

LANDSCAPE, ART AND ARCHITECTURE: CORNELIA HAHN OBERLANDER AT THE NATIONAL GALLERY OF CANADA

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September 15, 2021

Gallery [Magazine](#)

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Renowned Canadian landscape architect Cornelia Hahn Oberlander (1921–2021), who passed away in May this year, designed a number of unique spaces for the National Gallery of Canada, collaborating with architect Moshe Safdie during construction of the current building from 1983 to 1988. Her trees and shrubs have matured over the past 33 years, transforming the grounds in line with her vision.

A love of nature, her cultural background and her education shaped Oberlander’s practice. A refugee from Germany, she studied landscape architecture at the Harvard Graduate School of Design, one of its first women graduates. Her professors included Walter Gropius, founder of the Bauhaus School, who promoted a modernist vision of architecture and design to improve society. Oberlander has stated that Gropius’ rigorous theoretical concept of *Werklehre* (“Instruction in materials and crafting skills”) became a foundation for her career. Oberlander graduated in 1947 and moved to Vancouver in 1953.

Her connection with the new NGC building project began in 1983. In a 2008 interview with Charles A. Birnbaum of the Cultural Landscape Foundation, Oberlander recalled an unexpected call inviting her to meet Safdie, while she was in Ottawa on National Capital Commission business. The two discussed the architect’s ideas for a northern-themed garden. After providing notes and sketches the next day, Oberlander said, “I had the job.”

Oberlander's inspiration for the Taiga Garden came from the site itself, Safdie's architecture and the purpose of the new building. She knew that Group of Seven landscapes would feature prominently inside the Gallery and chose as a reference A.Y. Jackson's *Terre Sauvage* (1913), an early and influential painting of a rocky landscape with Black Spruce. Working with landscape architect and scholar Friedrich Oehmichen of the Université de Montréal, Oberlander selected species that would encourage up-close observation.

It took her five attempts to convince sceptical officials that species such as Dwarf Mugho Pine, Siberian Cypress, Arctic Bluegrass and Cotton Grass would thrive on the local limestone outcrops. Sumacs, known for their crimson autumn leaves, would echo the red splashes depicted in *Terre Sauvage*. A Japanese expert later advised on how to prune the pines to enable them to grow into the desired forms and proportions. A panel at the entrance to the Taiga Garden helps visitors identify various plants and trees.

Oberlander biographer Susan Herrington has observed that the Taiga Garden constituted a radical form of landscape art at that time, especially for a capital city where parks inclined towards formal lawns and flower beds. The shapes and colours of the Taiga Garden complement Safdie's glass facade without masking or competing with it, and preserve outward views towards Major's Hill Park and Parliament Hill. The garden, however, also received the occasional conceptual criticism. Author and Gallery historian Douglas Ord has criticized the "oversized, derivative" Taiga Garden, reflecting his objections to mythologizing the Group of Seven in a nation-building discourse. Architecture critic and author Lisa Rochon, despite being an admirer of Oberlander, finds her use of nature as allegory "overworked" in this particular project.

Oberlander remained attached to her Gallery creations and lobbied for their ongoing care as the vegetation matured. During the question period of her 2014 public lecture at the Gallery, Oberlander was asked by a staff gardener for help with the garden. She immediately adjourned the session to the outdoors, with the staff gardener and the audience. According to

Herrington, “We learned a lot!” The following year, in an interview at the John H. Daniels Faculty of Architecture, Landscape and Design at the University of Toronto, Oberlander expressed satisfaction with the mature garden, noting that it “... looks good now, because I have a very good crew taking care of it.”

Reflecting upon the importance of Oberlander within the context of the Gallery, Director Sasha Suda comments, “To be in the presence of Cornelia Oberlander was to know someone who believed in nature and how it affects the way we experience art, whether we are outside a magnificent building or inside an intimate courtyard. She believed in sustainability and the power of landscape architecture to evoke some of the greatest works of art in our collection.”

Adjacent to the walkway on the east side of the Gallery, Oberlander created the Minimalist Courtyard, an enclosed orchard garden, with stairs, ramps and openings evoking the sculptural volumes of Donald Judd and Carl Andre, two American artists collected by the Gallery and associated with Minimalism. Inside the courtyard, staggered rows of crab apple trees display the seriality characteristic of many Minimalist works. The spectacular magenta blossoms on the mature trees in spring, and the bright orange fall foliage on both trees and vines in fall, illustrate Oberlander’s strategic use of colour, a form of knowledge that Judd had explored. Recently, Oberlander gave her support for the installation of a temporary “Tavern at the Gallery” in the Minimalist Courtyard, with full protection for the trees.

