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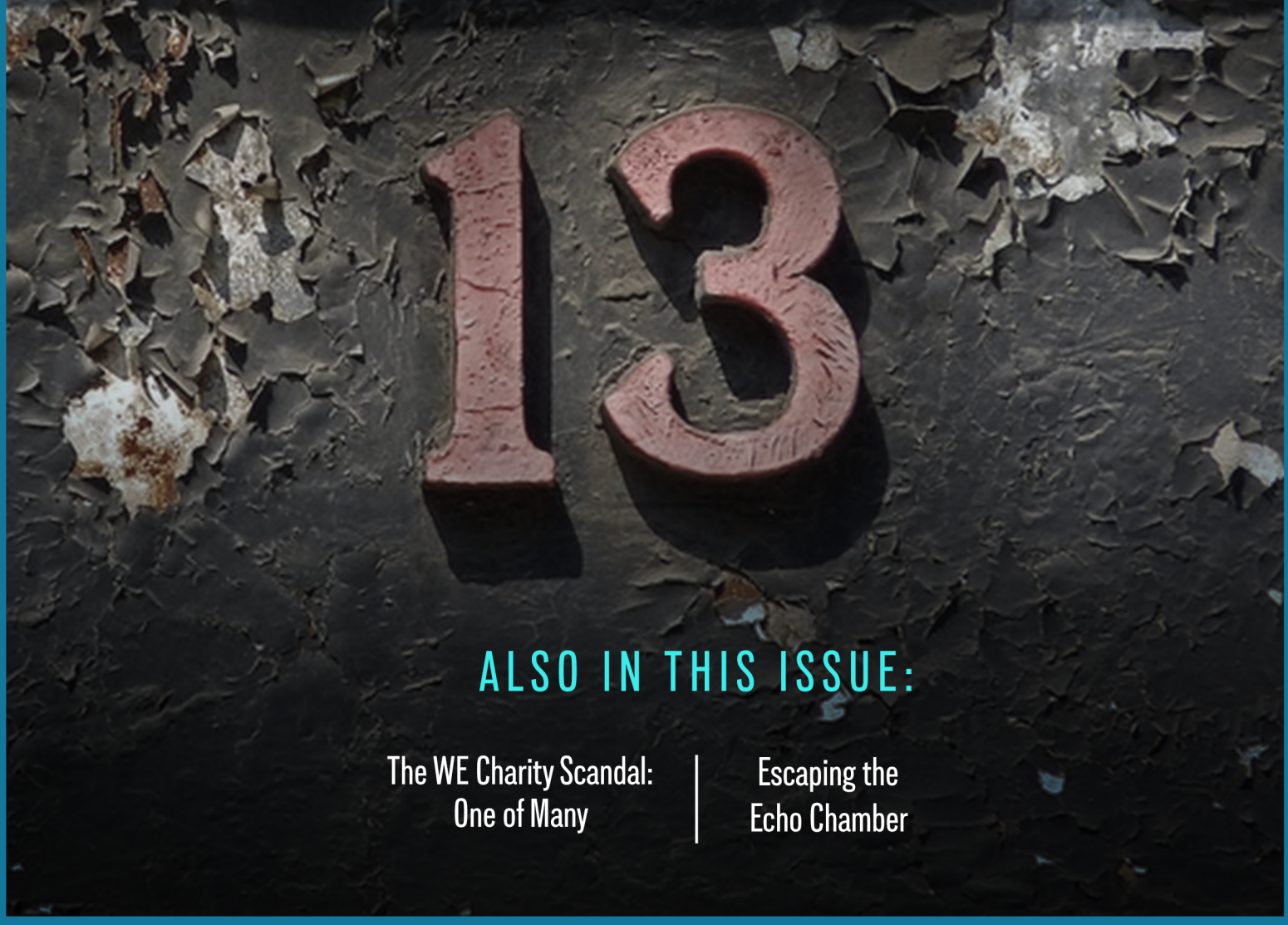
IDEAS THAT LEAD

Thirteen Things That Can't Be Said About Aboriginal Law And Policy In Canada



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Thirteen Things That Can't Be Said About Aboriginal Law And Policy In Canada

By Bruce Pardy

The number of topics open to robust and far-reaching discussion in Canadian public policy is becoming smaller by the day. Among the many areas in which it appears heterodox thinking is now forbidden is Aboriginal law and policy. As accomplished historian and columnist Conrad Black has noted, there exists an "extreme reluctance of anyone to touch native affairs policy. That is an aversion the political class and the media will have to overcome, as it is a vital and delicate field in desperate need of reform." Political promises abound to seek reconciliation, address poverty and repair water systems but there is scant willingness to acknowledge that Aboriginal law is based upon bad principles. In the interest of promoting much-needed debate, here are 13 things that can't – but should – be said about Aboriginal law and policy in Canada.

1. Aboriginal law applies different rules to different people based on race, lineage, and culture. That's a problem.

Justice is supposed to be blind. The ideal that the same rules and standards should apply to everyone has a long pedigree in Anglo-American law. This hard-fought achievement, which required centuries of nurturing and sacrifice, is now fraught with controversy. Identity politics and "substantive" equality claims are both inconsistent with equal application of the law. And simply having a category in Canadian law called "Aboriginal law" is itself problematic, since it means there are different rules for people who are of Indigenous descent. As lawyer Peter Best writes in his impassioned essay, *There Is No Difference*, "Our new Canadians, a great many of whom have immigrated from South Asia where the odious caste system was and remains prevalent, must be upset and bewildered to see a major element of the caste system – special, hereditary rights possessed by one racial group to the exclusion of all others – becoming further entrenched in the Canadian legal and social fabric."

The very notion of being "a people" means distinguishing between "us" and "them", which in turn requires criteria based

We need to talk: True reconciliation is impossible if Canadians are not allowed to engage in vigorous debate about key aspects of Aboriginal law and policy.

on race, lineage or culture to determine who shall qualify for the rights and benefits reserved to that group. Globally, everyone is a minority. Virtually all races and cultures on Earth are mixing (or "assimilating"), especially in Western countries. Canadians are usually quick to condemn anyone who advocates racial or cultural purity – except when it comes to Indigenous peoples.

Identity politics and "substantive" equality claims are inconsistent with equal application of the law. And simply having a category in Canadian law called "Aboriginal law" is itself problematic, since it means there are different rules for people who are of Indigenous descent.

2. In Canadian law, the legally privileged group is Aboriginal, not European.

The above statement may strike millions of Canadians as remarkable, possibly even preposterous. This reaction would not be surprising, given the tsunami of news media coverage portraying Indigenous people as marginalized and victimized. Yet it remains a true statement.

Indigenous people start off with the same legal rights as any other Canadian citizen: the right to vote in general elections, to hold a job, to make contracts, to own property off-reserve, to due process in the legal system, to marry whom they wish and divorce as they see fit, and so on. They hold these rights like everybody else and may exercise them as they choose.

They also, however, have additional rights no one else may claim. Depending on their lineage and group affiliations, they may have treaty rights. They may be entitled to tax exemptions. They may receive exclusive benefits. They may claim positions on bodies and in institutions that are reserved only for them. They may be entitled to procedures and considerations in criminal sentencing that no one else receives. Police seem reluctant, contrary to their statutory responsibilities, to enforce court orders against Indigenous protesters. And Indigenous people have an entrenched set of Constitutional rights, which include a fiduciary relationship with the Crown.

3. Problems with Aboriginal law are entrenched in the Constitution.

Section 35(1) of the Canadian Constitution states:

> *The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.*

Canada's Constitution, signed by Queen Elizabeth II in 1982, enshrined flawed principles of Aboriginal law into the Canadian legal system.

The effect of section 35(1) is to constitutionally entrench flawed principles upon which Aboriginal law is based, including the proposition that there should be different laws for Aboriginal people than for others.

Section 35 also results in giving courts the job of legislating the content of Aboriginal and treaty rights. The provision reads as though rights were frozen as they existed as of 1982 when the Constitution was patriated to Canada. But because the text is extremely vague and because our courts are willing to be creative and expansive in their interpretation of rights, Aboriginal rights and entitlements have grown over time and may continue to do so. Significant parts of the body of Aboriginal law are products of judicial imagination, cut from whole cloth in the minds of Supreme Court of Canada judges. Legislatures can do little to change the content of the law as pronounced by the courts under the auspices of the Constitution. Nor can section 35 be easily changed or eliminated since it is subject to an extremely onerous constitutional amending formula.

