second major requirement will likely revolve around interoperability, particularly with the United States. A poorly understood aspect of the *Victoria*-class was the near-total upgrade of its combat systems soon after their purchase, particularly its weapons, fire control, and sensors. These RCN systems were replaced directly with American ones or close amalgams to them. This had a number of practical benefits: the United States possess the world's largest logistics supply chain, is Canada's closest ally, and is widely regarded for its undersea warfare prowess. Thus, ensuring interoperability enhances any vessel's potential combat capability.

Given the above-discussed preference for acquiring a class of large submarines with minimal modifications and the requirement for interoperability, Canada's options narrow significantly. There are likely only two options that generally fit these requirements: the Japanese *Teigei*, and the South Korean *Dosan-Ahn Chango* classes. These are large and highly advanced submarines that likely have significant interoperability with US systems. Acquiring submarines from one of these two countries would also be a tangible example of Canada's commitment to the region after the promulgation of the Indo-Pacific Strategy.

While several European states produce submarines, they all have significant shortcomings from Canada's perspective. For example, Germany and Sweden build classes of submarines that are smaller and more ideal for coastal defence, as they have small coastlines with shallow waters. The outlier is Spain, which is currently producing a new submarine, known as the *Isaac Peral*-class, which is near the requisite size required by the RCN. However, it has faced significant development challenges which may impact its potential.

Moreover, one cannot discount that some of these manufacturers will attempt to lobby the government to adopt less stringent requirements that would allow them to compete, even if it comes to the detriment of the Navy. This has occurred in a number of instances over the past few decades, resulting in less-than-optimal platforms being selected by the government.

While the RCN has faced significant challenges in maintaining the *Victoria*-class fleet over the past few decades, this should not dissuade Canada from pushing forward with its replacement. Submarines remain a key area of warfare, and Canada must make investments in this area if it wants to adequately provide for the country's security.

Richard Shimooka *is a Senior Fellow at MLI. This article originally appeared in* The Hub.

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Closing Roxham Road loophole a benefit to all migrants

Comprehensive reform of global migration systems is in order if more tragedies are to be avoided.

Christian Leuprecht
Guadalupe Correa-Cabrera

To stem the surge in irregular migration at Roxham Road, the US and Canada recently extended their Safe Third Country Agreement (STCA), to apply between ports of entry as well. Under the renegotiated STCA migrants must apply to a Canadian agency before crossing from the US into Canada, and vice versa.

Both countries can now turn back asylum seekers attempting to cross irregularly or without authorization. This "new deal" is good news for migrants and for the continent overall. In lieu of border disorder, it affirms three fundamental principles of a sustainable migratory system: the orderly processing of documented migrants, due process and the rule of law, as well as the efficient and effective use of scarce public resources.

> *Both countries can now turn back asylum seekers attempting to cross irregularly or without authorization.*

Migrant advocates often argue that borders should be open: Whoever shows up at a border should be allowed to cross and lodge a claim. But who shows up is not random. Rather, Darwinian survival-of-the-fittest is fundamentally incompatible with a principled approach to the protection of refugees and asylum seekers. Instead of unequal access for those who can afford to pay, the STCA is an important step toward levelling the playing field for all vulnerable people in genuine need of protection.

Neither domestic nor international law offer an internationally accepted definition of "migrant." To the contrary, the careless and indiscriminate use of the term ignores the democratic socio-political process that defines a non-citizen's status, which determines conditions of admissibility that distinguish undocumented migrants from economic immigrants, refugees and asylum

seekers. States have legal and moral obligations to immigrants and refugees, and to consider asylum claims. Under domestic and international law, these obligations differ by such criteria as human vulnerabilities, labour needs and other material and ethical considerations.