Adjacent to the Minimalist Courtyard, Oberlander’s Pin Oak Allée draws visitors toward Nepean Point and the Op Art Path. The title of this latter work refers to an international art movement involving abstraction and illusion. Within Canada, it was particularly embraced by artists in Vancouver, where Oberlander lived. When viewed from its higher reaches, the gravelled, zigzag path provides an illusion of interlocking chevrons of increasingly scale. This monumental work can be seen as a form of land art.

With its main location outdoors and related aesthetic material inside the Gallery, Op Art Path illustrates the theory of land art pioneer Robert

Smithson, who referred to his outdoor creations as “Sites” and their parallel gallery installations as “Non-Sites”. When the Gallery decided to add outdoor sculptures to its grounds, Oberlander was consulted on the best siting for Roxy Paine’s *One Hundred Foot Line*, which has been strategically placed on the slope of Nepean Point to optimize indoor and outdoor viewpoints. The sharp angles of Paine’s sculpture echo in vertical form the horizontal zigzag of Oberlander’s Path.

In June 1988, after more than four years of close collaboration, Oberlander wrote to thank Safdie for providing “an unprecedented opportunity to design a unique landscape/building relationship in an interdependent and interactive environment.” Safdie’s response confirmed that both parties had enjoyed working together and took pride in what they had achieved. Throughout her career and working with some of the world’s leading architects, Oberlander consistently encouraged early consultations and sought to foster creative relationships.

In recent years, Oberlander was involved in the restoration of the grounds of the Gallery’s only international property, the modernist Canada Pavilion at the Venice Biennale. After visiting the site, she provided ideas to improve walkways, taking full advantage of local viewpoints and facilitating access to neighbouring structures. Oberlander’s contributions feature in *Open Sky*, Katrine Giguère’s [2020 film on the Pavilion](#) for the National Film Board of Canada.

The widely admired grounds of the Gallery reward visitors who venture into and explore these spaces. Oberlander wanted visitors to walk through them slowly, observing and appreciating even small plants, as well as the natural features and vistas. Viewing the Gallery’s collection of art may then give rise to new connections and meanings.



Kovrig and Spavor - Success Today but Dangers Remain

Gar Pardy

Hill Times, September 27, 2021

The return of Michael Kovrig and Michael Spavor to the security of Canada caps a nearly three-year saga of procrastinations and illusory actions by governments.

The early reports suggest they are in good health and have a measure of equilibrium despite the one thousand days plus spend in the onerous conditions of China's prisons. As with others returning home from similar experiences the next months will be ones of adjustments and efforts to resume some measure of contact with their previous lives and work. That previous work will be difficult to re-establish since it centered overwhelmingly on Asia and matters involving China and North Korea.

As for Mme Meng, she has now returned to the safety of her family in China. Even though her detention in Canada was less onerous, nevertheless, as she mentioned in her departure from Canada, she has had a "life changing" experience.

That is personal side of this three-person, three-country *danse macabre*. The best we can offer is to curtail our attention and let them obtain the professional help and time they need for their recuperation. In doing so, some measure of equilibrium will return to their lives and they will re-emerge to continue their unique contributions.

As they do, we must examine the machinations of three government that created the conditions for this unnecessary geopolitical and personal tragedy.

All of the information available today was available to the three countries at the time of the detentions in early December 2018.

The intention of the Trump Administration to make Huawei Technologies a victim and a target in their efforts to check China's world-wide economic dominance and obtain time for the restoration of American power and authority was well documented throughout the period. The importance of Huawei as the bright star in the Chinese constellation and in the next jump in global technological innovation was equally apparent as well.

These conditions had less to do with the success of China than with the prolonged miasma and murk of American policy in the aftermath of the 911 attacks.

Appropriately, Sun Tzu in *The Art of War* in the 5th century wrote "never interrupt your enemy when he is making a mistake" is an observed truism in today's China. The United States in the first two decades of the 21st century made and continues to make self-delusional and unbelievable mistakes that have yet to end.

The forever wars in Afghanistan, Iraq, Libya, Syria, the metaphorical global war on terrorism, the acceptance of torture as an element of national policy and the creation of a centre of evil at Guantanamo Bay combined to undermine and, to some extent, eliminate self-interest and sanity in the conduct of American relations with the world.

The election of a president in 2016 without an ethical compass either for the country or for himself capped the period. The lone superpower lost its authority to provide moral or political direction beyond its borders.

Even more consequential was the corruption of the American political system where financial interest and their associated quislings dominated. Not surprisingly, the deep historical scars of national racism and the associated discrimination and migration resulting from conditions created by American domination of its southern neighbours, emerged from some measure of quiescence adding ferment and danger to the 250-year experiment of the “city upon the hill.”

