THE MAGAZINE OF THE MACDONALD-LAURIER INSTITUTE

INSIDE POLICY

Volume 2, 2024

Activism or antisemitism?

Unmasking the thin line between political dissent and hate speech

Also INSIDE:

- Reimagining Canada's North
- Euthanasia's slippery slope
- Weaponizing human rights tribunals
- Time to end EV obsession

MLI TRUE NORTH IN CANADIAN PUBLIC POLICY

Published by the Macdonald-Laurier Institute

Brian Lee Crowley, Managing Director
Mike Therien, Deputy Managing Director, Editorial and Operations
Mark Collin Reid, Senior Editor

Past contributors

Mary-Jane Bennett	Balkan Devlen	Marcus Kolga	J. Berkshire Miller
Derek Burney	Peter DeVries	Audrey Laporte	Jack Mintz
Charles Burton	Brian Dijkema	Brad Lavigne	Robert P. Murphy
J. Michael Cole	Ujjal Dosanjh	Ian Lee	Linda Nazareth
Catherine Cano	Don Drummond	Christian Leuprecht	Dwight Newman
Elaine Carsley	Patrice Dutil	Edward Luttwak	Bruce Pardy
Duanjie Chen	Heather Exner-Pirot	Meredith MacDonald	Jeffrey Phillips
Michael Chong	Chrystia Freeland	Janice MacKinnon	Richard Remillard
Scott Clark	Sharleen Gale	David McDonough	Kaveh Shahrooz
Ken Coates	JP Gladu	Shuvaloy Majumdar	Richard Shimooka
Celine Cooper	Stephen Greene	Paul Martin	John Thompson
Philip Cross	Carin Holroyd	Melissa Mbarki	Michael Watts
Laura Dawson	Dean Karalekas	Peter Menzies	Shawn Whatley
Jeremy Depow	Paul Kennedy	Ted Menzies	Aaron Wudrick

Cover photo Tristan Sosteric
Production design Renée Depocas

For advertising information, please email: Lesley Hudson (lesley.hudson@macdonaldlaurier.ca)

ISSN 1929-9095 (print) 1929-9109 (online)

Inside Policy 323 Chapel Street, Suite 300, Ottawa, ON, Canada, K1N 7Z2 | Ph 613-482-8327

From the editors

It's a scene that evokes the nightmares of past persecution – a vile strain of antisemitism that attacks Jewish Canadians while shaking the core of our tolerant liberal-democratic Canadian society.

In Surrey, BC, masked activists draped in keffiyehs angrily wield placards with swastikas, libelling Israel as a "genocidal state" equivalent to the Nazis. Are they protesting at the Israeli embassy? No – their bile is aimed at Jewish-Canadian families who have gathered to watch a friendly women's softball game between Canada and Israel.

As mobs swarm streets and occupy campuses shouting "From the river to the sea" and "Globalize the Intifada," Canadians are left to wonder why more isn't done to curb the hatred on display. Surely, these thinly veiled calls to ethnically cleanse Jews from Israel can't be legal?

In "Free Speech or Hate Crimes?" **Andrew Roman** confirms that Canada's Constitution offers no protection for the antisemitism on display at pro-Palestinian rallies and illegal campus occupations. What's more, Roman argues that new laws are needed to better police occupations that illegally disrupt the rights of other Canadians.

Elsewhere in this issue, Indigenous Affairs Director **Ken Coates** argues that developing Canada's North is the key to the country's economic renaissance.

Next, we have a trio of articles on aspects of Canadian healthcare: **J. Edward Les** writes of the need to urgently halt so-called "gender-affirming care" for minors; **John Keown** warns that Canada is "sliding down a slippery slope" by extending euthanasia to mentally ill patients; and **Nigel Rawson** and **John Adams** explain why the Liberal government's national pharmacare plan isn't the cure for what ails us.

Fans of consumer choice will get a charge out of **Jerome Gessaroli**'s article on the irrational government obsession with electric vehicle mandates. Instead of forcing motorists to buy EVs, Gessaroli urges a more nuanced approach that gives the automotive industry time to adapt to stringent emissions standards.

Meanwhile, legal expert **Stéphane Sérafin** alerts us to the looming threat of weaponized human rights tribunals thanks to changes proposed in Bill C-63.

In Toronto, Yonge-Dundas Square is to be renamed "Sankofa Square." **Lynn McDonald**, a retired academic and former MP, explains why the plan to erase abolitionist Henry Dundas's legacy is sheer folly. And finally, international affairs expert **Sergey Sukhankin** writes of a growing threat to Canada's agriculture industry – a new scheme by authoritarian allies Russia and China to dominate the international grains market.

Contents

4 **Reimagining the Canadian North**
Ken Coates

9 **Time for an intervention: an urgent call to end "gender-affirming" treatments for children**
J. Edward Les

10 **Skiing down euthanasia's slippery slope**
John Keown

12 **National pharmacare: not the cure for what ails us**
Nigel Rawson and John Adams

15 **Weaponizing human rights tribunals**
Stéphane Sérafin

18 **Free speech or hate crimes? Canada's Constitution offers no protection for antisemitic protests.**
Andrew Roman

21 **North America should reconsider its electric vehicle obsession**
Jerome Gessaroli

22 **Toronto's Sankofa Square? The terrible folly and historic injustice of erasing the legacy of abolitionist Henry Dundas**
Lynn McDonald

25 **The China-Russia "Grain Entente": How the authoritarian regimes hope to upend the global food supply chain**
Sergey Sukhankin

Reimagining the Canadian North

Long-ignored, the region is the key to a Canadian economic renaissance.

Ken Coates

Northern communities such as Iqaluit, Nunavut, top, Yellowknife, NWT, middle, and Inuvik, NWT, bottom, can play a leading role in Canada's northern renaissance. (Photos: iStock)

In the last two years, Canada has seen yet another of its episodic bursts of Arctic enthusiasm, sparked in this instance by a combination of concern for climate change and Russian aggression capped by the invasion of Ukraine. The conversations are earnest and well-meaning but there seems to be little meat on these Arctic bones at present.

Put simply, Canada has lost sight of the possibilities of the North. The country focuses far more on northern problems, but not with sufficient conviction to making things better. As with the country's decades-long crisis with drinking water in Indigenous communities, Canadians congratulate themselves for fixing a problem that should not have been allowed to fester in the first place.

In the post-Second World War period, Canada was a global leader in northern development, albeit with little respect for the needs and interests of Indigenous peoples. With the Diefenbaker government's Roads to Resources Program providing the main impetus, Canada built roads, railways, many new mines, and hydro-electric dams. Planned cities, like Thompson, Manitoba, and Schefferville, Quebec, represented major investments in the future of the North. Other company towns – Uranium City, Saskatchewan, Clinton Creek, Yukon, Granisle and Cassiar in British Columbia, Pine Point in the Northwest Territories, and Labrador City in Newfoundland and Labrador – sprang up across the country.

For a few heady years in the 1960s, the provincial and territorial Norths seemed central to Canadian plans for future economic development. The North would be, in the last half of the 20th century and beyond, what the West had been in the late 19th century. The enthusiasm soon waned. Infrastructure development slowed. The Dempster Highway to Inuvik in the NWT, with major construction starting in the mid-1960s, was not opened until 1979; the extension to Tuktoyaktuk opened only in 2017.

> *Put simply, Canada has lost sight of the possibilities of the North.*

Canada moved northward on the basis of two fundamental miscalculations: an over-estimation of the resource wealth of the region and an underestimation of the social and environmental costs of rapid development. By the 1970s, the bloom had come off the Arctic rose. Once promising Arctic oil and gas projects were shuttered, and major improvements delayed or cancelled. Government programming expanded and built key administrative centres, particularly Iqaluit, Yellowknife, and Whitehorse, providing a thin veneer of prosperity.

In the last quarter of the 20th century, Canada became aggressively and impressively urban. City states dominated the economy and became the overwhelming focus for national innovation and technological investments. The North languished, in both national and comparative terms. The nation even turned its back on winter, with mass tourism to warmer climates and national disinterest in the North growing steadily. In the territorial North, reliance on government soared; the resource economy did better in the provincial North, but even here welfare dependency became the cornerstone of most communities.

Other parts of the circumpolar world have been doing considerably better. The isolated Faroe Islands converted fishing farming, whaling, and cultural pride into a burst of prosperity. Northern Norway converted the "blue economy" of off-shore oil and gas development and the country's general prosperity into a rapid regional modernization. Northern Finland rode the Nokia-driven success of the City of Oulu and the surprising success of Rovaniemi's Santa Claus Village to northern prosperity. In Northern Sweden, a powerful combination of mining, winter tourism, Luleå-area server farms, commercial innovation, and the community-driven capture of the massive battery factory complex in Skelleftea brought widespread opportunity. Even Greenland has made major investments in airfields and Arctic-related tourism that hold the promise of an economic boom.

The situation facing the Canadian North is mixed. There are a handful of long-term multi-generational mines that produce impressive sub-regional prosperity. The mining industry has generally solid relations with Indigenous communities, with excellent examples from Voisey Bay in Labrador to the Yukon, and particularly extensive collaborations with Cameco's uranium mines in northern Saskatchewan, the diamond mines in the Northwest Territories and the oil sands in Alberta.

Northern challenges are real, especially in the small and remote Indigenous communities. The opioid crisis represents a major threat, adding to existing serious health care challenges. The long-term effects of poverty and government domination of Indigenous peoples have left deep and painful scars. Education lags well behind much of the circumpolar world; there is no Canadian equivalent of the large and impressive Scandinavian universities in Oulu, Rovaniemi, Luleå, Umeå, Tromsø, and Bodø.

Northern challenges are real, especially in the small and remote Indigenous communities.

Turnover among professional staff in the North remains high; fly-in/fly-out workers dominate the natural resource sector. In an unexpected twist, a significant number of northerners signed on with northern resource companies and capitalized on the security of employment to relocate their families to southern communities. Transiency among teachers, offset in part by North-centred teacher education programs, exacerbates the problems of community poverty and weakens educational outcomes.

Across the region, community infrastructure and services are generally not up to national standards. These shortcomings limit the growth potential of the region and leave communities struggling to serve their citizens. Building a new economy is difficult when the underpinnings of the last economy remain incomplete.

Northern Manitoba, an area typically ignored in national discussions of the North's potential, provides valuable insights into challenges and opportunities of the Canadian North. For generations – from the late 17th century to the end of the 19th century – northern Manitoba has been the cornerstone of the Canadian fur trade. That sector remained active into the 1950s. Subsequently, the Indigenous economy in the area has been dominated by welfare dependency and other forms of state paternalism, offset by significant mining operations and the seriously disruptive effects of large-scale hydro-electric developments along the rivers flowing into Hudson Bay.