4. The "duty to consult" is paternalistic, incomprehensible and unpredictable.

The Supreme Court has said that the "honour of the Crown" governs the relationship between the government and Aboriginal peoples and that therefore the Crown owes fiduciary duties to Aboriginal peoples, including a "duty to consult" whenever proposed action may adversely affect established or asserted rights under section 35. That duty has become a threat to the Canadian economy. After years of process, astounding amounts of money and its purchase by the federal government, the Trans Mountain pipeline expansion, intended to transport additional volumes of crude oil from

The honour of the Crown hangs heavy: In 2018 the Trans Mountain pipeline project was put on hold following an Appeals Court judgement that found the federal government had failed in its 'duty to consult'; the project has since been restarted.

Alberta to port in British Columbia, was in 2018 sent back to the drawing board. The Federal Court of Appeal found that the government had failed to fulfil its duty to consult.

Although the project has now cleared its previous legal hurdles, it has yet to be completed. What does a government have to do, exactly, to satisfy the duty to consult? The courts seem unable to say, except after the fact. "[T]he duties that flow from the honour of the Crown will vary with the situations in which it is engaged," the Supreme Court has observed. "Determining what constitutes honourable dealing, and what specific obligations are imposed by the honour of the Crown, depends heavily on the circumstances." In other words, courts will not prescribe what needs to be done but, in any specific case, are willing to conclude that it wasn't.

The Aboriginal right to be consulted may not be a veto, but it is more than an opportunity to give submissions. It is not necessarily a negotiation, but it could be one depending upon the circumstances. Legislatures do not have a duty to consult before they pass legislation but if the legislation is inconsistent with the honour of the Crown, then courts can intervene. It is not difficult to picture the often-unworkable uncertainty this state of affairs imposes on anyone wishing to do anything in any area near Indigenous reserves, on a title claim, or even in an area (or body of water) asserted to be "traditional" territory. And, indeed, uncertainty prevails in many areas, with the courts typically ruling on a situation only after years of negotiation, disagreement or dispute.

5. The recommendations of the Truth and Reconciliation Commission are neither binding nor democratically legitimate.

In 2006 the federal government reached an agreement with about 86,000 Aboriginal people who had been enrolled in residential schools. The Indian Residential Schools Settlement Agreement called for $1.9 billion in compensation and, in a schedule, allocated funding for an Indian Residential Schools Truth and Reconciliation Commission (TRC). The government appointed three commissioners (and then a fourth when one of the original three resigned). The TRC's 2015 report contained 94 recommendations that expressed the commissioners' opinions and preferences.

Although the TRC was an appointed body, the political class in Canada treats the TRC's report and recommendations as political Gospel, not to be questioned or challenged. Universities, for instance, are falling all over themselves developing policies to "Indigenize" their curricula without genuine debate about the wisdom or educational value of these policies. Not even the report's observation that "[v]irtually all aspects of Canadian society may need to be reconsidered" has been challenged. The Commission's mandate was *truth* and reconciliation. The route to truth does not lie through self-censorship, political correctness or adherence to dogma, but requires disagreement and debate in unrestrained dialogue about contentious matters.

That will not be happening anytime soon. Unquestioned acceptance of the TRC's recommendations is the only view currently tolerated in mainstream society. It is also actively foisted on Canadian law students, as well as lawyers in British Columbia, where the Law Society has

determined that training in Indigenous cultural competency will be required as a condition of maintaining a licence to practice.

6. Maintaing a relationship of dependency requires cooperation from both parties.

Dependency is typically portrayed as a one-way relationship based on the Crown's power and desire to continue oppressing Indigenous people. But in reality it endures because both the federal government and many Indigenous leaders prefer it to continue. In their book, *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation*, Frances Widdowson, a politics professor at Mount Royal University in Calgary, and Albert Howard, an independent researcher, argue that dependency and persistently poor social conditions experienced by many Indigenous people can be traced to a thriving "Aboriginal industry", consisting of Indigenous and non-Indigenous institutions and individuals – leaders, consultants, managers, bureaucrats, politicians, lawyers and others – who have a vested interest in the status quo.

The *Indian Act*, originally enacted in 1876, is widely acknowledged to be anachronistic and paternalistic, but no consensus can ever be found for its repeal. Meanwhile, the bulk of the TRC's recommendations seek to reinforce dependency rather than end it, by calling upon government to fix this, build that, or pay lots of money. "We call on the federal government to…" appears repeatedly in the TRC report. Many Aboriginal claims are exercises in rent-seeking that essentially amount to an insistence to be paid for nothing other than their presence.

Ending the cycle of dependency: Poverty is endemic to many reserves, yet Aboriginal communities that seek out new business opportunities have a remarkable record of success; Fort McKay Logistics LP is a trucking company wholly owned by the Fort McKay First Nations Band of Alberta (below).

In her latest book *Separate but Unequal: How Parallelist Ideology Conceals Indigenous Dependency*, Widdowson describes three distinct kinds of wealth transfer that support many Indigenous communities and maintain dependence and dysfunction: direct government payments to finance local services; royalties for commodities like oil or minerals located not only beneath reserves but within larger traditional Aboriginal territories (which would normally belong to the provincial Crown); and compensation payments for historical wrongs committed by the Crown.

Government spending on Indigenous causes, which comes from different levels of government and from different Ministries, in a variety of forms, and provided for different purposes, totals many billions of dollars per year (although the complete figure is, perhaps not surprisingly, not transparently tallied). This lavish and, by any historical standard, generous approach does not work even for the intended beneficiaries. Instead it contributes to perpetuating overall poverty. In his book *The Wealth of First Nations*, University of Calgary professor emeritus of political science Tom Flanagan explains why Indigenous communities that focus on developing businesses in the broad economy have become wealthier than those that rely on government transfers and court settlements.

> The Commission's mandate was truth and reconciliation. The route to truth does not lie through self-censorship, political correctness or adherence to dogma but requires disagreement and debate in unrestrained dialogue about contentious matters. That will not be happening anytime soon.

7. Genuine self-government requires genuine self-sufficiency. Self-sufficient means self-funded.

If Indigenous communities are dependent, they cannot be independent.

Control and responsibility are two sides of the same coin. In Canada, "self-government" is a fiction while somebody else is footing the bill.

Expenditure of public funds calls for public accountability. Government funds provided for Aboriginal services are taken from Canadian taxpayers, who deserve to know where their money went. Band officials receive government money on behalf of their members, who deserve to know how the money is spent. Whether for infrastructure, housing, salaries, bureaucracy, emergency relief, subsidies for groceries, public inquiries or legal fees, the uses to which every dollar of public money is put should be transparent. *The First Nations Financial Transparency Act*, enacted by the Harper government, requires band expenses including salaries and compensation to be audited and published. But in 2015, the new Trudeau government resolved not to enforce it.

8. As a general rule, the people who live in houses and use infrastructure services should be the ones who pay for them

Most people buy or rent their own homes. Urban dwellers fund their infrastructure through municipal property taxes, utility bills, and provincial and federal taxes. People who live in rural areas without access to centralized water and sewer services typically drill their own wells and install and service their own septic systems at their own expense.

These expectations do not seem to apply to all Indigenous communities. Reports abound of substandard housing on reserves, boil-water advisories and poor roads in remote communities, which then inevitably call upon the federal government to provide more funding to fix them – in some cases, more than once as federally-funded infrastructure is neglected and soon deteriorates. The federal government should not be in the housing or infrastructure business on reserves.

9. The reserve system denies robust property rights to individual Indigenous people.

Two-thirds of Canadians own their own home. Indigenous people living on reserves cannot do the same. That is because property rights do not work the same way on reserves. Canadian property law provides for private, individual ownership of land. If you own your home, you likely own a property interest called a "fee simple absolute", which is the largest interest in Canadian real property law, essentially equivalent to title. The technicalities are not important, but it means that you hold all possible property interests in that land and can use, sell, mortgage, bequeath, or otherwise deal with your property in any way that the law permits.