It was in this miasma that the United States cobbled together its illusory charge sheet against Mme Meng Wanzhou. It involved her hoodwinking one of world’s oldest and experienced banks in order to provide cover for Huawei’s activities in Iran. The involved bank had more experience than most in the nefarious ways of others.

It is worth remembering in 2018-19 the Trump Administration was using its power to curtail trade by its allies as well. Canada’s export of aluminum was hit with American tariffs using fears of national security injury which in their own way reflected the American action against Huawei.

The American allegations against Mme Meng and Huawei led to the extradition request to Canada and the consequential detentions of Mr Kovrig and Mr Spavor on December 10, 2018. The Chinese allegations against Mr Kovrig and Mr Spavor had less substance than the American allegations against Mme Meng. This was diplomacy using hostages.

These actions were fully known in Ottawa but did not prompt any appropriate action by the government. Instead, the government took refuge within the rubbery “rule of law” idea. It also tried to lessen its responsibility by appealing to allies and friends to protest Beijing’s detention of the Canadians.

The Americans, even before Trump left office, realised it was in a no-win situation and began discussions with China undermining its extradition request to Canada. Canada was aware of these discussions but decided to let its illusory “rule of law” approach dominate and, in doing so, prolonged the imprisonment of Mr Kovrig and Mr Spavor.

Today the Canadian foreign Minister, Marc Garneau, is reaching for higher ground and proclaims Canada’s future relations with China will be characterized by co-existence, competition, cooperation and challenge.

Fine words for all bilateral relationships but let’s hope they will be used in our relationship with the United States as well. Today, American policy needs challenging as much as that of other countries and in doing so the lives of Canadians will be more effectively protected.

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Diplomacy Freed the Two Michaels. Now, it's Time for a Little Strategic Amnesia

Jeremy Kinsman

Policy Magazine, September 25, 2021

The suddenness with which the thousand-day drama of *Meng and the Two Michaels* concluded was truly a surprise. There were no leaks, no prim granting of anonymity by the *Globe and Mail* to spinners and speculators. Most astonishing was that the status of these negotiations was kept secret even from the media in leak-addicted Washington and New York, where the legal proceedings against Huawei executive Meng Wanzhou were located.

Recalling the “Canadian caper” Iran hostage episode in 1979-80 and how the small circle of those in the know expanded with ever-increasing peril, the discipline this time in protecting the negotiations over the fate of Michael Kovrig and Michael Spavor was extraordinary.

This was a US-China deal in the end, but one that was clearly heavily influenced by astute and effective communication by Canada. I don't pretend to know exactly what Prime Minister Justin Trudeau said to President Joe Biden, or when; nor how our ambassador in Beijing, Dominic Barton — a former McKinsey managing director who has considerable credibility in the US as well as in China — made the case in both places for US-China agreement on dual release, nor how our diplomats in Washington connected to top Biden officials. But it was a three-way conversation, and it worked.

In the end, there is no single factor that decides for the principals it is time to end a crisis like this. The feeling that it just isn't worth it any longer grows and many factors add to that burgeoning realization. I'm not sure that pressure, sanctions or threats work, especially with a hard-ass regime in Beijing so determined to show it can't be pushed around that its own pushing others around to get its way becomes almost second nature. But a cumulative erosion of global public opinion can have a real effect on multiple fronts, including self-awareness.

Of course, it was always clear that this was about an eventual trade; the Chinese said as much in June, 2020. That they chose as — in their view — counter-hostages two Canadian men whose professional and legitimate activity had probably skirted internal security danger zones was obviously a convenience for the Chinese counter-narrative, and Chinese leaders would have been astonished that anyone believed it was anything other than tit-for-tat, explicit or not.

In these cases, where a human drama suddenly takes on disproportionate meaning based on the geopolitics at play — that we call them ‘files’ belies the stakes for the people whose lives hang in the balance — diplomatic effectiveness hinges on a form of strategic amnesia.

Early on, it was clear at least to Canadian authorities, that the outcome lay in the US dropping the charges against Mme Meng. Under the Trump administration, that wasn’t going to happen. Whether the PM did or did not tell the ex-president that he had a choice — to release Mme Meng and take the credit, or Canada likely would, as the legal case progressed, despite our wish not to abrade Canada-US relations — is now moot. It was always in the background. And as the extradition hearings progressed, it became increasingly clear that Justice Heather Holmes had her doubts about the survivability of the US case that had been argued over-the-top by Canadian crown attorneys on the DOJ’s behalf (as specified in the Canada-US extradition hearing procedures). Huawei bought the best legal research and representation available, and at a given point, the DOJ pros must have had had their misgivings.