At present, northern Manitoba (and much of the provincial North) has much of what the world needs: fresh water, forests, minerals, and hydro-electric potential. It also has cold weather, increasingly important in a "hot" world. Indigenous cultural knowledge, northern lights tourism potential, and impressive outdoor recreational options add to the province's allure. There is growing demand for northern minerals, bringing widespread prospects for development to northern Manitoba. The sector is, internationally, volatile, and unpredictable, providing an uncertain foundation for long-term economic development.

Mining will clearly proceed on a different foundation than the past, largely due to the combination of environmental concerns and the re-empowerment of Indigenous peoples. The legal and constitutional rights of First Nations and Metis, the court-established "duty to consult and accommodate" requirements, and the prospect of future legal challenges, including over the *Natural Resources Transfer Act* of 1930, have strengthened the authority of Indigenous peoples and governments. Indigenous communities will, by law, be active participants in the next economy.

Out-migration, particularly by young people, adds to labour challenges in northern Manitoba. Efforts are being made to train people to stay, particularly through the extensive and creative activities of the

University of the North, but the regional population is stagnant. There is, furthermore, no clear regional aspiration for future population growth. More than anything, northern Manitoba shares the consequences of the aversion of the overwhelmingly urban country to winter, isolation, and the North. Canada used to define itself largely in northern terms. It does this no longer.

Canada's northern regions, including northern Manitoba, can do much better. Indigenous re-empowerment and the spread of self-government and autonomy is crucial to future success. Indeed, economic reconciliation will soon emerge, in the words of Indigenous leader JP Gladu, as "Canada's commercial advantage." Economic returns to northern areas proceed best when Indigenous communities capitalize on good relations with the resource sector. These partnerships produce employment opportunities, support the growth of Indigenous businesses, and capitalize on stronger Indigenous governments.

Changes are still required. Resource revenue sharing, arrangements built into treaties in the three northern territories, would generate local revenue and supports Indigenous engagement. They are, in many parts of the country but not uniformly across Canada, a significant element in the resource economy. Indigenous communities have developed strengths of their own, including equity investment in community infrastructure, active and creative Indigenous economic development corporations, new levels of Indigenous commercial cooperation through the First Nations Major Projects Coalition, and over four dozen Indigenous financial institutions (like the First Nations Bank).

There are many opportunities for innovation. In Manitoba, there is the possibility for an Indigenous owned gas pipeline to a floating port off Churchill. Wilderness tourism could grow substantially as could value-added resource processing and manufacturing. The North could generate new opportunities if the nation's research institutes turned their attentions to practical northern innovations, in fields as diverse as food factories, remote surgery, educational reform, alternate energy, and unique uses of artificial intelligence. Northern educational institutions can connect business and the workforce to education and training and can prioritize the integration of Indigenous and western knowledge.

> *To succeed, and the circumpolar world provides useful examples, the North requires intense and purposeful collaboration.*

To succeed, and the circumpolar world provides useful examples, the North requires intense and purposeful collaboration. It cannot be passive; instead, the North must both seek and create opportunities. The combination of Indigenous governments, local communities, large and small business, the non-governmental sector and philanthropists can move faster and more comprehensively than waiting for government-led economic renewal. Provincial governments and the Government of Canada can provide support and investment, but the impetus must be rooted in the broader North. Put simply, the North must be about more than resource development and must not just wait for government and outside businesses to lead the region toward prosperity.

Northern regions can succeed and can do extremely well in the 21st century economy. Innovative regional economies share certain characteristics. They know about global realities and look for lessons from other successful northern regions. They work aggressively to address clear shortcomings. In Greenland, this has focused on the construction of two international airports. In northern Manitoba, the key initiatives focus on work-related Indigenous training and work-integrated education.

More than anything, and here the Canadian North is not doing particularly well, northern regions need to show real commitment and pride. They need to celebrate the uniqueness of their regions, including the valuable Indigenous cultures, and the commitment of the people, governments, and business to persisting in place.

Put simply, opportunity comes to those regions that want it the most and to those that do not wait for outsiders to determine their future. This approach has worked in remote regions as disperse as the Faroe Islands, Cape Verde off the west coast of Africa, and the Reunion Islands in the Indian Ocean. The North has real potential, but only a few areas have shown the resolve and creativity to seek sustained innovation-based economic possibilities.

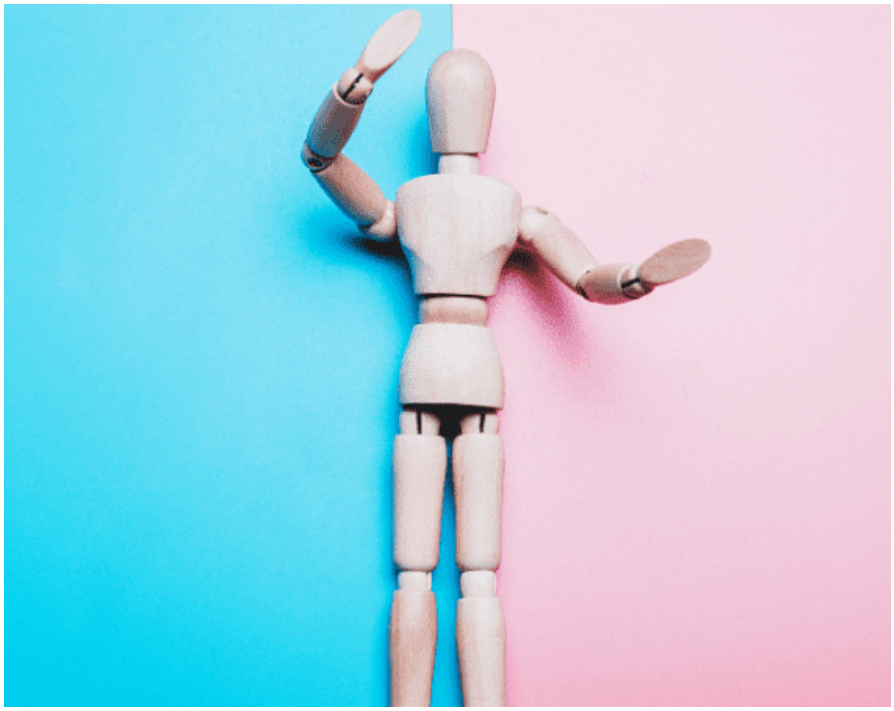
As is so often over time, the economic future is defined by people, communities and regions that dream of a better future that is of their own creation. These areas take risks, go after opportunities and dare to imagine a great future. Economic prosperity does not belong to regions that expect other people and other levels of government to solve their problems and to guide them to a brighter economic future. The North has, in the words of political scientist Gurston Dacks, "a choice of futures." North-driven economic development is the key to regional success.

Ken Coates *is the director of Indigenous Affairs and a distinguished fellow at MLI.*

Time for an intervention: an urgent call to end "gender-affirming" treatments for children

Despite the Cass Review's alarming findings, trans activists and their enablers in the medical professions continue to push kids into having dangerous, life-altering surgeries and hormone-blocking treatments. It needs to stop.

J. Edward Les



If nothing else, the scathing final report of the Cass Review released last April (but commissioned four years ago to investigate the disturbing practices of the UK's Gender Identity Service), is a reminder that doctors historically are guilty of many sins.

Take the Tuskegee syphilis study, one of the greatest stains on the medical profession, in which impoverished syphilis-infected black men were knowingly deprived of therapy so that researchers could study the natural history of untreated disease.

Or consider the repugnant New Zealand cervical cancer study in the 1960s and 1970s, which left women untreated for years so that researchers could learn how cervical cancer progressed. Or the Swedish efforts to solidify the link between sugar and dental decay by feeding copious amounts of sweets to the mentally handicapped.

The doctors behind such scandals undoubtedly felt they were advancing scientific inquiry in pursuit of the greater good; but they clearly stampeded far beyond the boundaries of ethical medical practice.

More common by far, though, are medical "sins" committed unknowingly, such as when doctors prescribe toxic treatments to patients in the mistaken belief that they are beneficial. When physicians in Europe and Canada latched onto thalidomide in the late 1950s and early 1960s, for instance, they thought it was a wonder drug for morning sickness. Only the fine work of Dr. Frances Kelsey, an astute pharmacist at the FDA, prevented the ensuing birth-defects tragedy from being visited upon American women and children.

And when Oxycontin hit the medical marketplace in the 1990s, physicians embraced it as a marvellous – and supposedly non-addictive – solution to their patients' pain. But the drug was simply another synthetic derivative of opium, and every bit as addictive; its use triggered a massive opioid overdose crisis – still ongoing today – that has killed hundreds of thousands and ruined the lives of countless individuals and their families.

Physicians in the latter instances weren't driven by malevolence; but rather by a deep-seated desire to help patients. That wish, compounded by extreme busy-ness, repeatedly seduces doctors into unwarranted faith in untested therapies.

And no discipline in medicine, arguably, is more frequently led astray by the siren song of shiny new things than the field of psychiatry. Which is understandable, perhaps, given the nature of psychiatric practice. Categorizations of mental disorders – and the methods used to treat them – are based almost entirely on consensus opinion, rather than on direct measurement. Contrast that with other domains of

medical practice: appendicitis is diagnosed by imaging the infected organ, and then cured by surgically removing the inflamed tissue; diabetes is detected by measuring elevated blood sugar, and then corrected by the administration of insulin; elevated blood pressure is calibrated in millimetres of mercury, and then effectively reduced with antihypertensives; and so on.

But mental disturbances remain largely the stuff of conjecture – learned conjecture, mind you, but conjecture, nonetheless. *The Diagnostic and Statistical Manual of Mental Disorders*, the "bible" of mental health professionals, is the collective effort of groups of tall foreheads gathered around conference tables opining on the various perturbations of the human mind. Imprecise definitions abound, with heaps of overlap between conditions.

The current version (DSM-5) describes schizophrenia, for example, as occurring on a spectrum of "abnormalities in one or more of the following five domains: delusions, hallucinations, disorganized thinking (speech), grossly disorganized or abnormal motor behavior (including catatonia), and negative symptoms." Each of these five domains is open to professional interpretation; and what's more, the schizophrenia spectrum is further subdivided into ten sub-categories.

That theme runs through the entire manual – and imprecise definitions lead on to imprecise solutions. Given the blurred indications for starting, balancing, and stopping medications, it's no accident that many mentally unwell patients languish on ever-changing cocktails of mind-altering drugs.

None of which is to downplay the enormous importance of psychiatry, which does much to address human suffering amidst unimaginable complexity; its practitioners are among the brightest and most capable members of the medical profession. But by its very nature the discipline is submerged in – and handicapped by – uncertainty. It's unsurprising, then, that mental health professionals desperate for effective treatments are susceptible to being misled.

The dark history of frontal lobotomies, seized upon by psychiatrists as a miracle cure but long relegated to the trash heap of medical barbarism, is well known. The procedure (which garnered its inventor the Nobel Prize in Medicine) basically consisted of driving an ice pick through patients' eye sockets to destroy their frontal lobes; thousands of patients were permanently maimed before saner heads prevailed and the practice was halted. Many of its victims were gay men: "conversion therapy" with a literal, brain-altering "punch."