Reserves, in contrast, are held by the Crown on behalf of a band (or "First Nation" in current parlance). Plots of land are not privately owned. Instead, people must make do with other kinds of property interests that provide them with the right to merely occupy a dwelling. Depending upon the community, they may have "customary rights" that are unenforceable in Canadian courts; certificates of possession under the *Indian Act*, which are legally enforceable but whose transfer is restricted; or leases, which are more freely transferrable but limited in duration. These kinds of interests leave people poorer than they would be if they were able to own their own homes. True property owners can accumulate equity in the property, care for and improve it to enhance its value, utilize it as collateral to secure loans at attractive interest rates, and sell it to the highest bidder in the open market.

Bands may opt into the *First Nations Land Management Act*, originally passed by the Chrétien government in 1999, to develop their own land management code. But this statutory regime still does not provide title to the land itself, either to the band or to individuals. The system of landholding on reserves remains an anachronistic obstacle to the prosperity of Indigenous people who live on them.

Only local governance can solve local problems: Reliance on federal oversight of conditions on native reserves has led to habitual problems with substandard housing, boil water advisories and crumbling infrastructure.

10. There is no property in culture and no such thing as "cultural appropriation".

Learning about and using the ideas of others is an inherent part of being human. The idea that specific cultures or communities should be able to prevent others from adopting their customs, clothes, images, or stories is adolescent.

Of course, no one minds (nor should they) when Indigenous communities "appropriate" ideas, technologies, or customs from elsewhere. Like Aboriginal law itself, the idea of cultural appropriation depends upon categorizing people not as individuals who are merely human but as members of groups in distinction from one another.

11. Individual responsibility is a core tenet of the Canadian legal system. No one is responsible for things they did not do.

No court would hold you liable if your grandmother caused a traffic accident or your second cousin committed an assault. Even the concept of vicarious liability depends upon the element of control: employers may be vicariously liable for the actions of their employees only if they are acting within the course of their employment and thus subject to the direction of the employer.

Yet people take seriously the proposition that random people of particular races or cultures owe compensation or apology to people of other races or cultures for events or circumstances that may have occurred before any of them were born. According to the TRC report, "reconciliation can happen only when everyone accepts responsibility…" If people decline to take responsibility for things they did not do, is reconciliation impossible?

12. Aboriginal people, like all people, are individuals with differing views and conflicting interests.

As the late Christopher Hitchens wrote in *Letters to a Young Contrarian*, "I am always and at once on the defensive when people speak of races and nations as if they were personalities and had souls and destinies." Some Indigenous people are wealthy, some are poor, and some are in-between. Some favour pipelines and resource development and others oppose them. In some Indigenous communities, individuals lack democratic rights, as hereditary chiefs vie with elected leaders for power. There is as much conflict within and between Indigenous communities as there is between Indigenous and non-Indigenous.

13. The United Nations Declaration on the Rights of Indigenous People (UNDRIP) is a preposterous document that is being incorporated into Canadian law.

The UN General Assembly adopted UNDRIP in 2007. At the time, Canada sensibly voted "no", along with New Zealand, the United States and Australia. Eleven countries abstained. In 2016,

The United Nations Declaration on the Rights of Indigenous Peoples threatens widespread chaos throughout the Canadian legal system if adopted at the federal level.

Canada reversed its objection. As a General Assembly declaration, UNDRIP is not formally binding in international law nor directly enforceable in domestic courts.

Such international documents can, however, be relied upon by domestic courts as evidence of international legal norms. Moreover, in accordance with a recommendation in the TRC report, the legislature of British Columbia in November 2019 passed Bill 41, the *Declaration of the Rights of Indigenous Peoples Act.* It requires the B.C. government to "take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration." The federal government has promised to do likewise.

UNDRIP essentially provides that Indigenous people, amongst other things, own the land and resources, have the right to self-government and to their own distinct political, legal, economic, social and cultural institutions and educational systems, and that the federal government shall pay for all of it. The declaration provides in part:

> "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired…to redress…restitution…compensation…to have access to financial and technical assistance…to autonomy or self-government…as well as ways and means for financing their autonomous functions…to establish and control their educational systems…States shall take effective measures [to provide for all of the above]."

Among many other things, UNDRIP stipulates that Indigenous peoples shall have a veto ("free, prior and informed consent") over resource projects that might affect any lands or territories that they "traditionally owned, occupied or otherwise used or acquired" and over legislation of any kind that might apply to them. If you thought pipelines, property rights and equal application of the law were in peril before, just wait for UNDRIP to take hold in Canadian law.

Conclusion

Speaking openly and critically about Aboriginal law and policy is now one of Canada's cultural taboos. This reticence does not help Indigenous people or lead to genuine "reconciliation". It is not emperors but governments, courts and chiefs who are wearing no clothes. For progress to be made, saying so cannot be forbidden.

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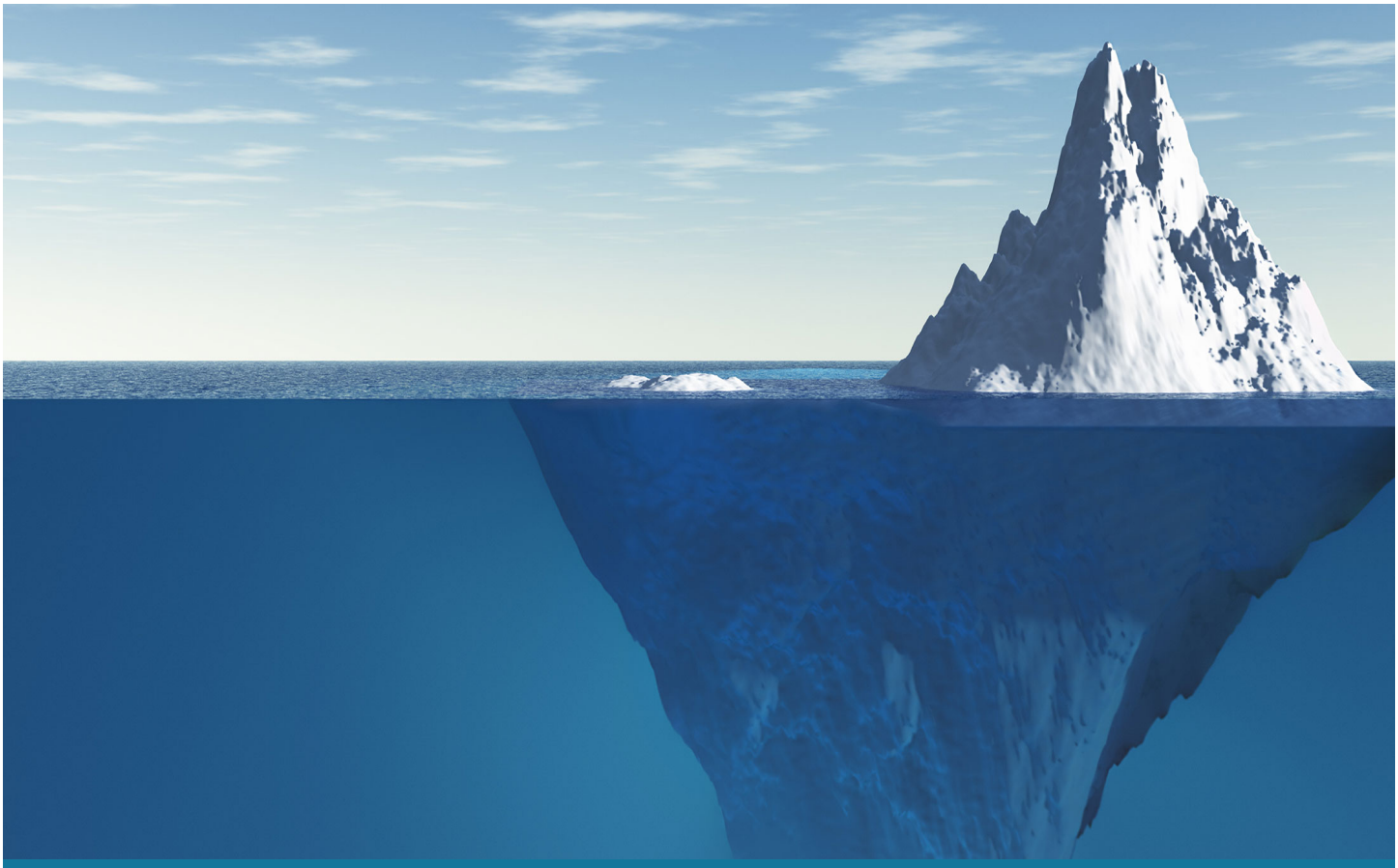


The WE Charity Scandal: One Of Many

By Grant A. Brown

The WE Charity scandal is being blown out of all proportion. That is not because it is a minor, forgettable indiscretion, as a flippant Prime Minister Justin (Mr. "Blind Spot") Trudeau would have you believe. No, the WE scandal is every bit as bad as the critics say – and worse.