But everything points to the change in political attitudes from Trump to Biden; not, as it turned out, on China, but on Canada. Deputy Secretary of State Wendy Sherman, who has unequalled respect internationally, gave meaning on her visit to Beijing this year to Biden’s line that “we’ll treat the Michaels as American.” It counted with China, I’m sure, and not to Canada’s detriment.

The stumbling block was that China wasn’t going to accept that Mme Meng was guilty and especially not in the extraterritorial application of a unilateral US law. Trump had as much as said why the US had asked the Canadians to grab her at YVR for them. So, the end game was in legal language.

In these cases, where a human drama suddenly takes on disproportionate meaning based on the geopolitics at play — that we call them ‘files’ belies the stakes for the people whose lives hang in the balance — diplomatic effectiveness hinges on a form of strategic amnesia. The essential understanding is that the deal is done, the trade is made and everyone shuts up. No one re-litigates or claims they were really the ones in the right. A tacitly agreed-upon minimum of spin is observed, and all parties are presumed to have processed the lessons required to move forward responsibly.

But already, the more ideological players in the bleachers on both sides are having a go at their adversaries. Given the cost-benefit aspects of what unfolded on Friday for everyone involved, the point-scoring would be best left for the major issues of the China/US rivalry. Those haven’t gone away.

Meanwhile, this exhaustive, meticulous, trilateral process worked. It’s called diplomacy.

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AUKUS deal showcases stupidity at the highest levels

Gar Pardy

Hill Times, September 20, 2021

In the midst of an election, the Canadian reaction to the new Pacific partnership has been muted.

It is not often stupidity at the highest levels of foreign policy is so apparent. But the announcement last week of the agreement of an “enhanced trilateral security partnership called AUKUS” between the United States, the United Kingdom and Australia, in its inanity, surpasses anything we have seen in recent years.

To see a fading North American superpower, formally joining forces with a European faded superpower with mythical visions of being “Global Britain”, and a non-existent Pacific power in new security arrangements for the Indo-Pacific creates both bemusement and bewilderment. This is especially so, since Australia only grudgingly acknowledges it is part of the Asian contiguity and the UK folded its last Asian outpost nearly twenty-five years ago. Today, it’s most consistent attribute is bumbling by a Prime Minister whose understanding of the world does not extend beyond the West End of London.

One immediate effect of the new agreement was the creation, or perhaps, the reactivation, of a deep chasm in the long-standing western alliance. The countries of western Europe, both in NATO overlapping with the European Community, will see the deal as an act of Anglo-Saxon perfidy further weakening the common ties at a time when there is greater need for unity than since the ending of the Cold War.

France, which was close to concluding a twelve-diesel-powered submarine deal with Australia, valued at near US\$40 billion, was kept completely in the dark by the three parties involved. It only became aware of what was underway the day the announcement was made. Other members of the western alliance, including Canada, were ignored in much the same manner.

Fundamentally, the deal is a significant commercial gain for the United States. The planned construction of eight-nuclear powered submarines in South Australia using an exclusive American nuclear-power system and involving considerable American technology is of economic value. The Americans have exported this technology only once before and that to the UK in 1958.

French anger was immediate and deep as only two weeks ago there was confirmation of its deal with Australia. French ambassadors in Canberra and Washington were withdrawn for “consultations” and its Foreign Minister will attend the Security Council meeting in New York this week where the deep rift in western solidarity will be

vigorously displayed. Paris has described the deal as a “stab-in-the-back” and has given every indication it will not lick its Gallic wounds quietly.

The new partnership in the words of the three leaders is intended to “sustain peace and stability in the Indo-Pacific region.” And while the word “China” is not mentioned in their self-congratulatory joint statement, the new partnership is very much directed at the Middle Kingdom.

China, expectedly, described the new partnership as “extremely irresponsible” and “seriously undermined regional peace and stability, intensified the arms race and undermined international non-proliferation efforts.”

Most likely, any expectation of American efforts to establish some measure of stability in the American-Chinese bilateral relationship will be delayed if not extinguished. Only a few days ago, Presidents Biden and Xi spoke for some ninety minutes and while very little was reported on the discussion, it gave some hope that efforts were underway to move from Trumpian threats to Bidenian cooperation.

If anything, the new partnership is meant to counter ongoing efforts by China to turn the South China Sea into a Chinese dominated moat. As such, the countries of South East Asia are directly involved, sharing a common effort to lessen great power rivalry in the region.

So far, the countries of the region have reacted cautiously. Singapore was positive seeing support for its own defence arrangements with the United States including a port for American aircraft carriers. Indonesia, with its own troubles with Australia, will not welcome any enhancement of Australian naval activity in its region. Malaysia and the Philippines will try and stand aloof from the machinations out of Washington.