Public perception of queue jumping at Roxham Road challenges the legitimacy of a well-administered migration policy that is fair for the most vulnerable and grounded in the rule of law. Irregular migration puts at risk the integrity, sustainability and legitimacy of the social contract on which the domestic migratory regime is based. Such a contract preserves the integrity of a state's borders and the successful political and economic socialization and integration of migrants, as well as social justice and the collective benefit of migration in fostering prosperity.

These are the three cornerstones for the legal regime that admitted a record one million newcomers (immigrants and non-permanent residents) to Canada in 2022. However, polls show that the impression that government is no longer able or committed to the orderly management of the state's borders causes popular support for legal migration to decline and risks stoking nativist populism that calls into question the sustainability of the entire migratory system.

With population expected to grow by 2.5 billion in the Global South over the next 25 years, that system is coming under massive strain. The number of people who strive for asylum or refugee status in the Global North vastly exceeds the fiscal and social capacity of receiving countries. The current refugee system sprung up after the Second World War in an acknowledgement that certain people deserve temporary protection. Evidence in Canada and the US shows that many asylum seekers today are not seeking temporary protection: their intent is to immigrate.

In a world where travel is relatively cheap and easy, refugee and asylum provisions have become a back door for economic immigrants who would not otherwise be admissible, and who do not qualify under exemptions that would allow them to lodge a claim at an official port of entry. In 2022, for example, 40,000 people crossed into Canada irregularly from New York at Roxham Road, whose location has made it a semi-unofficial port of irregular entry. Yet, almost half had entered the US legally. At Roxham Road, 40 percent who cross end up having their claims denied. Although the rate is above average, even failed claimants are unlikely to be removed.

The number of people who strive for asylum or refugee status in the Global North vastly exceeds the fiscal and social capacity of receiving countries.

For all intents and purposes, many are economic migrants. Claimants originate in countries marred by conflict, corruption and dire economic conditions: Central America, Venezuela, Cuba, Haiti. Sophisticated human smuggling networks, which fall under the UN Convention on Transnational Organized Crime, prey on their misery. Yet, it is not illegal for someone to avail of the services of a smuggler or even to commit identity fraud for the purposes of making an asylum claim. In fact, the UN Office on Drugs and Crime estimates the vast majority of people who try to make it to North America engage the services of human smugglers and what is now a $10-billion-a-year industry.

The STCA discourages irregular (asylum) or illegal entry (human smuggling) at Roxham Road. Claimants who fall under an exemption can still register their claims at Lacolle, QC, which is the closest point of entry. The only "new" element is that on either side of the border claims have to be registered at a formal port of entry. The renewed STCA manifests the open border paradox: cooperative bilateral and binational governance and border management is actually essential to advance mutual security, prosperity and democracy, while mitigating the exploitation of vulnerable migrants.

To be sure, the STCA is no silver bullet. Its effectiveness hinges on coordinated enforcement at and beyond the border, Canada stepping up to take a bilateral and trilateral approach with Mexico and the United States to help relieve despair at the US-Mexico border, far-reaching reforms to the UN Convention on Refugees and to the US asylum system, as well as greater access to legal migration pathways in the Global North, where jobs are aplenty and demand for unskilled labour is high.

Victims in need of protection should have equal opportunity to lodge their claim, offshore, while people on the move should lodge a claim in the first country where it is safe for them to do so. Instead of ideological turf wars over the STCA by critics intent on stigmatizing inequalities between the US and Canadian systems, comprehensive reform of the North American and global migration systems is in order if such tragedies as the detention centre fire in Ciudad Juárez, Mexico, that killed 40 in March, and the eight migrants who drowned in the St. Lawrence River in early April, are to be prevented.

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Another round of trade negotiations with the US: How to avoid surprises

Canada needs to be prepared for a new round of North American trade negotiations starting in 2026.

Lawrence L. Herman

After tough bargaining with the Trump administration, the Canada-US-Mexico Agreement (CUSMA) replaced the North American Free Trade Agreement (NAFTA) in 2020. If anyone thought Canada could breathe a bit easier when CUSMA was concluded, think again. There is every chance Canada will be back at the negotiating table with the Americans in less than three years.