A brief recap. On June 25, the Liberal government announced it had awarded WE Charity a sole-sourced contract to administer a $912 million program whereby students who "volunteered" for charitable work over the summer would be paid between $1,000 and $5,000. For running this Canada Student Service Grant (CSSG) program, WE Charity stood to scoop up a $19.5 million fee. Almost nothing in this initial announcement was accurate.

On July 22, the government admitted the CSSG contract was not with WE Charity at all, but with an (until then) inactive real estate holding company, WE Charity Foundation. Most people in English-speaking Canada know WE Charity as the creation of the Kielburger brothers, Craig and Marc, who have made a career out of saving children in Third World countries. Very few, though, had ever heard of WE Charity Foundation.

When questioned about the arrangement by the House of Commons Finance Committee, the Kielburger brothers sloughed it off as a routine mechanism to limit liability for WE Charity. Of course, they assured MPs, WE Charity would do all the work for the CSSG program; the contract was with WE Charity Foundation simply because it has no assets, so that if something were to go awry the Kielburger brothers would not lose their shirts. Such a tawdry corporate shell-game might strike the average voter as strange for a charitable endeavour run by a widely admired duo long draped in a mantle of moralistic self-righteousness.

It turns out there are still more branches to the WE conglomerate. Many more. The

Not the only game in town, on several levels: the Byzantine WE organization, led by Craig (l) and Marc Kielburger (r).

Kielburger brothers also control ME to WE (a private, for-profit enterprise), WE Education for Children Limited, ME to WE Asset Holdings Inc. (which controls nearly $50 million worth of real estate in Toronto), WE Villages, WE Schools, and the ME to WE Foundation. The functions of these intertwined entities are difficult to decipher, but transparency is apparently not one of them.

The Finance Committee also discovered that the contract with WE Charity Foundation was not to administer a program worth $912 million, but only $500 million. Also, the WE conglomerate was actually in line to receive $43 million in administration fees, not $19.5 million – a hefty 8.6 percent admin rate for a few months' work. But the biggest benefit might have been the opportunity to "hire" – at taxpayers' expense – thousands of young "volunteers" to do WE work at less than minimum wage. Quite a coup for an outfit that started as a campaign against the exploitation of child labour.

The Liberals would like you to believe the WE scandal is the only game in town, and that its only problem was that Trudeau and his then Finance Minister, Bill Morneau, forgot to recuse themselves from the Cabinet decision-making over the contract award. But their failure to recuse, as offensive and illegal as it manifestly was, is among the least offensive aspects of the WE scandal.

"Unregistered" Lobbying: Better than the Regular Kind

The three Parliamentary Committees investigating the issue before they were shut down by Trudeau's proroguing of Parliament have not yet uncovered the full details of how the CSSG program even came into being. What is apparent, though, is that it involved a great deal of unregistered lobbying by the WE conglomerate.

"Mr. Blind Spot": PM Justin Trudeau appears at a virtual House of Commons Finance Committee meeting in July 2020.

The Kielburgers claim they had approached the government in early April with a proposal to administer a "Social Entrepreneurs initiative" for the government, and that this proposal morphed into the CSSG program after some discussions with high-level public servants. But this narrative doesn't make sense and isn't consistent with the facts already known. To begin with, in August of last year the WE conglomerate had already been awarded $3 million to administer a Social Entrepreneurs initiative (which, going by the government press release itself, amounts to taxpayer-funded left-wing activism). Why would they be returning to Ottawa in April of this year for more money to do the same thing?

The original $3 million award raises questions of its own. What unregistered lobbying was done by WE's various arms to obtain *this* sole-sourced contract? (WE have no registered lobbyists, claiming how they approach government is either not lobbying or is too inconsequential to be captured by the *Lobbying Act*. Perhaps that is a legal question for the authorities to sort out; ordinary folks would likely regard it as sleazy schmoozing.) Was there a conflict of interest in its having been awarded just before an election was called, arising from the fact that Craig Kielburger had been appointed by the Liberals to the Debates Commission, which would determine the rules around the official election debates? Does the ongoing cozy relationship between WE and Morneau not demolish Morneau's claim he was not a friend of the organization or its founders? These questions still await official investigation.

Moreover, the Kielburgers' schmoozing was not limited to members of the public service. There were also many communications with members of the Prime Minister's Office (PMO), with Morneau and his staff, with Bardish Chaggar, the Minister for Youth who would ultimately be responsible for the CSSG program – and initially with Mary Ng, Minister for Small Business. These contacts would have been known to the public servants who were trying to please their political masters. It simply cannot be

maintained with a straight face that the program was drafted and recommended to Cabinet by a disinterested public service working independently, purely in the national interest, free of any undue influence.

As with so many political scandals, the cover-up ends up being worse than the initial infraction(s). To put it mildly, most witnesses at the investigating committees were parsimonious with the truth, more interested in talking around the questions and spinning a narrative than giving forthright answers. Trudeau claimed, without a shred of support, that he "pushed back" against the CSSG proposal when it came to his attention "for the first time" on May 8. We now know that the PMO was aware of the program from its early stages and that nothing was done to address the conflicts of interest in the subsequent two weeks before it was approved by Cabinet.

Trudeau's concern, as so often, was with Quebec: WE has no presence in French-speaking Canada, so a patch-around had to be found to service that part of the country before WE could be approved. This also gives the lie to Trudeau's claim that the public service presented Cabinet with an all-or-nothing proposition, because WE was the only organization in Canada capable of operating this program, so it was WE or nothing.

In fact, WE *could not* run the program nationally; it had to sub-contract a Quebec PR firm for the program's French-speaking component. As a recent Postmedia editorial noted, "A May 4 memo stated the Treasury Board Secretariat was concerned the Ministry of Employment and Social Development 'has not provided evidence to suggest that WE Charities possesses the capacity to undertake the work, especially under accelerated time lines.'" And WE was not the only available candidate, because the public service itself could have delivered the program bilingually, in-house. That is, after all, what Canada's vast and amply compensated bureaucracy is paid to do: administer programs.

More recently, we learned that the federal Procurement Ombudsman has opened investigations into six other sole-sourced contracts given by the Trudeau government to the WE conglomerate.

It is nearly impossible to track down every thread of the quickly metastasizing WE scandal, as fascinating as this might be for students of mismanagement and corruption in government. No, it is not a trivial affair. The reason I still say the WE scandal is being blown out of proportion is that it is no bigger, and no worse, than several other Liberal scandals that are receiving much less attention. Following are several examples. They are largely bare-bones outlines, for each of them deserves thorough investigation of its own. Liberal malfeasance is, sadly, a target-rich environment and this is not an exclusive list.

Meanwhile, in an unrelated bonus scandal, the Liberals paid $237 million for 10,000 pandemic ventilators from another Quebec company, this one owned by former Liberal MP Frank Baylis. The contract was signed a day before these particular ventilators were approved by Health Canada.

AMD Medicom

AMD Medicom is a Quebec firm that, as the name implies, supplies medical equipment. Amidst the pandemic in April it was handed a 10-year, sole-sourced contract worth $382 million to deliver "made-in-Canada" N-95 masks for health-care providers. This is the only 10-year contract of its kind ever awarded by the government. As luck would have it, AMD

It's all about the Quebeckers: ADM Medicom nabbed a 10-year sole-sourced contract, then hired corruption-plagued SNC-Lavalin.

Medicom closed its last Canadian factory in 2019, and would have to manufacture the masks at its plants in China, Taiwan, France, or the United States. Not only does this seem like a poor choice in an era when countries worldwide are attempting to repatriate critical supply chains, but some of these very countries have banned exports of personal protective equipment such as masks.

Not to worry, though: AMD Medicom quickly secured a $4 million loan from the Quebec government to build a new PPE factory in Montreal. To add insult to injury, the company hired SNC-Lavalin to undertake this construction project. That would be the same SNC-Lavalin we were assured would die a painful death if it was not granted a remediation agreement for the bribery and corruption charges it was facing. It transpires that, despite pleading guilty to these criminal charges early last year, SNC-Lavalin has received no fewer

than 142 government contracts since January 2019. Trudeau knew all along that SNC-Lavalin's 9,000 jobs in Quebec were never in jeopardy due to a criminal conviction; he was personally making sure of that. Yet he kept insisting to Canadians that this was his motivation for pressuring the Attorney-General on the remediation agreement.