Japan and South Korea, with their own bilateral treaty-based security arrangements with the Americans, have not commented but will be low key in their reactions. New Zealand, reflecting its long-standing opposition to any nuclear proliferation, simply announced the new Australian nuclear submarines will not be allowed to enter its waters.

In the midst of an election, the Canadian reaction to the new Pacific partnership has been muted. Canada’s relationship with China while occasionally mentioned during the past few weeks, as with foreign and security policy generally, has been largely non-existent. The lack of any progress in resolving the Kovrig-Spavor-Meng conundrum suggests little will be said until the results of the election become apparent. This could be many days if not weeks.

The larger issue of why the United States would take such a dramatic step in its dispute with China is still an open question. In the minds of many, it suggests adding muscle to the grandiose words of the former President but that leaves open the fundamental issue of the effect of such actions. The deal involving the United Kingdom and Australia adds little in resolving the overall security issues in the region. Australia obtaining nuclear-

powered submarines, will not cause anyone in Beijing to lose sleep as it will be close to two decades before they get beyond the Great Australian Bight. As for Britain, the Union Jack no longer flies in the region even on its Royal Navy.

The price, however, for others, could be steep. For European, Canadian and Asian allies, the deal suggests a narrowing of American interests and abilities and, as such, the weakening of any consensus on issues involving China.

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Notwithstanding the Charter, the state, and religion

Gar Pardy

Hill Times, September 9, 2021

Quebec's secularism law is expected to be appealed before the Supreme Court of Canada. The Quebec case is fundamental to the use of the notwithstanding clause as it affects numerous rights and freedoms protected by the Charter. It has had widespread publicity across the country for several years and fixed views have emerged on the override clause and in the use of religious symbols by persons interacting with citizens on behalf of the State.

The summer nears its end with the pandemic still ubiquitous, the results of the federal election clouding our equanimity, and on the horizon is the menace of a troublesome constitutional crisis. Our winter months will not want for an agenda.

A constitutional crisis is the generational mainstay of our political lives. The last was in the early '80s when our political leaders decided it was time to repatriate the Canadian constitution from its historical and embarrassing connection to the British parliament. Not only did we get repatriation, we also received a Charter of Rights and Freedoms reflecting, in the view of most, appropriate and needed legal constraints on our federal, provincial and territorial governments.

The magnitude of these changes came with a price. The price was a Charter clause allowing governments at all three levels to enact laws overriding the "fundamental" and "legal" rights guaranteed in the Charter. The price was lessened with the adding of time constraints on the override.

This price is detailed in Section 33 and is commonly known as the "notwithstanding" clause. The clause was largely at the demand of provincial governments, led by Alberta, fearful that the Charter was transferring parts of their authority and competence to the federal government and to the non-elected courts.

In the almost forty years since ratification of the Charter, the notwithstanding clause has seen limited use and has generated little significant controversy. There are some twelve instances when the notwithstanding clause was considered or implemented by six

provinces but only four overrides were sustained in law. All uses expired with the need for renewal after five years. The federal government has not used the clause.

Quebec has been the most significant user of the clause, initially symbolically, indicating its opposition to the Charter. More recently, this has changed with various efforts by Quebec implementing various measures emphasizing the separation of religions and State in the management of the province's public affairs.

The most recent of these laws, Bill-21 implemented in 2019 and now forming part of the pre-election provincial strategy is called, "An Act Respecting the Laicity of the State." It introduced the concept of 'laicity', probably for the first time in Canadian public affairs and carries forward the more common concept of 'secularity' which emphasises the neutrality of the State in respect to religion and irreligion.

The law declares that Quebec is a "lay" state and goes on to emphasize that "State laicity also requires that all persons have the right to lay parliamentary government and judicial institutions and to lay public services." "Lay" in this context means non-religious.

The controversy in Quebec and across the country is with the associated measures to give effect and emphasis for the secularity of these services. The most contentious measure centers on the banning of persons in positions of "authority" with a covered face and/or displaying religious symbols.

The controversy has not lessened since the legislation became law in 2019 and there have been court cases at the provincial levels questioning the legitimacy of the new law. Significantly, the new law uses the 'notwithstanding' clause of the Charter to ensure protection for overriding fundamental human rights principles found in the Charter.

Quebec court decisions have provided a mixture of decisions but generally defers to the use of the notwithstanding clause. The Quebec Court of Appeal was petitioned in 2019 for a delay in the application of the new 'secularism' law as it is now known but refused to do so. The Chief Justice of the Appeal Court was forced to resign following ethical complaints relating to her handling of the case.

The case is now set for an almost certain appeal to the Supreme Court of Canada (SCC). When is uncertain but it is expected sometime during the fall. The SCC has had limited involvement in the application of the notwithstanding clause, most recently, the possibility of involvement in cases involving Saskatchewan funding of Catholic schools and Ontario's efforts to change Toronto's municipal election laws.

