Policy Transformation in Canada

Potter, Andrew, Loewen, Peter John, Borwein, Sophie, Tuohy, Carolyn, Hughes

Published by University of Toronto Press

Potter, Andrew, et al.
Policy Transformation in Canada: Is the Past Prologue?
University of Toronto Press, 2019.
Project MUSE. museum.jhu.edu/book/109090.
What is the future of policymaking in Canada? It is tempting to suggest, as the saying goes, that the future will resemble the past, but even more so. That is, we might suppose that the policy challenges of the next fifty years will be more or less the same as the ones of the last half-century, but weighed down by the accretions of decades of wrangling.

A glance at the table of contents of this volume reinforces that view. The core topics – including immigration and multiculturalism, federal-provincial relationships, and aboriginal governance – have been the meat and potatoes of Canadian governance for decades now, and the analyses offered here give every indication that the policy fights in these arenas are far from settled.

But if you scan the headlines or your social media feed, you will get a much different sense of the agenda. Dealing with the products of Silicon Valley alone will be enough to occupy policymakers for a generation – from the platforms (Facebook, Google, Uber, Amazon) to CRISP to drones to the privatization and commercialization of space to autonomous cars – and every week seems to bring a new technology or new development that threatens to overturn the foundations of the social and economic order.

But even if we set aside the incessant and more or less unpredictable technological evolution that colours every assumption about what the future will be like, the policy landscape of the next fifty years is looking, if not radically changed, at least tilted in a different direction from what we have faced in the past. It is starting to look as though the assumptions that have guided policymaking in the past, and the solutions we have developed to our biggest challenges, will be more hindrance than help in the future.
To illustrate this, we can look at four main areas in which Canada has devoted its policy energies over the last few decades. These include Canada-U.S. relations, the balance between the federal government and the provinces and territories, immigration, and resource development. In all four areas, major policy successes have, rather than serving as a model for future problem solving, only generated a new set of even more intractable problems.

1. The history of Canada is marked by a love-hate relationship with the United States, which has been characterized by two contending dynamics. On the one hand, the fear of domination by our neighbour to the south has fuelled successive nationalist movements, of which Confederation itself is the most notable example. But this has been countered by an equal and opposite fear of being cut off from the American market. And so, even as Canadians have fought for political and cultural independence from the United States, they have sued for economic reciprocity. The culmination of this, the Free Trade Agreement of 1989 and its continental successor, NAFTA, secured our access to the continental market. But it also locked Canada into a complacency trap, to the point where fully 75 per cent of all “exports” are to the United States. This has made us hugely dependent on the United States and – as we are rediscovering in the age of Donald Trump and new protectionism – hugely vulnerable to the periodic waves of American isolationism.

The North American Free Trade Agreement has provided both benefits and challenges. Through a sustained and structured trade relationship, we have experienced the benefits of rules-based, predictable trade. Indeed, through dozens of other trade agreements enacted or in process since NAFTA, governments of both Conservative and Liberal stripes have demonstrated an ability to export these rules-based arrangements and to expand commerce for Canadian firms, while reducing the price of goods and services for Canadians. A large part of this success is underwritten by our ability to present ourselves as an effective point of entry for an American market. These are all the upsides to first learning to trade with the United States and then exporting this model to other arrangements.

The downside is that NAFTA has worked so well – on purely economic measures, rather than on political criteria – that we have had little experience with renegotiation or conflict resolution. When we have been confronted with such conflicts, as in the challenges presented by President Trump, our response has often been to make appeals based on shared values and interests, rather than on the simple rules of the game. Often, we seek exceptions that are not available to other partners.
based on this comity. While this may work in the short term, it suggests to our other long term partners that we have not fully learned the lessons of rules-based trade. We are instead still willing to play to regional and cultural familiarity. This is ultimately an obstacle, and perhaps a major one, to diversifying trade and more fully integrating economically with Europe, Asia, and South America.

2. With respect to federal-provincial relations, Canadians are familiar with the standard story, which is that the country was designed to have a strong central government with the provinces eventually degenerating into mere municipalities (as Sir John A. Macdonald famously envisioned). But thanks to various structural features of the federation and a number of crucial rulings by the Judicial Committee of the Privy Council, the balance steadily shifted, with the provinces developing into mini-states held together in an increasingly confederal set of arrangements.

We’ve given this structure a number of names over the years, calling it “executive federalism” or “cooperative federalism” or “open federalism,” but it all basically means the same thing, namely, the provinces individually or severally extract power, money, or other political concessions out of Ottawa in exchange for relatively little. The result is a federal government that transfers a lot of money around the country, and plays a useful convening role in trying to focus attention on questions of national importance, but is actually unable or even afraid to wield direct power even in areas in which it has clear jurisdiction.