Oh, and by the way, don't worry about the welfare of Gerald Butts, Trudeau's former Principal Secretary. Since resigning over his role in the SNC-Lavalin scandal, he's been well looked-after, with his new employer receiving $200,000 in sole-sourced government contracts to bad-mouth Canadian oil.

Meanwhile, in an unrelated bonus scandal, the Liberals paid $237 million for 10,000 pandemic ventilators from another Quebec company, this one owned by former Liberal MP Frank Baylis. The contract was signed on June 15, a day before these particular ventilators were approved by Health Canada. The equipment is supposed to be delivered by October 21, nearly half-a-year after a huge new supply of ventilators was thought to be needed. In any event, Canada never came close to running short of ventilators; today, the purported "need" is laughable.

MCAP

MCAP is a mortgage finance firm in a limited liability partnership with the beloved *Caisse de dépôt et placements du Québéc.* In January, the company hired Rob Silver as a vice-president. Silver is the husband of Katie Telford, Chief of Staff of the PMO. In April, Silver conducted a campaign of unregistered lobbying with his Liberal friends to change the rules of the Canada Emergency Wage Subsidy program to include MCAP. It did not qualify because it is majority-owned by a public pension fund and the program is aimed at saving private-sector jobs. It has been reported that Silver went so far as to suggest specific legislative language.

While Silver failed in this effort, MCAP was nevertheless rewarded with a contract

Rob Silver lobbied his friends in government.

to administer the Canada Emergency Commercial Rent Assistance (CECRA) program for small businesses. The arrangement was whitewashed through another zany Liberal patch-around. The government handed the CECRA to the Canada Mortgage and Housing Corporation (CMHC) to administer, but since CMHC had no experience with running programs for commercial or rental properties, it in turn subcontracted the job to another company with no experience with commercial or rental properties – MCAP, after meeting with Silver.

Out-of-Control Infrastructure Costs

You might be sensing a pattern. But I haven't even gotten to the mother of all Liberal boondoggles, the $187 billion spent by Infrastructure Minister Catherine McKenna. She has apparently pushed funding for 55,000 "projects" out the door

Always on duty: Catherine McKenna has spent $187 billion on 55,000 projects, 40 percent of them undocumented.

Justice John Gomery led the public inquiry into Sponsorgate in the 2000s. What might he find today?

since being sworn in last November, albeit can only document about 33,000 of them. The Parliamentary Budget Officer, Yves Giroux, says he cannot find any records of around 20,000 projects purportedly begun under McKenna's tenure. Can one doubt that, hidden among these 55,000 infrastructure projects, and especially among the 20,000 undocumented projects, there are hundreds if not thousands more clones of WE, Medicom or MCAP?

The Liberal Party of Canada's motto should be: "Helping the Laurentian elites, and those lobbying hard to join them!" Even if there is no actual criminality in the awarding of these wasteful government contracts to friends of the Liberal Party – and make no mistake, politicians of all stripes shave a vested interest in keeping the criminal law out of political decision-making – it is still a grotesque banquet of Liberals feathering their own nest by feathering the nests of supporters. It is Liberals buying support and votes by playing favourites with taxpayers' money. McKenna's irregular infrastructure spending has perhaps led to a closer look being taken at the contracts she authorized while Minister of the Environment.

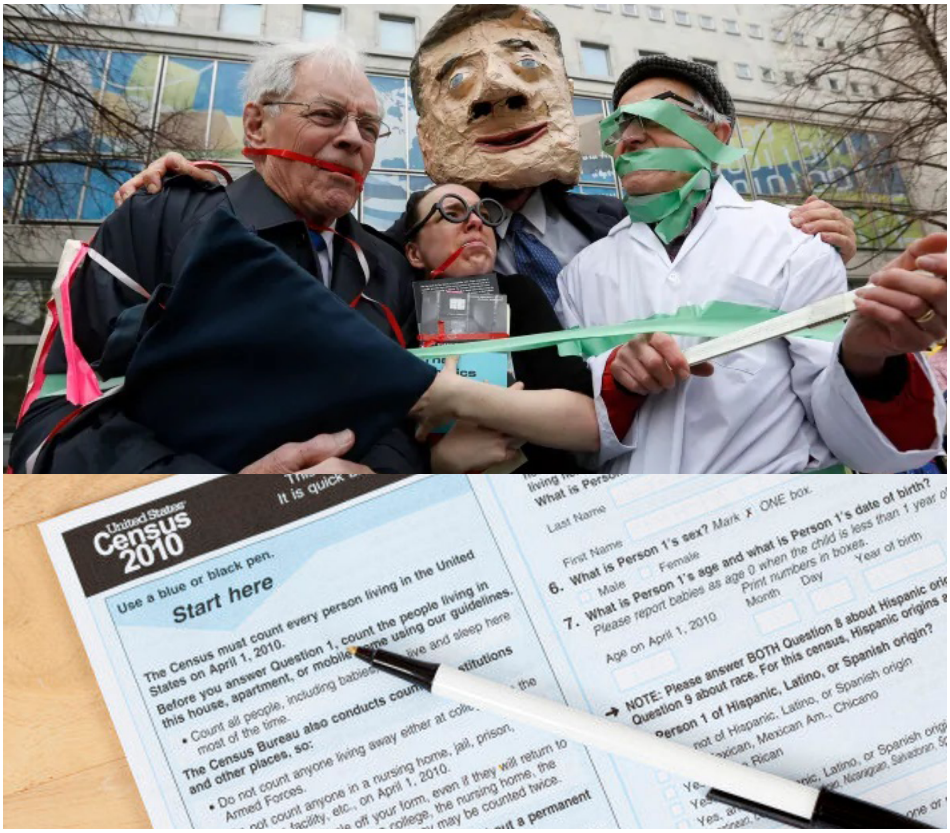
If McKenna's empire is as well-run and ethical as the rest of the Liberal government, it could make the Sponsorship Scandal (aka Adscam or Sponsorgate) of the early 2000s look like child's play. Conservative leader Erin O'Toole should promise to pull Justice John Gomery out of retirement to conduct another public inquiry into Liberal self-dealing.

A quick reminder of Sponsorgate, from Wikipedia: "Illicit and even illegal activities within the administration of the program were revealed, involving misuse and misdirection of public funds intended for government advertising in Quebec. Such misdirections included sponsorship money awarded to Liberal Party-linked ad firms in return for little or no work, in which firms maintained Liberal organizers or fundraisers on their payrolls or donated back part of the money to the Liberal Party." Let's also remind ourselves that "the money" refers to taxpayers' dollars being funnelled from the federal Treasury to unworthy firms and, from there, to Liberal operators to help elect or re-elect Liberal politicians. All on a vast scale. And, as hard as it is to prove criminal corruption, it was so bad that criminal charges were laid and a few people actually went to prison.

As an aside, let's also not overlook Trudeau's ongoing venal if not plain goofy decisions with respect to China. In March, he rushed to sign an agreement with CanSino Biologics, a company with ties to the Chinese military, and handed over a pile of cash to develop a vaccine against the Wuhan flu. Now, even as shipments to Russia proceed, China's Communist dictatorship is holding up shipments of the trial vaccines to Canada for "customs" reasons (perhaps as part of its power play to secure the release of Huawei executive Meng Wanzhou, currently under luxury house arrest in Vancouver, or perhaps because the vaccine is useless)

A Self-Serving Distraction

The danger for concerned Canadian voters and taxpayers is that the WE Charity issue is sucking all of the oxygen out of the room, diverting attention from the numerous other instances of Liberal misrule. By getting wrapped up in the details of this one, we may also be distracted from learning some broader lessons in public administration. One is that Canada has its own "Deep State" –



Nested bureaucrats, including federal scientists and Statistics Canada's census chief, heavily criticized Stephen Harper's conservative policies. (Above: Protesters demonstrate against Harper's "muzzling" in 2013.)

a partisan permanent bureaucracy that obediently carries out the Liberal agenda, whether or not the party is actually in power, while opposing Conservative and conservative initiatives and ideas.