> *Without a shred of supporting scientific evidence, many doctors have bought into the mystical notion of gender fluidity.*

Similarly, the fabricated "recovered memories of sexual abuse" saga of the 1980s and early 1990s suckered mental health practitioners into believing it was legitimate. Hundreds of professional careers were built on the "therapy" before it was all exposed as a fraud, leaving many lives ruined, families torn asunder, and scores of innocent men imprisoned or dead from suicide. In a 2005 review, Harvard psychology professor Richard McNally pegged the recovered memory movement as "the worst catastrophe to befall the mental health field since the lobotomy era."

Until now, that is. That scandal pales in comparison to the "gender transition/gender affirming care" craze that has befogged the medical profession in recent years.

Without a shred of supporting scientific evidence, many doctors – led by psychiatrists, but aided and abetted by endocrinologists, surgeons, pediatricians, and family doctors – have bought into the mystical notion of gender fluidity. What was previously recognized as "gender identity disorder" was rebranded as gender "dysphoria" and recast as part of the normal spectrum of human experience, the basic truth of binary mammalian biology simply discarded in favour of the fiction that it's possible to convert from one sex to another.

Much suffering has ensued. The enabling of biological males' invasion of women's spaces, rape shelters, prisons, and sports is bad enough. But what is being done to children is the stuff of horror movies: doctors are using medications to block physiological puberty as prologue to cross-gender hormones, genital-revising surgery, and a lifetime of infertility and medical misery – and labelling the entire sordid mess as gender-affirming care.

The malignant fad began innocently enough, with a Dutch effort in the late 1980s and early 1990s to improve the lot of transgendered adults troubled by the disconnect between their physical bodies and their gender identity. Those clinicians' motivations were defensible, perhaps; but their research was riddled with ethical lapses and methodological errors and has since been thoroughly discredited. Yet their methods "escaped the lab," with the international medical community adopting them as a template for managing gender-confused children, and the World Professional Association for Transgender Health (WPATH) enshrining them as "standard of care." Then, as American social psychologist Jonathan Haidt is the latest to observe, the rise of social media torqued the trend into a craze by convincing hordes

of adolescents they were "trans." Which is how we ended up where we are today, with science replaced by rabid ideology – and with condemnation heaped upon anyone who dares to challenge it.

An explanation sometimes offered for the massive spike in gender-confused kids seeking "affirmation" in the past fifteen years is that today it's "safe" for kids to express themselves, as if this phenomenon always existed but that – as with homosexuality – it was "closeted" due to stigma. Yet are we really expected to believe that the giants of empirical research into childhood development – brilliant minds like Jean Piaget, Eric Erikson, Lev Vygotsky, and Lawrence Kohlberg – somehow missed entirely the trait of mutable "gender identity" amongst all the other childhood traits they were studying? That's nonsense, of course. They didn't miss it – because it isn't real.

The fog is beginning to dissipate, thankfully. Multiple jurisdictions around the world, including the UK, Sweden, Norway, Finland, and France have begun to realize the grave harm that has been done, and are pulling back from – or halting altogether – the practice of blocking puberty. And the final Cass Report goes even further, taking square aim at the dangerous practice of social transitioning and concluding that it's "not a neutral act" but instead presents risk of grave psychological harm.

All of which places Canada in a rather awkward position. Because in December of 2021 parliamentarians gave unanimous consent to Bill C-4, which bans conversion therapy, including "any practice, service or treatment designed to change a person's gender identity." It's since been a crime in Canada, punishable by up to five years in prison, to try to help your child feel comfortable with his or her sex.

As far as I know, no one has been charged, let alone imprisoned, since the bill was passed into law. But it certainly has cast a chill on the willingness of providers to deliver appropriate counselling to gender-confused children: few dare to risk it.

A conversion therapy ban had been in the works for years, triggered by concerns about disturbing and harmful practices targeting gay children. But by the time the bill was presented in its final form to Parliament for a vote it had been hijacked by trans activists, with its content perverted to the degree that there is more language in the legislation speaking to gender identity than to homosexuality.

Multiple jurisdictions around the world, including the UK, Sweden, Norway, Finland, and France have begun to realize the grave harm that has been done.

To be clear, likening homosexuality to pediatric "gender fluidity" is a category error, akin to comparing apples to elephants. The one is an innate sexual orientation, the acceptance of which requires simply leaving people be to live their lives and love whomever they wish; the other is wholly imaginary, the acceptance of which mandates irreversible medical (and often surgical) intervention and the transformation of children into lifelong (and usually infertile) medical patients.

And the real "elephant" in the room is that in a troubling number of cases pediatric trans care is conversion therapy for gay children because for some people, it's more acceptable to be trans than it is to be gay.

Bill C-4 received unanimous endorsement from all parliamentarians, including from Pierre Poilievre, now the leader of the Conservative Party. No debate. No analysis. Just high-fives all around for the television cameras.

It's possible that many of the opposition MPs hastening to support the ban did so for fear of being painted as bigots. Yet the primary responsibility of an opposition party in any healthy democracy is to oppose, even when it's unpopular. In 2015, when NDP Opposition leader Tom Mulcair faced withering criticism for resisting anti-terror legislation tabled by Stephen Harper's Conservative government, he cited John Diefenbaker's comments on the role of political opposition:

"The reading of history proves that freedom always dies when criticism ends... The Opposition finds fault; it suggests amendments; it asks questions and elicits information; it arouses, educates, and moulds public opinion by voice and vote... It must scrutinize every action of the government and, in doing so, prevents the shortcuts through democratic procedure that governments like to make."

In the case of Bill C-4 the Conservatives did none of that. And by abdicating their responsibility they helped drive a metaphorical ice pick into the futures of scores of innocent children, destroying forever their prospects for normal, healthy lives.

We're long overdue for a "conversion": a conversion back to the light of reason, a conversion back to evidence-based care of children.

In 1962, when the harms of thalidomide became known, it was withdrawn from the Canadian market. In 2024, now that the serious harms of "gender-affirming care" have been exposed, it remains an open question as to when Canada's doctors and politicians will finally take the difficult step of admitting that they got it wrong and put a stop to the practice.

Dr. J. Edward Les *is a pediatrician in Calgary who writes on politics, social issues, and other matters.*

Skiing down euthanasia's slippery slope

Canada is on track to surpass the Netherlands.

John Keown

iStock

When the Canadian Parliament legalized voluntary euthanasia (VE) and physician-assisted suicide (PAS) in 2016, at the behest of the Supreme Court, supporters of legalization doubtless hoped the new law and its operation would prove something of a poster child for the compassionate and controlled medical ending of life. Its critics, however, might now describe it as less like a poster child and more like the picture of Dorian Gray.

Whether the law should permit VE and PAS is one of the most important questions of social policy in developed countries. Here we will eschew the tendentious and misleading euphemisms "assisted dying" and "medical assistance in dying." The law and professional medical ethics have always allowed doctors and nurses to "help people to die" by palliating symptoms, even if so doing foreseeably shortens life. What the new law permits is radically different: the intentional killing of patients and intentionally assisting them to kill themselves.

Moreover, the euthanasia law does not require that patients be "dying" or "terminally ill" in order (to employ further euphemisms) to be given the "medication" for such "treatment." Policy makers should not disguise, or be complicit in disguising, the foundational nature of this moral, legal, medical, and social paradigm shift.

The Canadian experience with VE and PAS is of major relevance to the international debate. Does it support the assurances of legalization campaigners that these practices can be effectively controlled by the law and provide a "last resort" in the sort of "hard cases" involving patients who are (or who fear) dying in severe pain or discomfort – patients who are so regularly paraded before us by the mass media?

Or does it support the counter-argument that the appropriate answer to such pain and discomfort is the wider availability of quality palliative care, and that a relaxed law would not only fail to prevent mistake or abuse but would also prove a first step on a precipitous "slippery slope" to VE and PAS in an ever-widening range of cases?

The best body of evidence concerning the effects of legalization comes from the Netherlands, whose experience I have studied for 35 years.

The Dutch Supreme Court declared VE and PAS lawful in 1984. To justify this change, the Dutch invoked the doctor's duty to relieve suffering, and the focus of discussion was the physical suffering of the dying. However, in 1994 the same court held that the requirement of "unbearable suffering" could be satisfied by an illness that was neither terminal nor even physical and was solely mental. (Whether the patient's suffering was "unbearable" remains very largely a subjective matter decided by the patient.)

In 2016 the Dutch government proposed a further legal extension: to elderly folk with a "completed" life. And, if some patients still do not manage to meet the lax legal criteria for VE and PAS their doctors can, and do, advise them that there is the option of being medically palliated while they dehydrate themselves to death.

Lethal injections have even been extended to patients who are incapable of

making a request. In 1996 the Dutch courts declared it lawful intentionally to kill disabled infants, such as those with spina bifida. And only last year, the government announced that euthanasia would be allowed for children between one and 12. In short, over the past 40 years the Dutch have clearly tumbled down euthanasia's slippery slope. Their Belgian neighbours, who followed them in 2002 (the same year that Dutch legislation enshrining the pre-existing legal criteria came into force) are also on the skids.

Why does this happen? There are two explanations, one empirical, the other logical. The empirical explanation is that relaxed laws cannot effectively control VE and PAS in practice because the challenges of formulating, drafting, and enforcing proper safeguards are intractable. Common media references to "strict safeguards" in places like the Netherlands and Canada reflect journalistic ignorance rather than social reality.

The second explanation is logical. VE and PAS are, campaigners tell us, justified by (i) respect for patient autonomy and (ii) by the duty to relieve suffering. But if one buys their argument, euthanasia is also justified for competent patients who are suffering from chronic, not merely terminal, illness, and whether their suffering is physical or mental. Suffering is suffering, whether from terminal cancer or chronic arthritis or depression. Indeed, suffering from chronic illness, physical or mental, may last a lifetime, not merely a few weeks or months. And why exclude the perduring existential suffering that tragically blights the lives of so many lonely, elderly folk?

Why, moreover, exclude euthanasia for suffering patients such as infants who are incapable of requesting death (non-voluntary euthanasia or NVE)? The absence of patient autonomy does not cancel the doctor's duty of beneficence.

The Dutch have, then, proved nothing if not logical, and it is surely only a matter of time until their law is formally extended to embrace the elderly who are "tired of life."

And so, to Canada. It leaped onto the slope as a result of the Supreme Court's ruling in *Carter v. Canada* in 2015, in which the court overruled its previous decision in *Rodriguez v. British Columbia* in 1993. *Rodriguez* was soundly reasoned, and its reasoning remains in line with the rejection of a right to VE and PAS by the highest courts in other common law jurisdictions including the United States, the United Kingdom, and Ireland. By contrast (as I explain in *Euthanasia, Ethics and Public Policy*), *Carter* may strike some as reading more like rationalization than reasoning and as an exercise in judicial activism that stains Canadian jurisprudence.