A lot has been achieved under this rubric, including the creation of the universal provision of health care, a thriving postsecondary sector, and impressive industrial development. But the downside is that we might have reached the point where the federal government is no longer able to exercise one of its key functions, which is to resolve collective action problems amongst the provinces and prevent the flourishing of beggar-thy-neighbour activities. Consider just two examples. First, there remain severe restrictions on the movement of both goods and labour across provincial boundaries. This is underwritten by protectionist professional associations and provinces jealous of excise revenues, among other things. But it is also aided by a federal government that has so balkanized the availability of government services, through substantial cross-country variation in employment insurance, and an ineffective and invidious equalization program, that it too has little genuine interest in substantial mobility amongst the citizenry. The movement of goods and services has further been hampered by a Supreme Court that largely fails to understand the value of commercial competition across provincial
boundaries. Second, the federal government appears unable to facilitate the construction of national energy infrastructure, short of effective nationalization. We say more on this below.

The upshot is that instead of an active federal government creating and enforcing national markets and a meaningful national citizenship, what Canadian federalism has increasingly been about is allowing ever-stronger provinces to flex their muscles in the face of an increasingly weak and ineffectual central government. This may have been a forced decision, given the existential threat of Quebec sovereignty and the real possibility of other secessionist movements emerging, but it has also not obviously made us wealthier or better governed. Most importantly, it has made concrete a mindset in which the federal government is not assumed to be able to take the domestic actions in the national interest that most other national governments take for granted.

3. If there has been one great Canadian policy success story in the last fifty years, it is our approach to immigration and multiculturalism. For all the 1980s stereotyping over Canada being a “mosaic” and the handwringing in the 1990s over so-called “hyphenated Canadians,” the truth is a lot more straightforward. As Will Kymlicka has taught us, multiculturalism is best understood not as an identity, but as a policy designed to offer immigrants fair and reasonable terms of integration into national institutions.

And in that, there can be no doubt that we have been enormously successful. We have brought in over 200,000 immigrants a year – more than 300,000 in recent years – for close to three decades. We now have the second-highest proportion of foreign born residents in the world, behind Australia. Despite this, support for immigration remains high, notwithstanding the waves of anti-immigrant sentiment that have swept over parts of Europe and the United States in recent years. We would wager that Canada can continue to largely resist this sentiment and continue a policy of well-managed immigration for decades to come, through a combination of luck (our border consists of three oceans and the United States of America) and good policymaking (we offer a relatively easy path to naturalization, and we have an immigration policy that brings in people from all over the world, as a result of which no one group dominates within the migrant population).

But there are still two policy problems at the core of this, neither of which can be ignored.

First, there is increasing evidence that new Canadians do not enjoy economic and social integration at the rate that previous generations of immigrants did. Canadians of longer standing – whether so called “old
stock” Canadians or those who immigrated in more recent generations – may view new immigrants as a drain on social services and a strain on the social fabric. Perceptions matter here as much as realities. The reaction to this is often a call for less immigration and social and economic isolation of those exact people thought to be stressing the system. These two related pressures can provide massive challenges for immigration policy, and related policies around social and economic integration.

Second, the last few years have seen a growing recognition that even as we have successfully integrated millions of newcomers into our national fabric, our Indigenous peoples remain strikingly marginalized. And indeed, from the Indigenous perspective the two phenomena are related: by bringing in successive waves of newcomers, Canadians have simply recruited millions of immigrants into their original settler ambitions. And thus we have arrived at the uncomfortable position where one of our greatest policy success stories, immigration, is in direct tension with one of our greatest failures, Indigenous reconciliation. This is not a necessary trade-off, of course, but it is a possible one, especially insofar as new Canadians see the question of Indigenous reconciliation as not their problem to help solve.

4. Finally, there is Canada’s success as a producer of energy. Canada is unquestionably well-endowed with energy-producing natural resources. The freshwater coverage of Quebec, Ontario, British Columbia, and Manitoba made hydroelectric power a reasonable target for long-term capital investment. The rich oil deposits of Alberta and, to a lesser but still substantial extent, Newfoundland and Labrador and Nova Scotia have enriched those provinces and indeed the whole federation. Potash extraction has, especially in recent years, enriched Saskatchewan. One part of the story here is that Canada has been lucky, in both the extent and the diversity of its natural resources. But the other part of the story is that all of these natural resources have required substantial technological and oftentimes political innovation to capitalize. Flooding huge swathes of northern Quebec was not an easy undertaking, just as tunnelling water upstream from Niagara Falls took notable engineering. Certainly, extracting oil from sand or deep offshore shelves requires some mix of entrepreneurial daring, state support, and technical acuity. So, Canada’s development of energy resources has also reflected a much more impressive industrial capacity than any trope about us being hewers of wood and drawers of water would suggest.