When, during his time as Prime Minister, Stephen Harper told government scientists they would need approval for any planned public statements, there was an uproar over freedom of speech and the independence of the federal agencies they worked for. (The clumsy move was taken out of concern that some of these "scientists" were political hacks out to sabotage the government's agenda regardless of actual scientific findings.) When Harper cancelled the mandatory long-form census because so many ordinary citizens considered the questions immoral, agenda-driven or invasive of their privacy, the head of Statistics Canada resigned in a snit and made highly critical, public statements in response.

Yet when Liberals ask the permanent bureaucracy to participate in obviously improper behaviour, they leap to the challenge with gusto – and then help to cover it up. The Wernick siblings can be taken as exemplars of this problem. Michael misrepresented what was going on behind the scenes to get the Attorney-General to interfere with the work of the independent public prosecutor's service, then fell on his sword when his narrative proved false. Rachel is now doing her best not to contradict the Trudeau narrative that the CSSG really was developed by the public service and presented to Cabinet with minimal direction from her political masters.

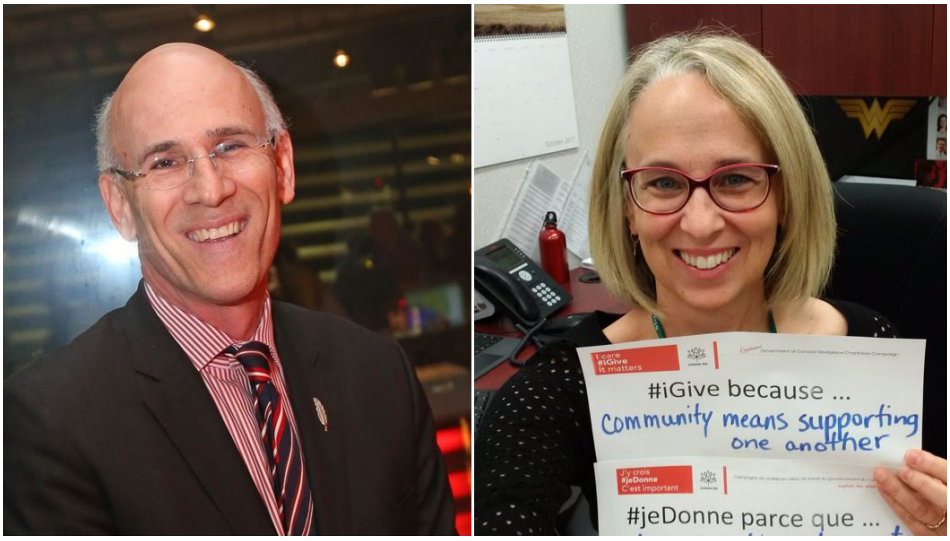
Understandably suspicious Opposition MPs accordingly demanded the production of documents outlining the steps taken in the creation of the CSSG program, and WE's involvement. Any redactions were to be made by the Office of the Law Clerk exclusively on the basis of protecting national security and Cabinet confidences. They set a deadline of August 8. Government departments waited until August 18, the day Trudeau prorogued Parliament – shutting down the Parliamentary committees investigating the scandal. The 5,000 pages were heavily pre-redacted, prompting the Parliamentary law clerk, Philippe Dufresne, to write a letter of protest to the relevant department heads. Canada's public service apparently thinks it is their right to override the directions of Parliament to assist a Liberal government.

If a Conservative government ever tried to pull off even a tiny fraction of what the Liberals have been involved in over the past year or two, there would be endless leaks of damaging information coming from "deep state" bureaucrats. They would not have their Conservative political masters' backs.

If a Conservative government ever tried to pull off even a tiny fraction of what the Liberals have been involved in over the past year or two, there would be endless leaks of damaging information coming from "deep state" bureaucrats. They would not have their Conservative political masters' backs (as a disinterested civil service should not – but for any party in power). And that is to say nothing of the chronic, deep-seated bias in the mainstream news media.

Let us also keep in mind the difference in sheer scale. Harper's government was almost undone by, and might well have largely lost the 2015 election over, the media-sustained scandal over the misspending of Senator Mike Duffy. The malfeasance involved a few hundred thousand dollars – i.e., one-one-thousandth that of the larger Liberal scandals – and the greatest wrongdoing uncovered was of a PMO official *who tried to help pay the money back*. Yet no effort is spared to present Conservative "corruption" as morally equivalent to the Liberal variety.

The Conservative Party has to wake up to who their enemies are, and figure out how they are going to defeat or reign them in. Passing conflict-of-interest legislation with maximum $500 fines isn't going to deter anyone with a Liberal bent for "doing well by doing good." It is



The Wernick siblings, Michael and Rachel, have shown where their allegiance lies.

insulting to Canadians who know what the consequences would be if they conducted themselves half as badly in the private sector.

Canada needs a comprehensive ethics-in-government overhaul with teeth and real consequences for misbehaviour. The public service needs to be reminded that its job is to administer the agenda of the democratically elected government, in a professional and non-partisan way, regardless of who is in power, and to

Let the "WE" scandal-fest go on.

refuse to collude in illegal or unethical behaviour. The permanent bureaucracy should not have its own political agenda. The message must be: if you cannot be scrupulously non-partisan, then public employment is not for you.

Five years ago I didn't think it would be possible, but the Liberals under Trudeau have turned out to be worse than the Liberals under Jean Chrétien. The shameless corruption and contempt involved in the Covid-spending scandals are more numerous, larger and worse than the Sponsorship Scandal. Much worse. This is why the Liberals are happy that the media's attention is so focused on the WE scandal. We (but certainly not the ethically challenged WE) must use this opportunity to make permanent changes to the rules of government so that these recurring nightmares cease.

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Go Deeper

Watch original videos about this issue's stories:

WATCH: 13 Things That Can't Be Said About Aboriginal Law And Policy In Canada

WATCH: The WE Charity Scandal: One of Many

Escaping The Echo Chamber

By Andrew David Irvine

David Saxon may not be a household name, but among academics of the post-Second World War generation, Saxon was something of a hero. He joined the Department of Physics at the University of California Los Angeles (UCLA) in 1947 as an assistant professor. Three years later, he was one of 31 professors fired for refusing to sign California's anti-communist loyalty oath, a "sign or resign" requirement imposed on all university employees beginning in 1949.

Like other older and more distinguished professors, including psychologist Edward Tolman and historian E.H. Kantorowicz, Saxon believed the oath was inconsistent with a university's main mission. Universities were meant to be places where people could follow the evidence wherever it might lead, not places of enforced academic and political conformity. They were meant to be places that valued independent thought and intellectual autonomy, not places whose doors were open only to those having the right political views.

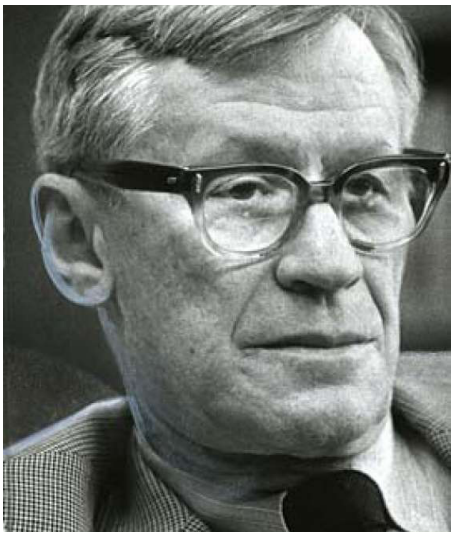
Advocates tried to make the case that the oath was necessary for maintaining high academic standards. At the height of the Red Scare and McCarthyism, loyalty to the Communist Party was believed to be in conflict with a professor's most important responsibility: the free pursuit of objective truth. Paradoxically, scholars were to be free to pursue objective truth only so long as they were not free to hold beliefs of their own choosing.

Ultimately, proponents of the oath were unsuccessful. Three years after the oath was introduced, it was struck down by the Supreme Court of California. The enabling legislation was declared unconstitutional in a 6-1 decision 15 years later, in 1967. Someone's political convictions and affiliations were judged not relevant for determining whether that person was a good mathematician or historian or physicist.