Here we will mention just one of its flaws: its endorsement of the crucial finding of the trial judge that the evidence from jurisdictions with VE and/or PAS showed that the risks of legalization can be very largely avoided by carefully designed, well-monitored safeguards. This finding bristled with problems, not least of which was that no jurisdiction had (or has) carefully designed, well-monitored safeguards.

In a subsequent and similar case in Ireland, three senior judges carefully reviewed the judgment of the trial judge in *Carter*. They unanimously rejected her finding, not least in view of the (undisputed) evidence from the Netherlands and Belgium of the striking extent of medical euthanasia without any explicit request from the patient.

I was called as an expert witness in *Carter* by the Attorney General of Canada. At the end of my day-long cross-examination in Vancouver by the late Joseph Arvay, Q.C., counsel for those challenging the law against VE and PAS, the judge asked me to reprise both the practical and logical slippery slope arguments that I have outlined above. I did so, using the evidence from the Netherlands, Belgium, and Oregon to demonstrate the lack of effective legal control, and the Dutch endorsement of infanticide to illustrate the logical slippery slope. (Indeed, the two leading ethics experts called by Mr. Arvay had endorsed both voluntary and non-voluntary euthanasia in their published work.)

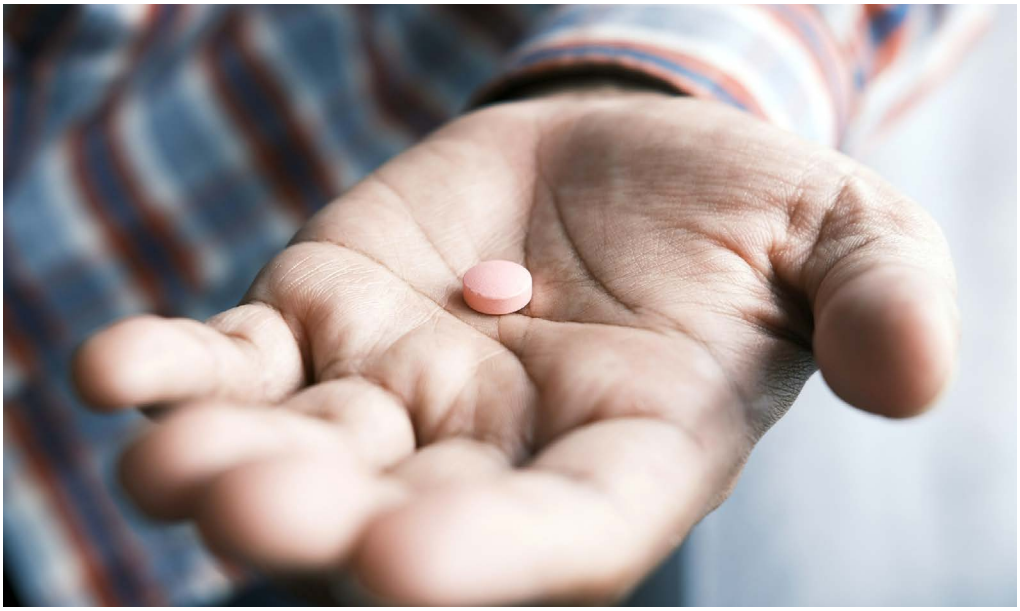
The judge nevertheless concluded that the evidence showed that VE and PAS could safely be legalized. As for the logical argument, she dismissed it as involving "speculation" and because the legal challenge was only to the legal prohibition as it affected competent patients! Her failure to join the dots was noteworthy. (My 2022 paper in the *Cambridge Law Journal* confirms the real, not speculative, nature of the logical argument.) The Supreme Court

Continued on page 14

> *Over the past 40 years the Dutch have clearly tumbled down euthanasia's slippery slope. Their Belgian neighbours... are also on the skids.*

National pharmacare: not the cure for what ails us

The proposed national pharmacare plan is little more than skimpy window dressing. Canadians may receive much less than they anticipate.



iStock

Nigel Rawson and John Adams

No Canadian should have to choose between paying for medicines and paying for rent or food. National pharmacare has been proposed as a remedy to this situation.

"When will Canada have national pharmacare?" asks the author of a recent article in the *British Medical Journal* (*BMJ*). Better questions are: will Canadian pharmacare be the system many Canadians hope for? Or, might it turn out to be skimpy coverage akin to minimum wage laws?

In its 2024 budget document, the federal government proposed providing $1.5 billion over five years to support the launch of national pharmacare for "universal, single-payer coverage for a number of contraception and diabetes medications." This has been hailed as a "big day for pharmacare" by some labour unions, patients and others, including the author of the *BMJ* article who said that national pharmacare should be expanded to cover all medication needs beginning with the most commonly-prescribed, clinically-important "essential medicines."

In its budget, the government stated "coverage of contraceptives will mean that nine million women in Canada will have better access to contraception" and "improving access to diabetes medications will help improve the health of 3.7 million Canadians with diabetes." Why not salute such affable, motherhood and apple pie, sentiments? The devil is in the details.

The plan does not cover new drugs for diabetes, such as Ozempic, Rybelsus, Wegovy, Mounjaro or Zepbound, all based on innovative GLP-1 agonists, where evidence is building for cardiovascular and weight loss benefits. This limited roll-out seems based on cheap, older medicines, which can be less effective for some with diabetes.

The federal government has also consistently under-estimated the cost of national proposals such as pharmacare – not to mention other promises. In their 2019 election platform, the Liberals promised $6 billion for national pharmacare (the NDP promised $10 billion). Keen analysis shows that even these expansive amounts would be woefully inadequate to fund a full national pharmacare plan. This makes the $300 million a year actually proposed by the Liberals look like the skimpy window-dressing that it is.

National pharmacare, based on the most comprehensive existing public drug

plan (Quebec's), would cost much more. In 2017, using optimistic assumptions, the Parliamentary Budget Officer (PBO) estimated the cost for a national plan based on Quebec's experience to be $19.3 billion a year. With more appropriate assumptions, the Canadian Health Policy Institute estimated $26.2 billion. In June 2019, the federal government's own Advisory Council on the Implementation of National Pharmacare put the cost at $40 billion, while a few months later, the tax consulting company RSM Canada projected $48.3 to $52.5 billion per year. Five years later, costs no doubt have soared.

Even with these staggering costs a program based on matching Quebec's drug plan at the national level would fail to provide anywhere near the level of coverage already provided to the almost two-thirds of Canadians who have private drug insurance, including many in unionized jobs. Are they willing to sacrifice their superior coverage, especially of innovative brand-name medicines, for a program covering only "essential" medicines? Put another way, are Canadians and their unions prepared to settle for the equivalent of a minimum wage or minimum benefits?

The PBO has estimated the costs of coverage of a range of contraceptives and diabetes medicines as $1.9 billion over five years, which is more than the $1.5 billion provided in the budget. However, this figure is based on an assumption that the new program would only cover Canadians who currently do not have public or private drug plan insurance, those who currently do not fill their prescriptions due to cost related reasons, and the out-of-pocket part of prescription costs for Canadians who have public or private drug plan coverage. This is major guesswork because existing public and private drug plans may see the new federal program as an opportunity to reduce their costs by requiring their beneficiaries to use the new program. If this occurs, the national pharmacare costs to the federal government, even for the limited role out of diabetes and contraceptives, would soar to an estimated $5.7 billion, according to the PBO.

Our governments are not known for accurate estimates of the costs of new programs. One has only to remember the Phoenix pay system and the ArriveCAN costs. In 2017, the Government of Ontario estimated $465 million per year to extend drug coverage to every resident under the age of 25 years. What happened? Introduced in 2018, prescriptions rose by 290 percent and drug expenditure increased to $839 million – almost double the guesstimate. In 2019, the provincial government back peddled and modified the program to cover only people not already insured by a private plan.

Although we believe governments should facilitate access to necessary medicines for Canadians who cannot afford their medicines, this does not require national pharmacare and a growing bureaucracy. Exempting lower-income Canadians from copayments and premiums required by provincial programs, as British Columbia has done, and removing the requirement to pay for all drugs up to a deductible, would allow these Canadians access sooner, more simply, and more effectively.

Moreover, it isn't just lower-income Canadians who want help with unmet medicine needs. Canadians who need access to drugs for diseases that are difficult to treat and can cost hundreds of thousands of dollars per year also require assistance. Few Canadians whether they have low, medium, or high incomes can afford these prices without government or private insurance. Private insurers often refuse to cover these drugs.

The Liberals provided a separate $1.5 billion over three years for drugs for rare disorders, but no province or territory has signed a bilateral agreement with the federal government for these drugs and no patient has received benefit through this program. Even if they did, the $500 million per year would not go far towards the actual costs. There is at least a zero missing in the federal contribution, as the projected cost of public spending on rare disease medicines by 2025 is more than threefold what Ottawa has budgeted.

Expensive drugs for cancer and rare disorders are just as essential as basic medicines for cardiovascular diseases, diabetes, birth control, and many other common conditions. If a costly medicine will allow a person with a life-shortening disease to live longer or one with a disorder that will be severely disabling left untreated to have an improved quality of life and be a productive taxpayer, it too should be regarded as essential.

Our governments are not known for accurate estimates of the costs of new programs.

The Liberals and NDP are working to stampede the bill to introduce the pharmacare program (Bill C-64) through the legislative process. This includes inviting witnesses over the first long weekend of summer, when many Canadians are away, to appear before the parliamentary Standing Committee on Health three days later.

Too much is unknown about what will be covered (will newer drugs be covered or only older, cheaper medicines?), who will be eligible for coverage (all appropriate Canadians regardless of existing coverage or only those with no present coverage?), and what the real cost will be, including whether a new program focusing on older, cheaper drugs will deter drug developers from launching novel medicines for unmet needs in Canada.

This Bill as it stands is such a power grab that, if passed, the federal Health Minister never has to come back to Parliament for review, oversight or another tranche of legal authority, it would empower the Cabinet to make rules and regulations without parliamentary scrutiny.

A lot is at stake for Canadians, especially for patients and their doctors. Prescription medicines are of critical importance to treating many diseases. National pharmacare must not only allow low-income residents to access purported "essential medicines" but also ensure that patients who need specialized drugs, especially higher-cost innovative cell and genetic therapies that may be the only effective treatment for their disorder, are not ignored. Canadians should be careful what they wish for. They may receive less than they anticipate, and, in fact, many Canadians may be worse off despite the increase in public spending. Time to look under the hood and kick the tires.