These cases never reached the SCC but now, the Quebec secularism law will provide the opportunity for the most substantive involvement of the Court on the override clause. The Quebec case is fundamental to the use of the notwithstanding clause as it affects numerous rights and freedoms protected by the Charter. It has had wide-spread publicity across the country for several years and fixed views have emerged on the

override clause and in the use of religious symbols by persons interacting with citizens with the State.

The one certainty in any SCC decision is that there will not be any effort to undermine the continuing legitimacy of the notwithstanding clause. It will remain central to the continuing value and effectiveness of the Charter and any suggestion as to its legitimacy would engage the country in a true constitutional crisis.

Rather the SCC will examine the use of the clause in the circumstances of the Quebec law. In its usual soothing, smooth and occasionally confusing legal language the Court will provide an opportunity for the varying contending parties to seek compromise and adjustments once the next Quebec election has been decided.

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Kovrig and Spavor - A Thousand Days Passes

Gar Pardy

Hill Times, September 3, 2021

Sunday, September 5, will see the thousandth day, Michael Kovrig and Michael Spavor have spent in the prisons of China. To mark the day, the families and supporters will hold a commemorative walk of 7,000 steps in Ottawa. The steps represent the daily walk by Mr Kovrig around and around his small cell. The Canadian walk will begin in Windsor Park in south Ottawa and end at Major's Hill Park just east of Parliament Hill.

There is silence in both Ottawa and Beijing on any action that might see the two men released and allowed to return home. Even a national election campaign in Canada has not prompted any suggestion that action might be underway to see their release. In Beijing there is even less action if that is possible; a major news organization is sponsoring a petition seeking the release of Mme Meng Wanzhou by the Canadian authorities.

The Ambassador of China in Ottawa did release a public statement two weeks ago in which he expressed "deep sympathy" for the "arbitrary detention" of Mme Meng. He "strongly condemned the wrong action" of Canada and expressed the commitment of his government in "safeguarding the legitimate rights and interests of Chinese citizens and interests of Chinese citizens and companies." In a flourish he labelled her trial as "purely political."

The Ambassador made no reference whatsoever to the "political trial" and the "wrong action" of the government of China in the arrest, imprisonment, and in the case of Mr Spavor conviction and sentencing. The statement, made no reference to the two Canadians as if they were living in a different universe.

The trial aspects of the American request for the extradition of Mme Meng ended two weeks ago in Vancouver. At the conclusion of the trial, the judge simply announced there would be a hearing on October 21 during which she would provide information on the status of her decision.

In the meantime, there is not even a hint of initiatives by the Canadian government to bring the matter to a negotiated settlement. In the past months the government has acted on the self-delusional idea that action by the United States or its European allies might provide an answer to the Canadian problem. However, with each passing day, there is nothing out of Washington to support the idea the Americans will or want to be helpful in resolving an issue that is partly of their making.

Instead, there is every indication the Biden administration has continued the policies on China of his predecessor, Donald Trump. In some ways it has sharpened the Trump policies and is overtly intent on countering and containing the China as it seeks to establish itself as a global power. In a recent visit to the region, Vice President Kamala Harris, spoke of the “unlawful claims” of Beijing to islands in the South China Sea. She went on to state that these claims undermined “the rules-based order and threaten the sovereignty of nations.”

In Europe, there is little that could be seen as an emerging policy that might be helpful to Canada. Instead, the countries of the European Union have engaged in an internal debate on how they can maintain their economic and commercial cooperation with China. This in spite of a variety of actions by Beijing – in Hong Kong, in western China against the Uyghurs and military threats involving Taiwan – that strike at the very essence of the conditions that led to the creation of the Union almost seventy years ago.

There can be no expectation of any initiative from Ottawa in the coming days that might offer some measure of hope for Mr Kovrig and Mr Spavor. None of the contending parties in the national election have offered anything by way of an approach different from what the government has done over the past thousand days.

As the leading expert on Canadian extradition law, Gary Botting, recently wrote, “the prime minister and the minister of justice are rank amateurs when it comes to international relations.” Mr Botting went on to state that “the *Extradition Act* states unequivocally that the decision to extradite is entirely within the purview of the minister of justice.”

So come September 20th whatever the election results there will be nothing new that might offer the beginnings of a resolution for the return of Mr Kovrig and Mr Spavor to Canada. So, they begin the days of a second thousand days of imprisonment without hope of any help from the government of Canada. Mr Kovrig can also expect his conviction and sentence will be announced and there is no reason to expect his sentence will be anything less than the eleven years imposed on Mr Spavor. A sad commentary on a government and a country that piously contends it believes in the rule of law and a policy offering help for Canadians in difficulty in foreign countries.