Saxon didn't hold a grudge. After being rehired by UCLA, he eventually became chairman of the Physics Department and later dean of the Faculty of Physical Sciences. In 1975, he was appointed the 14th president of the University of California system, which includes UCLA as one of its constituent campuses. As Richard Atkinson, another University of California president emeritus has written, Saxon's lifelong professional accomplishments "reflected a powerful intellect and a passionate commitment to science and the life of the mind." Just as importantly, his honesty, integrity and thoughtful approach to understanding universities made him, not just a talented administrator and a much-valued colleague, but someone who "represented, quite simply, the best that academic life has to offer."

Among academics of a certain age, Saxon's story has long been, not just a testament to personal courage but a reminder of the importance academic freedom plays in any modern university. When a university adopts a political position of any kind, this makes it harder for students to hear alternative points of view. It makes it harder for faculty to follow the evidence wherever it might lead and harder to distinguish centres of higher learning from mere programs of indoctrination. Once a precedent is set, it also opens the door for universities to take the opposite position whenever the political or cultural winds might happen to shift.

With Saxon's death in 2005 and the passing of the academic generation of which he was a part, these lessons are on the verge of being lost. Today, fewer and fewer universities care about academic



A hero for the ages: UCLA physicist David Saxon refused to sign an anti-communist loyalty oath on academic freedom grounds, and was fired in 1950. He later returned to serve as president of the entire University of California system.

freedom as they once did. Statements of political principle, hiring policies, promotion practices and oversight mechanisms of various kinds have turned many university campuses into political echo chambers, reverberating to the sound of a single partisan note.

Today's dogma

In recent years, political and intellectual conformity within universities has become more and more entrenched. In response to the horrific killing of George Floyd in Minnesota earlier this year, statements of institutional political commitment have become common. At the University of British Columbia, where I teach, the Department of Anthropology announced in early June that it "stands in solidarity and hope with protesters in the United States, Canada and across the globe."

It turns out that this statement of political commitment is not something marginal to being an anthropologist at UBC: "As anthropologists, we are committed to taking part in dismantling persistent legacies of colonialism and white supremacy, within our discipline and in the world beyond it."

The same week, UBC's Department of Sociology made a similar announcement, stating not just that it stands "in solidarity with Indigenous, Black, Asian, and other racialized, migrant and minority communities that have been, and continue to be, subject to ethno-racial violence in various forms," but that "As sociologists, our task is to identify, condemn, and work towards eradicating racism through our teaching, scholarship, and advocacy."

The list of other academic and administrative units making similar statements of political commitment is a long one. It includes the Department of Art History, Visual Art and Theory, the Department of Asian Studies, the Department of Geography, the Department of Philosophy, the Institute for Critical Indigenous Studies, the School of Information and the university's Faculty Association. The entire Faculty of Science has not only announced that it "stands in solidarity with the Black community," but also that it encouraged colleagues around the world to participate in #ShutDownSTEM, an international one-day strike intended to allow researchers, students and others working in Science, Technology, Engineering and Mathematics to participate in "direct action" to eliminate racism and bring about "profound and meaningful change."

> When a university adopts a political position of any kind, this makes it harder for students to hear alternative points of view. It makes it harder for faculty to follow the evidence wherever it might lead.

And just in case someone might be unsure about how to turn statements of political commitment into concrete political action, in mid-June the UBC Office of Equity and Inclusion issued an online resource entitled *Activating Solidarity: A Guide to Anti-Racism Work*, "designed not only to educate, but to inspire action regardless of where you currently are on the spectrum of allyship and building relations and spaces of solidarity." At the same time, UBC's Office of Regional and International Community Engagement posted its own list of political resources, encouraging members of the university community not only to browse the titles of these resources but "to fully engage with at least one per day."

All this, in a province whose *University Act* requires its tax-payer funded universities to be "non-sectarian and non-political in principle." Apparently, an obligation to be non-political in principle (and in law) need not bring with it any such obligation in practice.

Endless days of action: Amid numerous other departmental statements of solidarity against systemic racism, faculty, staff and students from UBC's Faculty of Science participated in the #ShutDownSTEM protest in June 2020.

UBC of course is not unique. At the University of Calgary, the dean of Arts wrote in June that "I know that I speak for the whole Faculty of Arts when I say that we condemn anti-Black racism, and racism and prejudice in all forms." At the same university, the dean of the Werklund School of Education wrote that, henceforth, she will ensure that her instructors will "embed the values of equity, diversity and inclusion" and that she and her colleagues will "act as allies to support and advocate for those who may have less voice and agency."

At the University of Toronto, the president, the vice-president of human resources &

equity, the Faculty of Medicine's Office of Inclusion and Diversity and the John H. Daniels Faculty of Architecture, Landscape and Design have all similarly crossed the line from discussing educational issues to demanding various types of political action.

In 2020, it appears that the challenge is to find a Canadian university that has not compromised its academic freedom by abandoning its political neutrality. Perhaps it is not surprising that, just as there have been calls to defund the police, the first calls to defund the universities are now beginning to be heard in both Canada and the United States.

Of course, there is nothing wrong – and a lot right – with individual members of a university investigating issues of public concern and then making public their views and findings. This is what scholars and researchers are paid to do. University administrators are also right to make it a priority to identify and eliminate systemic racism and other shortcomings within their institutions. This, too, is part of their job.

What is not helpful is when university students, instructors and administrators co-opt public institutions into becoming partisans in the broader political, religious, social and scientific disputes of their day. No less than California's anti-communist loyalty oath, today's institutional statements of political affiliation effectively bring with them a diminishment of academic freedom for both students and faculty alike. For those of us who want to support a political cause, no matter how noble, we make a mistake whenever we think universities are just political parties waiting to be activated.

Let all voices be heard: Social and political views of all stripes should be respected at universities, even if they lead to disagreements.

One might want to argue that even if an institution adopts a political point of view, this need not mean that its members will be required to share this same commitment. In practice, however, it is a small step from announcing a statement of institutional political commitment to forcing this commitment on an entire university community.

At McMaster University, for example, job advertisements now announce that the university is seeking to hire "qualified candidates who share our commitment to equity, diversity and inclusion." At the University of Manitoba, applicants for the position of dean in the Faculty of Education were required to show their political commitment to the Calls to Action arising from the *Truth and Reconciliation Commission of Canada*. No longer is it enough for job applicants to be good teachers, researchers, scholars and administrators. Just as in California in 1949, they now need to be committed to advocating a preferred set of political beliefs.

At UBC, internal documents given to search committees show that job candidates are expected, not merely to teach in an inclusive, non-discriminatory way but to have an interest in, or an ability to teach from, "a critical pedagogical stance." For the "unwoke" among us, teaching from a "critical pedagogical stance" is the latest terminology embraced by the progressive left to indicate that someone is committed to any of a variety of social movements that have emerged from the Marxist tradition originally known as the Frankfurt School. It is a tradition that often denies the very idea of objective knowledge and instead focuses on alleged

power imbalances and the promotion of politically active universities as the key to achieving social change, hardly the kind of requirement expected from a university that is required to be "non-political in principle."

Canada's scapegoats

Do today's universities really take action to try to enforce this type of political uniformity among their members? Recent examples show that they do.

In June, Professor Kathleen Lowrey was removed from her position as associate chair in the Department of Anthropology at the University of Alberta because one or more students reported they felt "unsafe" having her as an advisor. These feelings arose, not because of any action or threatened action on Lowrey's part, but simply because they found some of her scholarly views to be objectionable. Lowrey, it appears, holds the view that human beings as a species are sexually binary. She is thus skeptical of the idea that gender fluidity triumphs over human chromosomes. Regardless of whether Lowrey is right or wrong about such matters, it is unfortunate that the University of Alberta was unable to turn this into a "teachable moment," pointing out to its students that dealing with people with whom we disagree is a normal part of what is required of adults in an intellectually and culturally diverse society.

As the National Association of Scholars has also observed, "Removing Professor Lowrey from her position is a blow to academic freedom at the University of Alberta. ... The University of Alberta will not benefit either in reputation or in substance if it becomes known as a place that is hostile to intellectual freedom, and especially not if that hostility is based on the desire to avoid offending politically motivated actors."