Nigel Rawson *is a senior fellow with the Macdonald-Laurier Institute.* **John Adams** *is co-founder and CEO of Canadian PKU and Allied Disorders Inc., a senior fellow with MLI, and volunteer board chair of Best Medicines Coalition.*

Slippery slope (Keown)

Continued from page 25

endorsed the judge's several errors. It did so, moreover, without even the fig leaf of a single dissenting judgment.

And what have we (all too predictably) witnessed since 2016, when legislation accommodated the Supreme Court's ruling? Even leaving aside the steep yearly increases in the number of medical killings, we have seen that the statutory requirement that the patient's death be "reasonably foreseeable" need no longer be met; that euthanasia where the sole cause of suffering is mental illness has been approved (though its implementation has been delayed until 2027 to allow preparations to be made), and that further expansion of the law to include "mature" minors, and requests for euthanasia written in advance of incompetence, is on the cards. Not to mention the several reported cases involving vulnerable patients that raise unsettling questions about the operation of the law.

In 1994 a distinguished House of Lords Select Committee on Medical Ethics unanimously concluded that English law should not permit VE or PAS. The committee observed that the criminal law's prohibition on intentional killing was the "cornerstone of law and of social relationships" that "protects each one of us impartially, embodying the belief that all are equal."

The experience in Canada uncomfortably confirms what happens once a society abandons that historic, bright-line prohibition in favour of the competing and arbitrary notion that whereas some people have lives that are "worth living," others would be "better off dead" and it is right to grant their request to be killed or to help them kill themselves.

It is surely only a matter of time until calls are made for the "benefit" of a hastened death to be conferred on people who are incapable of requesting it. Why "discriminate" against people who are suffering with, say, advanced dementia merely because they are incapable of requesting a lethal injection? Why deny them their rights under the Canadian Charter of Rights and Freedoms? The enormous cost savings will lurk supportively behind the argument, like a gangster's heavy.

> *There has been a "troubling normalization" of euthanasia in Canada.*

In the Netherlands, euthanasia has been normalized to a significant degree. Far from being an exceptional practice in "hard cases" of "last resort," it has come to be regarded largely as another healthcare option. Canada appears to be following suit. Professor Trudo Lemmens, the eminent Canadian health lawyer, has noted the "troubling normalization" of euthanasia in Canada where, he adds, "rights rhetoric" surrounding the issue has replaced evidence-based debate.

Thankfully, the concerning developments in Canada are now being ventilated in the public domain: in the media, both in Canada and abroad; in journals of law, medicine and bioethics, and by the UN rapporteur on the rights of people with disabilities. It is telling that in the UK even campaigners for legalization are straining to distance themselves from the Canadian precedent.

In 40 years, the Dutch have slid down the slippery slope. In fewer than 10, Canada appears to be veritably skiing.

John Keown *is the Rose F. Kennedy Professor of Christian Ethics in the Kennedy Institute of Ethics at Georgetown University in Washington, DC.*

Weaponizing human rights tribunals

If adopted, Bill C-63 could unleash a wave of "hate speech" complaints that persecute – and prosecute – citizens, businesses, or organizations while stifling online expression.

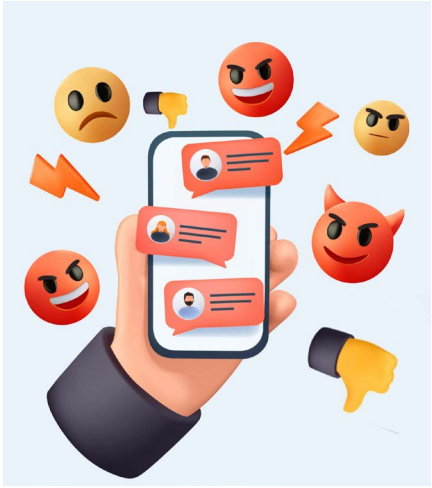
Stéphane Sérafin

Much has already been written on Bill C-63, the Trudeau government's controversial Bill proposing among other things to give the Canadian Human Rights Tribunal jurisdiction to adjudicate "hate speech" complaints arising from comments made on social media. As opponents have noted, the introduction of these new measures presents a significant risk to free expression on many issues that ought to be open to robust public debate.

Proponents, for their part, have tended to downplay these concerns by pointing to the congruence between these new proposed measures and the existing prohibition contained in the *Criminal Code*. In their view, the fact that the definition of "hate speech" provided by Bill C-63 is identical to that already found in the *Criminal Code* means that these proposed measures hardly justify the concerns expressed.

This response to critics of Bill C-63 largely misses the point. Certainly, the existing *Criminal Code* prohibitions on "hate speech" have and continue to raise difficult issues from the standpoint of free expression. However, the real problem with Bill C-63 is not that it adopts the *Criminal Code* definition, but that it grants the jurisdiction to adjudicate complaints arising under this definition to the Canadian Human Rights Tribunal.

Established in 1977, the Canadian Human Rights Tribunal is a federal administrative tribunal based on a model first implemented in Ontario in 1962 and since copied in every other Canadian province and territory. There is a Canadian Human Rights Tribunal, just as there is an Ontario Human Rights Tribunal and a British Columbia Human Rights Tribunal, among others. Although these are separate institutions with different jurisdictions, their decisions proceed from similar starting points embedded in nearly identical legislation. In the case of the Canadian Human Rights Tribunal, that legislation is the *Canadian Human Rights Act*.



> *Certainly, the existing* Criminal Code *prohibitions on "hate speech" have and continue to raise difficult issues from the standpoint of free expression.*

Tribunals such as the Canadian Human Rights Tribunal are administrative bodies, not courts. They are part of the executive branch, alongside the prime minister, Cabinet, and the public service. This has at least three implications for the way the Tribunal is likely to approach the "hate speech" measures that Bill C-63 contemplates. Each of these presents significant risks for freedom of expression that do not arise, or do not arise to the same extent, under the existing *Criminal Code* provisions.

The first implication is procedural. As an administrative body, the Tribunal is not subject to the same stringent requirements for the presentation of evidence that are used before proper courts, and certainly not subject to the evidentiary standard applied in the criminal law context. But more importantly still, the structure of the *Canadian Human Rights Act* is one that contemplates a form of hybrid public-private prosecution, in which the decision to bring a complaint falls to a given individual, while its prosecution is taken up by another administrative body, called the Human Rights Commission.

This model differs from both the criminal law context, where both the decision to file charges and prosecute them rest with the Crown, and from the civil litigation context, where the plaintiff decides to bring a claim but must personally bear the cost and effort of doing so. With respect to complaints brought before the

Tribunal, it is the complainant who chooses to file a complaint, and the Human Rights Commission that then takes up the burden of proof and the costs of prosecution.

In the context of the existing complaints process, which deals mainly with discriminatory practices in employment and the provision of services, this model is intended to alleviate burdens that might deter individuals from bringing otherwise valid discrimination complaints before the Tribunal. Whatever the actual merits of this approach, however, it presents a very real risk of being weaponized under Bill C-63. Notably, the fact that complainants are not expected to prosecute their own complaints means that there is little to discourage individuals (or activist groups acting through individuals) from filing "hate speech" complaints against anyone expressing opinions with which they disagree.

This feature alone is likely to create a significant chilling effect on online expression. Whether a complaint is ultimately substantiated or not, the model under which the Tribunal operates dispenses complainants from the burden of prosecution but does not dispense defendants from the burden of defending themselves against the complaint in question.

Again, this approach may or may not be sensible under existing anti-discrimination measures, which are primarily aimed at businesses with generally greater means. But it becomes obviously one-sided in relation to the "hate speech" measures contemplated by Bill C-63, which instead target anyone engaging in public commentary using online platforms.

Anyone who provides public commentary, no matter how measured or nuanced, will thus have to risk personally bearing the cost and effort of defending against a complaint as a condition of online participation. Meanwhile, no such costs exist for those who might want to file complaints.

A second implication arising from the Tribunal's status as an administrative body with significant implications for Bill C-63 is that its decisions attract "deference" on appeal. By this, I mean that its decisions are given a certain latitude by reviewing courts that appeal courts do not generally give to decisions from lower tribunals, including in criminal matters. "Deference" of this kind is consistent with the broad discretion that legislation confers upon administrative decision-makers such as the Tribunal. However, it also raises significant concerns in relation to Bill C-63 that its proponents have failed to properly address.

> *(It means) there is little to discourage individuals from filing "hate speech" complaints against anyone expressing opinions with which they disagree.*

In particular, the deference granted to the Tribunal means that proponents of Bill C-63 have been wrong to argue that the congruence between its proposed definition of "hate speech" and existing provisions of the *Criminal Code* provides sufficient safeguards against threats to freedom of expression.

Deference means that it is possible, and indeed likely, that the Tribunal will develop an interpretation of "hate speech" that diverges significantly from that applied under the *Criminal Code*. Even if the language used in Bill C-63 is identical to the language found in the *Criminal Code*, the Tribunal possesses a wide latitude in interpreting what these provisions mean and is not bound by the interpretation that courts give to the *Criminal Code*. It may even develop an interpretation that is far more draconian than the *Criminal Code* standard, and reviewing courts are likely to accept that interpretation despite the fact that it diverges from their own.

This problem is exacerbated by the deferential approach that reviewing courts have lately taken towards the application of the *Canadian Charter of Rights and Freedoms* to administrative bodies such as the Tribunal. This approach contrasts to the direct application of the Charter that remains characteristic of decisions involving the *Criminal Code*, including its "hate speech" provisions. It also contrasts with the approach previously applied to provincial Human Rights Tribunal decisions dealing with the distribution of print publications that were found to amount to "hate speech" under provincial human rights laws.

Decisions such as these have frequently been criticized for not taking sufficiently seriously the Charter right to freedom of expression. However, they at least involve a direct application of the Charter, including a requirement that the government justify any infringement of the Charter right to free expression as a reasonable limit in a "free and democratic society."

Under the approach now favoured by Canadian courts, these same courts now extend the deference paradigm to administrative decision-makers, such as the Canadian Human Rights Tribunal, even where the Charter is potentially engaged. In practice, this means that instead of asking whether a rights infringement is justified in a "free and democratic society," courts ask whether administrative-decision makers have properly "balanced" even explicitly enumerated Charter rights such as the right to freedom of expression against competing "Charter values" whenever a particular administrative decision is challenged.

This approach to Charter-compliance has led to a number of highly questionable

decisions in which the Charter rights at issue have at best been treated as a secondary concern. Notably, it led the Supreme Court of Canada to affirm the denial of the accreditation of a new law school at a Christian university in British Columbia, on the basis that this university imposed a covenant on students requiring them to not engage in extra-marital sexual relations that was deemed discriminatory against non-heterosexual students. Four of the nine Supreme Court of Canada judges would have applied a similar approach to uphold a finding by the Quebec Human Rights Tribunal that a Quebec comedian had engaged in discriminatory conduct because of a routine in which he made jokes at the expense of a disabled child who had cultivated a public image. (With recent changes to the composition of the court, that minority would now likely be a majority). This approach to Charter-compliance only increases the likelihood that the proposed online hate speech provisions will develop in a manner that is different from, and more repressive than, the existing *Criminal Code* standard.