This is because CUSMA comes to an end in 2036 unless the three governments agree to its continuation in a joint review to take place in 2026. The 2036 sunset date was demanded by the Trump administration, who hated the fact that the old NAFTA tied the US down in perpetuity without an effective off-ramp, seeing the review feature as adding to American leverage. That was actually a mischaracterization because the NAFTA was always open to amendment and because any one of the three Parties could withdraw from the deal whenever it wished to anyway.

In any case, because of the Trump team's demands, CUSMA does have a 2036 termi-

Above: Mexican president Enrique Pena Nieto, US President Donald Trump and Canadian Prime Minister Justin Trudeau sign the USMCA at the G20 summit in Buenos Aires, Argentina, November 20, 2018. The Agreement entered into effect July 1, 2020.

nation clause, subject to the all-important 2026 review. Even if some three years away, it is this joint review that demands attention.

Under Article 34.7 of CUSMA, the review is to be convened by the CUSMA Free Trade Commission, the oversight body headed by the trade ministers of all three countries. The article says that as part of this review:

> each Party shall confirm, in writing, through its head of government, if it wishes to extend the term of this Agreement for another 16-year period. If each Party confirms its desire to extend this Agreement, the term of this Agreement shall be automatically extended for another 16 years.

Thus if all three governments agree, the CUSMA will be continued. But if they do not, the Agreement comes to an end *in* 2036. While some may say it is unthinkable that joint confirmation will not happen, there are a lot of things left unsettled in Article 34.7.

Then-Foreign Minister Chrystia Freeland meets with her US counterpart, Secretary of State Mike Pompeo, in Washington, D.C. in 2018 during trade talks.

(pmtrudeau/flickr.com)

To begin with, it sets out only general terms of reference for the Commission. Nothing stipulates how long the review process is to last. Nothing spells out the details of what the three governments are to submit in making their views known about extension. Although Article 34.7 says that the Commission shall, "review any recommendations for action submitted by a Party," the provision does not set out what is meant by "recommendations for action."

With all of these things up in the air, the real effect of Article 34.7 is that CUSMA and its contents will be on the table once the review process starts. The reference to "recommendations for action" means any one of the Parties – let's say the US – can table proposals, including for major changes to the substance of the Agreement and for new provisions to be added as conditions for agreeing to its continuation.

This is not certain, of course. It is always possible that the review will proceed smoothly with no surprises, ending with each of the three governments agreeing to CUSMA's continuation without much fuss. But with disorder in the global trading system impacting North America, with rapid advances in areas of cybertechnology and zero carbon measures, with supply chain reconfigurations and a host of other factors, it seems unrealistic to assume things will go that way.

> *Being realistic, it means that there will be a new round of North American trade negotiations starting in 2026.*

The more plausible scenario is that one or more of the three Parties, most likely but not only the US, will want major parts of CUSMA reconfigured or added to. Being realistic, it means that there will be a new round of North American trade negotiations starting in 2026. That in turn means that work must begin now for Canada to be prepared to this. Here are three areas of preparations that the federal government should take:

- The Canadian trade minister should initiate early contact with her American and Mexican counterparts to exchange preliminary views on the mechanics and possibly the substance of the review, the idea being to smoke out the intentions of the other governments.
- Canada should propose a joint task force of the three governments to settle procedural matters and other details related to the FTC's mandate under Article 34.7.
- Consultations with the Canadian business community and other stakeholders should be initiated to seek views on CUSMA, on which parts that need attention and areas where additions or changes might be needed.

The above will ensure that Ottawa gets an early start on preparing for the 2026 review, avoiding surprises and, in working with the other Parties, making sure the review goes as smoothly as possible. Because of the expectation that there will be some form of CUSMA re-negotiations staring in 2026 – whether large or contained – this is all about safeguarding Canadian interests.

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