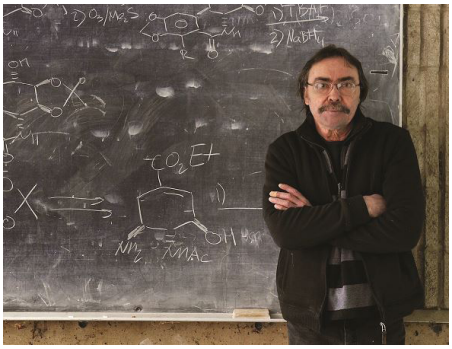
While Lowrey's teaching position was protected by tenure, Lowrey herself has noted that this is cold comfort. "The university has taken the position that if you're not specifically covered by academic freedom, you can be fired," she told the National Post. "I think that's terrifying, I think that's really horrible."

Professor Kathleen Lowrey was stripped of her administrative position at the University of Alberta because students complained about her scholarly view that biological sex is real.

At Brock University in St Catharines, Ontario, when Professor Tomáš Hudlický, one of that university's most prominent and accomplished chemists, dared to express his concerns about various hiring practices, Angewandte Chemie (the prestigious German chemistry journal in which he published his comments) withdrew his article. Because of his observation that equity, diversity and inclusion policies may sometimes "have influenced hiring practices to the point where a candidate's inclusion in one of the preferred social groups may override his or her qualifications," his university publicly reprimanded him for advancing views that might be "alarming to students and others."

As the Canadian Association of University Teachers (CAUT) has observed, Professor Hudlický's published comments discussed "what he considers to be the major drivers of change in the profession over the past 30 years. In his opinion, these include new scientific technologies, the emergence of on-line journals, the corporatization of universities, the diversity of the workforce, and the training and mentoring of new professionals." In CAUT's opinion, the university's statements reprimanding Hudlický, were "a clear violation" of the university's obligation to uphold academic freedom. "By publicly attacking Professor Hudlický, without even the courtesy of consulting with him beforehand, the University administration has failed to respect and defend his academic freedom. This threatens to have a chilling effect across the institution." As Hudlický has concluded, "The witch hunt is on."

At Queen's University in Kingston, Ontario, in February, the university's head coach in cross-country and distance track, Steve Boyd, was dismissed for engaging "in public commentaries that do not reflect the values expected by representatives of Queen's University." The issue turned out to involve social media comments Boyd made with regard to a sexual harassment scandal involving the University of Guelph's former track coach, Dave Scott-Thomas. To the outside observer, Mr Boyd's



'The witch hunt is on': Brock University chemist Tomáš Hudlický was publicly scolded by his own school for speaking out critically on preferential hiring practices.

exchanges on social media appear to have been models of passionate but respectful discussions on socially significant issues. As the Society for Academic Freedom and Scholarship has observed, "The topics Mr Boyd addressed in his remarks, including whether athletes who recruit friends into programs might be complicit in abuse, are serious topics that demand to be discussed candidly and openly." Still, merely discussing such controversial matters was enough to have the two-time Ontario University Athletics Coach of the Year and member of the Queen's Track & Field Hall of Fame fired.

What we lose by enforcing conformity

In all of these cases and others, many of our institutions of higher learning appear no longer to tolerate independent thought and intellectual autonomy. They no longer take it to be part of their mission to encourage students to hear from diverse political voices so they can make up their own minds about controversial issues. They no longer take it to be part of their mandate to teach students how to disagree without being disagreeable. In many colleges and universities, academic freedom is now under serious threat. In others, it effectively has been lost.

What do defenders of the politically partisan university say about this loss? Some are not troubled by reductions in academic freedom at all. Others regret the loss but see it as only temporary, in much the same way that authoritarian governments promise that restrictions on civil liberties during times of crisis will be only momentary.

Yet others argue that permanent reductions in academic freedom are essential for creating, not only a more just society but a better, more inclusive university. Just as defenders of California's anti-communist loyalty oath believed that the free pursuit of objective truth could only be achieved by ensuring members of the university were not free to hold beliefs of their own choosing, many university administrators now favour permanent

The danger of dogma: Soviet-era biology autocrat Trofim Lysenko's (top) crackpot theories led to famines that killed millions, while scientists who opposed his ideas were sent to the Gulag (bottom).

reductions in academic freedom to ensure that their own preferred political views can be voiced without ever encountering opposition.

The cost of this lack of intellectual opposition can be enormous. Unless students hear from a wide variety of voices, they leave the university knowing very little about the actual world around them. Unless our future scientists, historians and politicians are required to learn about competing views and theories, it is inevitable they will get important things wrong.

The mid-twentieth-century agricultural theories of Trofim Lysenko are a sobering case in point. During the Soviet era, Lysenko ruled as an autocrat over biological research. Among his many crackpot ideas, Lysenko claimed that plants of the same species did not compete with one another, but instead provided each other with mutual support. He also held that plants acquired new characteristics because of their surroundings. Incredibly, he even claimed that wheat could be turned into rye, depending on where it was planted.

All this fit neatly with Communist doctrine and was wholeheartedly enforced by Stalin. Scientists who offered contradictory evidence or competing theories were often secretly arrested and disappeared into the Gulag. Partly as a result of Lysenko's unscientific claims, both Russia and China suffered terrible famines with death tolls running in the millions. Dogma can have tragic consequences.

By hindering the normal process of public conjecture and refutation, political ideology has the potential to impede scientific progress. In John Milton's famous phrase, knowledge advances only when

truth and falsehood grapple. Any university that allows university officials to make decisions about what ideas may and may not be discussed fails to understand this important lesson.

Fortunately, other better models of the university are available.

What a university can be

Like David Saxon, Jonathan Jansen is not a household name. Even so, he is a giant in the academic world. After being refused admission to South Africa's University of Cape Town because of Apartheid, he graduated with a science degree from the University of the Western Cape. Later, he obtained graduate degrees from both Cornell University and Stanford University. Eventually he became, not just president of the South African Academy of Science but the first black rector and vice-chancellor of the University of the Free State. It was in this capacity that he helped oversee the racial integration of one of South Africa's most famous all-white, Afrikaans-language universities – something Oprah Winfrey called "nothing short of a miracle."

"A university is not a church or a political party": Renowned South African scholar Jonathan Jansen embraces a robust vision for universities that seeks out and celebrates intellectual diversity.

Today Jansen serves as a distinguished professor in the Faculty of Education at Stellenbosch University. Having played such a prominent role in beginning the healing of a post-apartheid South Africa, he is arguably now one of his country's most internationally respected educators.

Also like Saxon, Jansen didn't hold a grudge. When he returned to the University of Cape Town to receive an honorary degree in 2019, he made it clear that good universities require more than just racial inclusivity to succeed. They also need to be places where there is no official party line, where any topic is open to debate.

As Jansen told his audience, "A university, in essence, is a place where reason triumphs over rage. It is a place where our common humanity matters more than our racial nicknames. It is the only place where anybody and everybody can speak without the fear of being shut up. This is what makes a university different from a church or a political party or the Boy Scouts. Your membership does not depend on shared beliefs. There is no party whip to keep you in line. There is no secret oath that binds members to a common cause."

As Jansen also explains, in South Africa as in so many other countries, this idea of a university is now under threat. "When you burn down things at a university because you're angry, you undermine what a university is for. When you hide and conceal artworks you do not like, you threaten the idea of a university. When you tell white students and white colleagues that they cannot speak in the learning commons, you make a mockery of what a university stands for. … The idea of a university was never simply to hand students a degree after three to five years or for academics to notch up 'research outputs' as if this were a canning factory. No, the idea of a university was also to produce leaders who stand for something and who are prepared to stand alone."

This bold, inclusive vision of the university requires that we always be able to hear from competing voices, that we always try to seek out and learn from alternative points of view. In helping to advance this vision, Jansen is in good company – not just with Saxon, but with other intellectual giants including the scientist Charles Darwin and the philosopher John Stuart Mill.

As Darwin writes in the introduction to *On the Origin of Species*, the task of advancing knowledge "can be obtained only by fully stating and balancing the facts and arguments on both sides of each question." As Mill writes in *On Liberty*, "He who knows only his own side of the case knows little of that."

The question we face thus becomes clear: Will we stand with Jansen and Saxon, Milton, Darwin and Mill? Will we stand with those who encourage us to investigate issues of our own choosing and then, after hearing from all sides, do our best to proportion belief to the available evidence?

Or will we stand with those who prefer that universities hire only those who promise to embrace and promote the political views of their employers? Will we side with those who favour reductions in academic freedom, so their own preferred political, scientific or religious views can be voiced without ever encountering opposition?

The future of our universities and our society depends in large part on how we choose to answer these questions.

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IDEAS THAT LEAD

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