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Canada Fiddles while Canadians Suffer in China

James Lockyer CM

Gar Pardy.

iPolitics, August 30, 2021

Michael Spavor and Michael Kovrig have been sorely let down by our judicial system and by our government. Four Canadians on death row in China, Robert Schellenberg, Ye Jianhui, Xu Weihong, and Fan Wei have been equally let down.

Meng Wanzhou was apprehended at Vancouver International Airport on December 1, 2018 in-route from Honk Kong to Mexico. In legalese, she was arrested as a “fugitive” pursuant to a request for her extradition by the United States Government on fraud related charges. It is alleged that as Huawei’s chief financial officer she misled HSBC about Huawei’s relationship such that the Bank was placed at risk of violating U.S. sanctions against Iran.

A few days after Meng’s arrest, Spavor and Kovrig were arrested and accused of violating Chinese state secrets. Spavor has just been sentenced to 11 years for espionage. Kovrig still awaits his fate. Both have spent almost 1000 days in prison. Schellenberg’s death sentence was recently upheld in an appeal court. Three other Canadians are on death row since Meng’s arrest awaiting results of their appeals. This is hostage-diplomacy at its worst - realpolitik by a country that will kill or imprison for what it wants. But unlike statements by the Prime Minister, it does not put travelling Canadians at some higher risk.

The Canadian extradition process always has two phases. First the judicial phase and then the ministerial/political phase.

The judicial phase requires the Superior Court in the Province where the arrest was made to decide whether there is a legal and factual basis for extradition. The legal basis in Meng’s case revolves around whether the offence for which she is sought in the U.S. is also an offence in Canada. The factual basis requires the judge to determine whether the U.S., the requesting state, has made out a sufficient evidentiary case for the offence, or a so-called *prima facie* case.

While the British Columbia Supreme Court and the parties have dilly dallied their way through the process without an apparent end, China has been carrying out its predictable coercive and extortionate response. Six Canadians are suffering the consequences.

Our courts have repeatedly held that extradition proceedings should proceed expeditiously for reasons of the comity of nation states. Most cases take 6 months or less. Meng's case has progressed through the B.C. Supreme Court like a snail with arthritis. We are coming up to 3 years with more years to come. It is as if the court in B.C. is working inside a bubble, taking its own good time while six Canadians suffer unspeakable harm thousands of miles away.

Presumably these delays in the judicial process suit China. Doubtless, the Chinese Government is pulling the strings of Meng's defence and diplomatically supporting it. Meng's counsels have shown no desire to get on with the legal elements of the process. One supposes that the passage of time gives China time to find more Canadian victims to churn into its system. A decision on Meng's extradition may now be on offer from the Court likely around the end of the year, if she is ordered extradited, we can next anticipate years more of appeals.

Throughout this process, the Minister has to decide under the Extradition Act whether Meng will actually be surrendered to the U.S. authorities. As the Supreme Court of Canada has said explicitly, the Minister's decision-making process is political. All the commentary and editorials about how the integrity of our justice system is at stake if our government tries to bargain with the Chinese and that this will amount to "interference" in our judicial process is so much heart-wringing silliness. Extradition always ultimately involves a political decision. Every single case, Meng's included. The Extradition Act mandates it and the comments by Judge Holmes in her questioning of government lawyers offers sufficient basis for ministerial intervention now.

Minister Lametti should have been negotiating and bargaining with the Chinese Government from day one. That is engaging the political process, that is what our law demands of him and, in this case, the politics involve life (and death) for six Canadians. Once Lametti made a deal with China, he could have advised Meng's lawyers to consent to extradition in the Supreme Court proceedings, so that Lametti could then make his political decision. Instead, the judicial process goes on and on with everyone apparently oblivious to the suffering their conduct has caused and continues to cause.

It's a disgrace. We are a country that boasts of its human rights record. Not in this case. The judiciary and the Executive have much to answer for.

Finally, suppose the extradition application is dismissed and Meng is discharged. She'll be on the next flight home, no doubt a direct one this time. Our leverage, Meng Wanzhou, will be gone. The two Michaels will spend countless years in prison and four Canadians will be executed because our judicial system has belatedly given up our one and only bargaining chip.

Don't for a moment think China will just give the six up. They will think we are weak by letting Meng go, and conclude that carrying through the sentences on the six Canadians will ensure that Canada never dares do something like arresting a Meng Wanzhou

again. All this for principles that don't exist since under our law extradition is always a political process.