Finally, the third and potentially most consequential difference to arise from the Tribunal's status as an administrative rather than judicial body concerns the remedies that the Tribunal can order if a particular complaint is substantiated. Notably, the monetary awards that the Tribunal can impose – currently capped at $20,000 – are often imposed on the basis of standards that are more flexible than those applicable to civil claims brought before judicial bodies. An equivalent monetary remedy is contemplated for the new online "hate speech" provisions. This remedy is in addition to the possibility, also currently contemplated by Bill C-63, of ordering a defendant to pay a non-compensatory penalty (in effect, a fine payable to the complainant, rather than the state) of up to $50,000. This last remedy especially adds to the incentives created by the Commission model for individuals (and activist groups) to file complaints wherever possible.

That said, the monetary remedies contemplated by Bill C-63 are perhaps not the most concerning remedies as far as freedom of expression is concerned. Bill C-63 also provides the Tribunal with the power to issue "an order to cease the discriminatory practice and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or to prevent the same or a similar practice from recurring."

> *Bill-C63, in its current form, risks being weaponized by politically motivated individuals and activist groups.*

This remedy brings to mind the Tribunal's existing power to order the implementation of "affirmative action"-style programs under the anti-discrimination provisions of the *Canadian Human Rights Act*.

It is not entirely clear how this kind of directed remedy will be applied in the context of Bill C-63. The Bill provides for a number of exemptions to the application of the new "hate speech" measures, most notably to social media platforms, which may limit their scope of application to some extent. Nonetheless, it is not inconceivable that remedies might be sought against other kinds of online content distributors in an effort to have them engage in proactive censorship or otherwise set general policy with little or no democratic oversight. This possibility is certainly heightened by the way in which the existing directed remedies for anti-discrimination have been used to date.

A prominent example of directed remedies being implemented in a way that circumvents democratic oversight is provided by the Canada Research Chairs ("CRC") program endowed by the federal government at various Canadian universities. That program has recently come under scrutiny due to the imposition of strict race and gender quotas on appointments under the CRC program. In reality, those implementing the quotas are merely proceeding in accordance with a settlement agreement entered into by the federal government following a complaint made by individuals alleging discrimination in CRC appointments. That complaint was brought before the Tribunal and sought precisely the kind of redress to which the government eventually consented.

Whatever the merits of the settlement reached in the CRC case, the results achieved by the complainants through their complaint to the Tribunal were far more politically consequential than the kinds of monetary awards that have been the focus of most discussion in the Bill C-63 context. As with the one-sidedness of the procedural incentives to file complaints and the deference that courts show to Tribunal decisions, the true scope of the Tribunal's remedial jurisdiction presents significant risks to freedom of expression that simply have no equivalent under the *Criminal Code*. These issues must be kept in mind when addressing the content of that Bill, which in its current form risks being weaponized by politically motivated individuals and activist groups to stifle online expression with little to no democratic oversight.

Stéphane Sérafin *is a senior fellow at MLI and assistant professor in the Common Law Section of the Faculty of Law at the University of Ottawa.*

Free speech or hate crimes?

Canada's constitution offers no protection for antisemitic protests.

Andrew Roman

Many Canadians oppose the high-profile campus occupations that have taken root at universities across the country as well as in the United States in recent weeks. While purportedly advocating for the rights of Palestinians in Gaza, the protests have been marked by a particularly virulent and nasty strain of antisemitism against Canadian Jews.

Consider the so-called peaceful protest that embedded itself at McGill University in April. After weeks of disruption, the pro-Palestinian "activists" and "demonstrators" stormed into a university administrative building, barricaded the entrances, and then trashed the interior. Similar to other pro-Palestine campus agitators, the McGill occupiers had issued "non-negotiable" demands that their alma mater abolish exchanges with Israeli academics and divest from companies having links with Israel in return for the end of the occupations.

> *The protests have been marked by a particularly virulent and nasty strain of antisemitism against Canadian Jews.*

All the while, Jewish students, faculty, and staff across the country are left to wonder – who is protecting their right to study and work on campus? The professed point of these demands was to support the Palestinians in Gaza, although they often involved threatening and intimidating third-generation Canadian Jewish students who had no connection with or influence over the government in Israel. Their only "sin" was being Jewish.

Pro-Palestinian activists protest a friendly women's softball match between Canada and Israel on July 3, 2024, in Surrey, BC. (Photo: Michael Sachs)

Beyond the campuses, protestors have targeted sites in Canada completely unrelated to the Government of Israel – for example, by blocking the entrance to Toronto's Mount Sinai Hospital. While the hospital bears a Jewish name, it serves a fully diverse public and employs a likewise diverse staff.

The protesters have also targeted Canadian politicians in increasingly aggressive ways. For instance, in March, protestors successfully forced the cancelation of a meeting between Prime Minister Justin Trudeau and the Italian prime minister by blocking the entrance to the building where the meeting was to be held. As neither prime minister has any control over the Israeli government, the only point of this blockade was to show the world how powerful this group has become in Canada.

Everywhere the activists strike, they issue a common refrain – they are simply acting within their constitutional rights to protest. But are they?

Examples of antisemitic rhetoric on display at recent pro-Palestian protests across Canada. (Photos courtesy B'nai Brith Canada)

> *Everywhere the activists strike, they issue a common refrain – they are simply acting within their constitutional rights to protest.*

Constitutional rights and wrongs

The *Canadian Charter of Rights and Freedoms* protects freedom of expression and of assembly. However, the Charter applies to government action, and universities are not government, so it is uncertain whether it applies at all. And in any event, Charter rights are not unlimited. They are subject to the *Criminal Code*, human rights legislation, and other laws of general application.

Charter rights must also be considered in the context of the rule of law. The rule of law means that all individuals and institutions are subject to the same laws. It is sometimes stated as "no one is above the law" – not even self-appointed protesters.

But the laws governing limits to freedom of expression and assembly are, in practice, largely unenforced by either injunctions or timely police action. That's because courts are reluctant to issue injunctions unless they are confident that the injunction will be respected. And the police are reluctant to act without an injunction (and sometimes, even to enforce an injunction) because they know that when they are accused of suppressing constitutional rights the politicians won't stand behind them. This lack of enforcement permits lawless groups to anoint themselves "protesters" and then hide behind the Charter, effectively placing themselves above the law.

Intimidating anyone, including Jewish students, staff, and faculty on a university campus, is a *Criminal Code* offence, not a constitutionally protected right. It may also be a hate crime and an offence under federal and provincial human rights codes.

Among other activities, the *Criminal Code* prohibits: public incitement of hatred that is likely to lead to a "breach of the peace," as well as incitement of hatred against an "identifiable group;" also, "mischief," such as the wilful destruction of property, or even the obstruction of the lawful use of property; and intimidation "for the purpose of compelling another person to abstain from doing anything that he or she has a lawful right to do." This includes threats of violence to a person or their property.

Section 64 of the *Criminal Code* also prohibits riots. Defined as an unlawful assembly that has become "tumultuous" and "disruptive to the peace," this label can likely be applied to antisemitic university occupations and hospital blockades, and other such disruptions.

The case law is vague

The *Criminal Code* clearly lays out a host of restrictions on the right to protest. So why does it seem so vague in practice, and the enforcement so haphazard?

Recent judicial decisions, reports and comments have dealt with the criminal law issues raised by protests. All of them say that the people affected should expect some

degree of disruption. But they don't explain how much of what kind of disruption is too much.

Legitimate protests serve as a form of advocacy, aiming to exert pressure on the target as a means of persuasion. However, they often inflict a high degree of "collateral damage" on the target's uninvolved neighbours. Where should a democratic society draw the line? Or will we continue to have no clear line? The *Criminal Code*, although applicable, is a blunt instrument for managing protests. Police are reluctant to arrest and charge protesters as criminals, especially if, as with the 2022 Freedom Convoy, many officers are sympathetic to the protesters. And, as the police get to know and become comfortable with the participants – as happened with the Freedom Convoy, where some officers posed for selfies with protesters and brought them coffee – it becomes less likely that the encampments will be broken up with force. Likewise, the longer a university negotiates with an encampment, the less likely the court is to see it as an emergency requiring an immediate injunction.

A new law is needed

So, what's the answer? It's a new law – one that better defines the boundaries of legally acceptable protest, provides necessary guidance for judges when considering whether to issue injunctions, and more clearly defines for police when force is appropriate when breaking up an occupation. Canada needs protest-specific federal and provincial legislation that provides clear rules that distinguish between acceptably disruptive, short-term protests, and quasi-permanent illegal encampments that use intimidation and even violence to frighten the public and incite hatred on our streets.

The *Criminal Code* is a blunt instrument. Having a criminal record may make it difficult to obtain employment, amongother effects. That's why the police and courts are reluctant to impose the criminal law on the somewhat immature adolescent students at universities.

The University of Toronto pro-Palestinian encampment, May 20, 2024.
(Photo: Maksim Sokolov via commons.wikimedia.org)

> *The* Criminal Code *is a blunt instrument for managing protests.*

Let's not be naïve: follow the money

Over the past few months, Canadians have been rightfully concerned about foreign interference in our elections. They should also be equally concerned about foreign interference at our universities.

It takes time and money to organize a mass protests and occupations. And yet, "spontaneous" protests sprung up across Canada and the United States only a day after the October 7, 2023, Hamas terror attacks that saw 1,200 people in Israel massacred and another 250 taken hostage.

The mass protests and encampments were well planned and financed. And so, we need to follow the money: who is financing, organizing, and encouraging the intimidation taking place on university campuses? Who is encouraging masked bullies to surround the homes of university administrators, and in the US, the homes of university presidents? Who is inciting the hooligans who vandalize Jewish-owned bookstores, or shoot up Jewish schools and businesses? Aided by modern social media, these "spontaneous" grassroots protests are anything but.

When legitimate protests become occupations or blockades, and particularly, when they engage in intimidation on the basis of religion, they cross the line into criminal conduct. But such conduct is still too often tolerated by the courts and the police. New legislation that creates clear rules for protests, without the career-limiting stigma of criminal conviction, would be a useful tool, not only for judges and the police, but for anyone planning a just and reasonable protest. But absent such a new law, let's at least enforce the laws we have.

Andrew Roman *is a recently retired lawyer with a half-century of national law practice.*

North America should reconsider its electric vehicle obsession

The pursuit of widespread EV adoption, driven by ambitious environmental goals, neglects critical economic, technological, and strategic considerations.

Jerome Gessaroli

Chuttersnap

North America's integrated auto sector is in the midst of a significant transformation, driven by the United States' and Canada's ambitious climate goals. Their decision to go all-in on electric vehicles (EVs) risks triggering one of the most significant economic-policy blunders since the Great Depression.