What Canada’s resource development has never shown, however, is any substantial evidence of a national project, or even sustained provincial
cooperation. When the federal government has been involved, it acted either as a backstop of last resort – as in both Hibernia or the more recent purchase of the Trans-Mountain pipeline – or as a market-distorting meddler, as in the case of the oil-pricing policies culminating in the National Energy Program. When provinces have worked together on energy projects, their cooperation has often involved heavily one-sided deals, as in Churchill Falls, with the federal government clearly playing favourites. What has never been on offer is convincing evidence that the federal government can play a role that leverages the substantial energy endowments of the country to service much more than provincial interests.

This lack of evidence is doubly damning when we consider another cost imposed by our energy endowments: we have been a notable laggard on environmental sustainability. Our efforts to curb climate emissions quickly come square up against our ambitions to be an energy superpower. These competing policy goals will only make policymaking more difficult in the future.

And so here we have one of the great paradoxes of Canadian policymaking. In four key areas – federalism, Canada-U.S. relations, immigration, and natural resources – our greatest and most lasting achievements of the last fifty years have possibly set the table for policy gridlock in the next fifty.

The ongoing battle over pipelines in Canada serves as a useful example of these contending phenomena in action. What began years ago as a relatively straightforward need to get Alberta bitumen to tidewater has gradually morphed into a microcosm of the policy challenges that Canada will face in the future, incorporating all four of the perverse outcomes mentioned above: the decentralization of the federation, the overwhelming focus on the U.S. market for exports, the neglect of Indigenous interests, and the conflict between economic development and environmental action.

Over the past decade, a number of pipeline projects have been proposed and approved, only to die off thanks to court decisions, political neglect, or excessive delays driven by either grassroots activism or regulatory hoop-jumping. For example, the Northern Gateway pipeline that was supposed to bring diluted bitumen to Kitimat was approved by the federal government in 2014 (albeit with 209 conditions), but was killed a year later by Prime Minister Justin Trudeau. The Keystone XL pipeline running south to Nebraska was similarly rejected in 2015 by then-U.S. president Barack Obama, with little protest from Canada. When TransCanada cancelled its Energy East pipeline in 2017, the fact that the
decision seemed to be based largely on economic grounds didn’t prevent a number of Quebec politicians from celebrating it as a political victory, with Montreal mayor Denis Coderre claiming a substantial share of the credit for killing the project. Like Stephen Harper before him, Justin Trudeau has vowed that a pipeline will get built. But like Harper, Trudeau is finding that just because a project is in the national interest, it doesn’t mean it will get done. If it is completed, it will likely be at massive cost to the federal treasury, with no private-sector risk sharing.

In an attempt to square their twin policy objectives of environmentalism with oil sands development, the Trudeau Liberals figured they could buy one with the other. In exchange for Alberta going along with a federal carbon tax, British Columbia would agree to the doubling of the TransMountain pipeline into Burnaby. Into this mix they added the concept of “social license,” or as Trudeau famously put it, “governments can grant permits but only communities can grant permission.”

Trudeau’s plan to succeed where Harper had failed probably seemed like an ingenious idea at the time. But the difficulties soon mounted, beginning with the obvious problem that the very notion of social license, while undefined, seemed to offer an extralegal veto over a project to any community that happens to be in a position to do so. Even if that were resolved, it has become clear that it deliberately injected into the regulatory process a political dimension that was outside the Prime Minister’s or federal government’s ability to control. And thus, the seemingly clever notion of social license has turned into an n-headed monster that has sunk its claws into every possible national fracture line: Quebec versus the constitution, environmentalists versus the oil sands, Indigenous rights versus the federal government.

As Paul Wells has asked, is Canada’s future a place where big things get built? Increasingly, it appears that the lessons we have learned from our past policy successes are exactly the ones that will prevent major policy transformation in the future. That’s the bad news. The good news is that previous generations of Canadians have managed substantial policy transformation at critical points in the country’s history. New generations can accomplish the next policy transformation, if they can recognize the need to both unlearn and learn the lessons of the past, and if they have the wisdom to know the difference.