The US and Canadian governments have collectively committed over $200 billion in subsidies toward EV battery production, vehicle assembly, and related facilities. The required new power generation and grid-infrastructure upgrades for the US could add another $53 to $127 billion to the total costs of transition to EVs by 2030. Governments will likely need to foot some of that bill, too.

While this unprecedented investment demonstrates a commitment to reducing greenhouse-gas (GHG) emissions, it also represents a grave strategic miscalculation. By prioritizing EVs over other technologies, the governments have put climate goals at odds with domestic auto sector and national-security concerns about Chinese EV imports. This heavy-handed intervention in the auto sector undermines the industry's competitive advantages and stifles innovation in other technologies.

Forecasts indicate that Western governments will have insufficient supplies of critical minerals needed for widespread EV adoption. Supplies of lithium, cobalt, copper, and nickel, essential for EV and battery production, are expected to be insufficient to meet demand over the next 10 to 20 years. Long lead times to permit and build sufficient critical mineral mines and processing facilities could severely limit EV production. Studies also suggest that consumers are sensitive to high EV prices, as evidenced by the increase in sales when government incentives are available.

If sufficient critical mineral supplies cannot be sourced through friendly countries or legacy automakers cannot produce lower-cost EVs profitably, the goal to electrify light-duty vehicles will fail. Consequently, the US and Canada will fail to meet their emission goals and there will be other widespread repercussions. Taxpayers will face higher taxes or reduced government services due to increased government debt. Legacy automakers will be financially weakened, and their inability to meet market needs will increase vehicle prices, further impacting consumers. Governments may have to bail out one or more automakers again, exacerbating the financial burden on taxpayers.

The Biden administration's approach has created a difficult situation. Allowing lower-cost Chinese EVs into the market could help meet climate goals, but it would seriously hurt domestic automakers. On the other hand, the recent large tariffs imposed on Chinese EVs mitigate industry and security concerns but make it highly unlikely that emission targets will be met. This dilemma shows the need for a more balanced strategy that considers multiple technologies, economic realities, and environmental concerns.

From an environmental perspective, hybrids, next-generation internal combustion engines, carbon-neutral fuels, and lightweighting offer practical alternatives for immediate and significant GHG reductions. These technologies can be rapidly deployed using existing infrastructure, ensuring a smoother transition to lower emissions

Continued on page 24

Ilya Cher

Toronto's Sankofa Square?

The terrible folly and historic injustice of erasing the legacy of abolitionist Henry Dundas

Canadians' keenness to repent for the misdeeds of the past has its merits, but has also led to gross errors of judgment.

Lynn McDonald

Mayor Olivia Chow and Toronto City Council went even more over-the-top in their choice of "Sankofa Square" for Yonge-Dundas Square. Other renamings in the city have either substituted a banal name, like substituting Toronto Metropolitan University for Ryerson University, or, more frequently, selected an Indigenous name as a substitute for "colonizer" monikers. The Ghanaian word "Sankofa," however, was selected for its meaning: "learning from the past." But what can we learn about slavery in Ghana?

Slavery was rife both throughout Africa and much of the world in centuries past. Under its previous name, the Gold Coast, Ghana was a prime place for the sale of slaves to European slave traders. As well, its version of slavery included the horrible practice of executing the slaves of a chieftain who died, so that they could serve him in the afterlife.

In 1847, a Methodist missionary, the Rev. George Chapman, sent an account of this practice from his mission post in Kumasi, the second-largest city in Ghana. In an arti-

cle titled "Horrid Treatment of Infants in Ashanti," published in the *Christian Guardian*, a weekly Methodist magazine based in Toronto, Chapman explained that both men and women slaves of all ages were executed. When a woman slave with a nursing infant was beheaded, her baby fell to the ground "with her headless body." Such an infant was regarded as an "abomination." It gets worse:

"The body of the mother may remain in the street all day exposed to the gaze of every passer-by, and by her side may remain her helpless, living infant exposed to, not only the heedless foot of the multitude, but suffering intensely from the direct rays of a tropical sun. Seldom does any eye pity; no one would ever think of taking away that child and thus saving its life—it remains in the street until evening, and then, as the individual whose business is to drag away the bodies of these victims, takes away the mother; he may at the same time take away the child, not to pity and save it, but to cast both mother and child into the cell where these wretched victims are thrown, and they both remain to putrify [sic] or to be devoured by swine or carnivorous birds."

In the same article, Chapman described being alerted to the beheading of a female slave in a nearby village. The dead mother's baby, still alive, was left by her side. Starving, it had crawled up to his mother's body to lick the blood from her bleeding neck. The missionary hastened to the execution site to try to save it, but he was too late: a bystander saw Chapman coming and prevented rescue by standing on the infant's neck to kill it.

Ghana abolished slavery only in 1874, roughly 100 years after it was abolished, through court cases, in 1772 in England, and in 1778 in Scotland. For Scotland, it was Henry Dundas, as a lawyer, who won over the Scottish law lords on the appeal case he headed of an escaped enslaved man, Joseph Knight. They not only freed him, by a solid 8-4 majority, but ruled that there could be no slavery in Scotland, and thus freed all other slaves in the country.

This was Henry Dundas's first achievement as an abolitionist.

Ontario, thanks to John Graves Simcoe, the first lieutenant-governor, has the merit of being the first jurisdiction in the British Empire to abolish slavery, albeit gradually, in 1793, about 80 years before Ghana got around to it. Simcoe, it should be noted, was an appointee of Henry Dundas, a fellow abolitionist.

Yet Mayor Chow called the renaming of Yonge-Dundas Square "beautiful," and even claimed that she could not "think of a better a name for a gathering place at the heart of our city" than Sankofa Square. To Chow, Henry Dundas's actions were no less than "horrific."

> *Mayor (Olivia) Chow called the renaming of Yonge-Dundas Square "beautiful."*

Dundas and Ryerson: the Christian Guardian connection

Rev. Chapman sent his story to the *Christian Guardian*, for which Egerton Ryerson was the founding director. He was no longer the editor when this story appeared, but he had himself written on abolition in the British Empire and the United States. Ryerson, notably, was a visitor in the British House of Commons on May 14, 1833, for the last debate and adoption of the law to abolish slavery in the British Empire. He gave a superb report on it in the Christian Guardian titled "House of Commons: Colonial Slavery."

Ryerson also happened to be in Boston, en route to England in 1850, when the United States Congress passed the draconian *Fugitive Slave Act*. This required the return of slaves caught in free states, where they previously would have been safe. That law meant that escaped slaves from the American South would have to make it to Ontario to be safe, which sparked the development of the "Underground Railroad." In a report written for the *Christian Guardian*, Ryerson condemned the law as an attempt to "trample under foot" the "rights of man," adding that it was "incredible to me" that slavery was being championed in Boston, "the cradle of liberty."

The abolition of slavery in Africa

The British law of 1833 that abolished slavery in the "British colonies" effectively meant in the West Indies; it also included Canada, which by comparison, had very few slaves. It would take decades more for slavery in Africa itself to be abolished, as well as the slave trade on the continent's east coast. Recall journalist Henry Stanley's "Dr. Livingstone, I presume?" on finding missionary doctor David Livingstone alive, but ill, on the coast of Lake Tanganyika in 1871. Livingstone had himself witnessed the beheading of 400 local slaves by slave traders from Zanzibar.

Given Ghana's significant role in the transatlantic slave trade, and Dundas's clear opposition to slavery, it makes little sense to strike his name off of Toronto's most famous public square. But so far, Chow is sticking by her assertion that Dundas's legacy with regards to slavery is "horrific."

The inconvenient truths about slavery and its abolition

Canadians, and especially Torontonians, are keen to repent of the misdeeds of the past, both against Indigenous people and enslaved Africans. This new humility has its merits, but has also led to gross errors of judgment, especially false accusations against supposed "colonizers" or "colonialists." Ryerson himself was accused of responsibility for the "colonialist" past, although he himself was born in Ontario, on a farm north of Lake Erie.

Neglected is the documented fact that Indigenous societies themselves were slave societies. The losers of wars between Indigenous societies could be killed, mutilated, and/or enslaved, and even sold as slaves. Those more fortunate were adopted by the conquering group, in other words, assimilated – another no-no in today's world.

No Indigenous society is known to have actually abolished slavery. Indeed, Indigenous slaves were among those freed by the abolition laws of Britain and Upper Canada.

Nor did any African state ever abolish slavery or the slave trade of its own accord. It took decades of pressure from Great Britain, and sometimes bribes from it, to achieve its abolition. Again, Dundas had some understanding of the key role of African leaders in slavery and the slave trade. As he stated in 1792 in the House of Commons when defending his amendment to William Wilberforce's motion for abolition of the slave trade, to make it "gradual":

"If once a Prince of an enlightened character should rise up in that hemisphere, his first act would be to make the means of carrying off all slaves from thence impracticable. What reason had they to suppose that the light of Heaven would never descend upon the continent of Africa? From that moment there must be an end of African trade. The first system of improvement, the first idea of happiness that would arise in that continent, would bring with it the downfall of the African trade, and that in a more effectual way than is done by regulations of this country."

Dundas had a much better understanding of the complications of abolishing slavery and the slave trade than other abolitionists, certainly more than Wilberforce, the Parliamentary abolition leader. But even Dundas had no idea that it would take nearly a century to get rid of it everywhere, and that until it was abolished everywhere, with thorough enforcement measures as well as the adoption of laws, it would remain in force, and many would be its miserable victims.

> *Reasonable titles would be "Dundas Square," or, better, "Slavery Abolition Square."*

A better name than Sankofa Square

There is good reason not to go back to "Yonge-Dundas" Square, for Sir George Yonge, when governor of Cape Colony, South Africa, made money on the slave trade. Yet neither Mayor Chow, nor Toronto's previous mayor, John Tory, ever condemned him. This is not to suggest renaming Yonge Street, for too much Ontario history has passed along it. The Rebels of 1837 marched down Yonge Street from Eglinton Street, only to be stopped at Maitland Street. Egerton Ryerson, in his first post as a Methodist minister, had his start as an itinerant preacher riding the "Yonge Street Circuit."

Reasonable titles would be "Dundas Square," or, better, "Slavery Abolition Square." "Ryerson Square" would suit, but only when the anti-Ryerson people come to realize that they fell for false accusations. The square is close to where he developed such great educational reforms as free schools for all, teacher training, and free public libraries, initially for Ontario, in time adopted throughout the country.

Lynn McDonald, *CM, Ph.D., is a former member of Parliament, a professor emerita of University of Guelph, and a fellow of the Royal Historical Society.*

Electric vehicles (Gessaroli)

Continued from page 21

without the economic disruption of an all-EV approach.

Hybrids are also more affordable and practical for consumers, especially in areas with limited charging infrastructure, accelerating the transition to cleaner transportation. Additionally, they don't strain the power grid like EVs, avoiding the need for costly new power plants and grid upgrades.

With this more diversified, hybrid-focused approach, GHG emissions reduction could still be enforced through a measured tightening of emission standards over the long-term. This would allow a suitable transition period for automakers to secure essential raw materials and produce low-cost, profitable EVs. EVs can still play a significant role in the auto industry, but over a longer time. As emission standards continue to tighten, automakers would inevitably end up relying on higher EV sales in the future.

Some may criticize this diversified approach as failing to meet the strictest GHG emission targets, but it is more responsible and more likely to succeed. It acknowledges constraints on an all-EV approach while still enforcing significant emissions reduction and jointly ensures the auto industry's viability, meets market needs, and doesn't imperil economic or national security.

A diversified investment into hybrids and more efficient internal combustion engines reduces emissions and mitigates the risks associated with concentrating resources on a single technology. The pursuit of widespread EV adoption, driven by ambitious environmental goals, neglects critical economic, technological, and strategic considerations. A more balanced approach, embracing a variety of technologies, aligns better with market realities and ensures a sustainable future for the auto industry.

Jerome Gessaroli, *a senior fellow at the Macdonald-Laurier Institute, leads the Sound Economic Policy Project at the British Columbia Institute of Technology.*

The China-Russia "Grain Entente"

iStock (modified)

How the authoritarian regimes hope to upend the global food supply chain

Moscow – with China's help, approval, and likely, guidance – intends to challenge the West by changing the rules of trade in foods critical to global buyers.

Sergey Sukhankin

Throughout its entire history the Soviet Union faced one existential peril that was never solved until its collapse in 1991 – the prospect of food shortage and mass starvation. Its cumbersome, utterly ineffective, and artificially subsidized agricultural sector was a living testament to the erroneous nature of a planned command-administrative economic model.

The situation with food and staples became so dire that starting from 1963 the Soviet Bloc (the USSR, Hungary, Bulgaria, and Czechoslovakia) started importing wheat from the United States, Canada, and Australia. This practice continued until the demise of the Soviet Empire. Everything changed after the collapse of the USSR and introduction of market-oriented reforms in Russia in the 1990s, along with the growth of commodity prices and Russia's inclusion in the global economic architecture.

By 2000, Russia had already doubled the amount of grain it produced, making it one of the world's top producers of this

strategic commodity. By the late 2010s to early 2020s, Russia emerged as a one of the world's largest exporters of grain and agricultural products.

However, Russia quickly realized that commodities – especially food along with hydrocarbons – could become a very useful tool of coercion in geopolitical confrontations with its rivals. This became abundantly clear after the outbreak of Russia's full-scale war of aggression against Ukraine in 2022, when both Russia's top-tier politicians (such as Deputy Chairman of the Security Council and former President Dmitry Medvedev) and chief propagandists (such as Margarita Simonyan, the editor-in-chief of the Russian state-controlled broadcaster RT) claimed "hunger" to be Russia's natural ally, and threatened to cut supplies of food staples to "unfriendly countries."

At the same time, Russia tried to spark a confrontation between Ukraine and Poland, Hungary, and Slovakia over commodities and staples supplies. Ironically, rather than hurting the West, Russia's actions had a worse impact on so-called "friendly countries" – especially those in the Global South, where access to inexpensive and available foodstuffs is a matter of life and death.

Russia's strategy of intimidation was also ineffective due to its invasion of Ukraine in February 2022. Its so-called "special military operation" was supposed to be quick and decisive. Two years later, the war has imposed massive pressure on the Russian budget, requiring a constant cash flow that mainly comes from exporting raw materials and commodities.

Forced to evolve its strategy, Russia seems to be abandoning its plan of threatening to starve its adversaries. Instead, Moscow – with China's help, approval, and likely, guidance – intends to challenge the West by changing the rules of trade in foods critical to global buyers. This strategy is being implemented via pursuit of two interrelated initiatives: formation of a "Grain Entente" between Beijing and Moscow, and the use of the BRICS trading bloc (consisting of nine nations led by founding countries Brazil, Russia, India, China, and South Africa) as a critical vehicle of change.

The first major step in this direction was made in October 2023, when the Russian Food Export Trade LLC company and China Chengtong International Limited concluded the "grain deal of the century" – the largest contract of this type ever signed between the two countries – according to which the Russian side pledged to deliver 70 million tons of various types of grain (produced in the Urals, Siberia, and the Far East) over the next twelve years for US$26.5 billion. As a result, already in the first quarter of 2024, Russia broke a historical record by supplying China with large volumes of oats (.7 times more than the previous year) and buckwheat (3.3 more than the previous year) receiving a staggering US$127 million. Yet, mounting grain sales is only the tip of the iceberg. The most critical development is China's gradual overtaking of Russia's logistical infrastructure, which could pave the way for China's growing control over Eurasian logistics and trade routes.

In September 2023, officials from Russia and China met at the 8th Eastern Economic Summit in Vladivostok, where officials from boths sides agreed to create a logistical hub – the "Grain Terminal Nizhneleninskoye–Tongjiang" in the Jewish Autonomous Oblast. The goal is to create the Russia's first "land-based grain fleet." Consisting of 22,000 containers transporting grain, it will be capable of moving up to 600,000 tons of grain with a maximum storage capacity of up to 8 million per year. The strategic significance of this move is clear. On one hand, it allows Russia to "safeguard" itself against sanctions pressure, which will likely make Russia's behaviour in Europe (and elsewhere) even more aggressive and unpredictable. On the other hand, China – which will acquire de facto control over Russia's grain – will see Beijing become the world's largest grain hub, giving it enormous power to influence and set global food prices.

Russia's next major move was to push for the creation of a BRICS grain exchange. Fully supported by Russian President Vladimir Putin, the proposed grain exchange would bring together some of the world's biggest grain buyers and exporters, cumulatively accounting for more than 42 per cent of global grain production (at

Russia quickly realized that commodities – especially food along with hydrocarbons – could become a very useful tool of coercion in geopolitical confrontations with its rivals.

From left, Brazilian President Luiz Inácio Lula da Silva, President Xi Jinping of China, South African President Cyril Ramaphosa, Indian Prime Minister Narenda Modi, and Russian Foreign Minister Sergey Lavrov gather at the BRICS Leaders Retreat Meeting at Johannesburg, South Africa, on August 23, 2023. (Photo: Government of India via commons.wikimedia.org)

nearly 1.2 million tons) and 40 percent of global consumption. International observers and subject experts have already warned that Russia- and China- adverse exporters of grain and agricultural products such as the United States, Canada, and Australia "might face challenges in maintaining their market share and negotiating for favourable trade terms, while facing competition from cheaper Russian grain." In effect, this may have "significant implications for global agricultural dynamics, ranging from geopolitical and geoeconomic realignments to increased competition in agricultural trade. For traditional exporters such as Australia and the US, it is a call to reassess their national policies and strategies to navigate the evolving landscape of international trade to maintain competitiveness."

The emergence of the BRICS grain exchange – which will undoubtedly increase Russia's (and most likely China's) geoeconomic role – is only a part of a much bigger strategic challenge. If the BRICS grain exchange is successful, it will have a spillover effect on another critical product – the fertilizers required by both developed and developing nations. Russia already has a competitive advantage in fertilizer production, and post-2022, has tried to use its fertilizers as geopolitical tools pressuring international organizations (such as the United Nations) to lobby for the end of sanctions imposed on Russia after its full-scale invasion of Ukraine.

If the Russia-China grain alliance proliferates and BRICS becomes a major player in the global flow of grains and other foodstuffs, it could prompt even greater changes to the established world market. Analysis of Russian-language sources and publications indicates that the next step would be the creation of an alternative to the "West-dominated" financial architecture, and ultimately, the transformation of global trade.

Russia's plans (undoubtedly supported by China) pose a very serious challenge to Canada, its allies, and other liberal democracies.

They will likely suffer economic losses of grain exports due to the cheapness of Russian grain, and that country's current occupation of a large part of Ukraine's most fertile black-earth areas. If unchecked, Russia could assume control of more than 30 percent of global grain supplies.

Currently, the Indo-Pacific region is Canada's largest export destination, with agriculture and food exports totalling $9.4 billion in 2022. If China gains unfettered access to Russian grain, it could seriously undercut Canada's trade.

Making matters worse for Canada, its relationship with New Delhi is arguably at an all-time low, making it challenging to pivot sales of its agricultural products toward India or other countries without significant economic losses.

Looking at the bigger picture, there are a host of other potential threats to the global foods market, from the ongoing war in Ukraine to droughts and adverse climate conditions in the US, Argentina, and Australia. Amid growing uncertainty and upheaval, it's possible that the global foods market will be carved up and dominated by Russia and other undemocratic, aggressive nations. Given Russia's strategic goal of weakening the European Union, and ultimately causing its disintegration, it will continue to use artificially created food shortages in Africa and the Greater Middle East as a geopolitical weapon against the EU. The Kremlin hopes to replicate the crisis that occurred in 2015, when hundreds of thousands (now, potentially millions) of illegal migrants and asylum seekers poured into the EU – wreaking havoc, fostering intra-EU conflict, and assisting the rise of far-right (and left) populists.

The first step in Russia's grand strategy is the de facto establishment of the Russo-Chinese "Grain Entente." The next move will be the creation of a BRICS grain exchange and inclusion of other strategic commodities under the umbrella of BRICS operations. This is clearly a wakeup call for the West. We need to heed it, or else risk more dire, far-reaching consequences.

Sergey Sukhankin *is a senior fellow at the Jamestown Foundation (Washington, DC) and a Fellow at the North American and Arctic Defence and Security Network (NAADSN).*

GOOD POLICY
is worth fighting for.

WHAT PEOPLE ARE SAYING ABOUT **MLI**

MLI has been active in the field of indigenous public policy, building a fine tradition of working with indigenous organizations, promoting indigenous thinkers and encouraging innovative, indigenous-led solutions to the challenges of 21st century Canada.

– The Honourable **Jody Wilson-Raybould**

I commend Brian Crowley and the team at **MLI** for your laudable work as one of the leading policy think tanks in our nation's capital. The Institute has distinguished itself as a thoughtful, empirically based and non-partisan contributor to our national public discourse.

– The Right Honourable **Stephen Harper**

May I congratulate **MLI** for a decade of exemplary leadership on national and international issues. Through high-quality research and analysis, **MLI** has made a significant contribution to Canadian public discourse and policy development. With the global resurgence of authoritarianism and illiberal populism, such work is as timely as it is important. I wish you continued success in the years to come.

– The Honourable **Irwin Cotler**

MACDONALD-LAURIER INSTITUTE

TRUE NORTH
IN CANADIAN PUBLIC POLICY

323 Chapel Street, Suite 300,
Ottawa, Ontario K1N 7Z2
613-482-8327
info@macdonaldlaurier.ca

macdonaldlaurier.ca