Links

Jeremy Kinsman

CTV News, September 30, closing out the US, China, Canada hostage deal and Afghanistan: the US faces its regrets

<https://www.ctvnews.ca/video?clipId=2290831>

CTV News: September 24: The Canada-China hostage crisis resolved dramatically - a personal take

<https://www.ctvnews.ca/video?clipId=2288689>

CTV News, Diplomatic Community, September 22, Biden: good leadership this week on climate and Covid; and inept leadership regarding France; hope for the best

<https://www.ctvnews.ca/video?clipId=2286781>

CTV News: Diplomatic Community September 14; Afghanistan, doomed or damned by some, but deserving a better fate

<https://www.ctvnews.ca/video?clipId=2281588>

CTV News: Diplomatic Community Aug 30: the Afghan aftermath begins: is US leadership maimed?

<https://www.ctvnews.ca/video?clipId=2270456>

Colin Robertson

THE GLOBAL EXCHANGE PODCAST: Foreign Affairs in the 2021 Election

https://www.cgai.ca/last_stretch_to_election_day

Reviews/Revue

Diplomates en Péril?

Jean-Yves Dionne et Lucie Tremblay

Les lecteurs s'expriment !

Diplomates en Péril? publié à la mi-juin, nous a apporté bien des impressions et commentaires. Cet essai critique porte sur l'avenir du Service extérieur canadien (nos diplomates). Il est suivi d'un journal de bord aux récits et chroniques « *peu diplomatiques* » d'une famille se déplaçant sur trois continents durant une période de plus de trente ans. Les interrogations des auteurs sur la perte d'identité internationale du Canada et le rôle incertain de nos diplomates dans ce premier quart de siècle sont autant de présages du futur devant nous.

Ce livre offre une mine d'informations sur Affaires mondiales Canada et la vie de ses représentants à l'étranger à travers des dizaines de témoignages, récits et anecdotes cocasses et inédits. Une vie au service du pays. Pour vous, nous présentons une sélection d'impressions et de commentaires reçus des lecteurs. Le livre est disponible dans les librairies indépendantes (ISBN 978-89775-466-2) et les grandes plateformes numériques.

Témoignages

Bien écrit, excellente recherche, très bien documenté, où vos deux personnalités ressortent bien, avec une bibliographie pertinente. La conclusion est tout à fait conforme à ce que je pense du triste état de ce qu'a été notre ministère, à une époque un grand et respecté ministère. (Raymond Chrétien, CC et ancien ambassadeur)

...Un récit qui nous transporte d'un continent à l'autre à travers l'histoire politique des dernières décennies du XX^e siècle et des premières années du présent millénaire. Leur histoire est ponctuée d'anecdotes et de vécu authentique qui nous fait vivre toute une gamme d'émotions. Je me suis délectée des chroniques savoureuses, personnelles, intéressantes, humaines, un vrai plaisir à lire. (Marie-Andrée Clermont, critique littéraire et auteure)

Les premiers ministres Harper et Trudeau n'ont pas compris la valeur ajoutée qu'amène un diplomate de carrière et n'ont pas investi les efforts requis. De plus, l'arrivée de sous-ministres de l'extérieur du ministère a amené une « *homogénéisation* » du ministère avec le résultat qu'on a moins de diplomates de carrière et qu'on perd leur expertise. (Guy Saint-Jacques, ancien ambassadeur)

Dans une langue claire et précise, cet ouvrage est de prime abord un essai relatant l'histoire du Service extérieur du Canada qui interroge parallèlement son avenir en déclin... Tout en se voyant bien informé, le néophyte prendra plaisir à ce beau récit de carrières bien remplies. Dionne et Tremblay ont toujours été sincèrement investis de leurs missions et cela se sent dans leurs témoignages. C'est surtout un ouvrage incontournable pour quiconque caresse l'idée d'embrasser une carrière au sein du corps diplomatique. L'ouvrage permet une rare incursion intimiste dans un univers au sujet duquel les intervenants sont généralement peu diserts. (Roxane Turcotte, didacticienne et auteure)

Je suis triste de la façon dont le ministère a détruit sa réputation auprès de tous ceux qui ont connu le respect de notre pays de la part des pays en voie de développement en Afrique, en Asie et en Amérique du Sud. Cela nous a fait perdre toute chance de faire partie du Conseil de sécurité de l'ONU. (Roland Goulet, ancien ambassadeur)

Quand je prends le pouls des nouvelles des talibans et des Afghans, cela m'entraîne dans une réflexion sur le rôle qu'ont joué et que jouent les diplomates ainsi que les risques associés. C'est vraiment un métier méconnu qui peut contribuer même à sauver des vies dépendamment du contexte d'intervention et des outils mis à leur disposition. (Louise Bélanger, avocate)

Votre livre m'a impressionné par la pertinence de vos analyses et affirmations, par la véracité des faits et la recherche que cela a impliquée... Un remarquable ouvrage et surtout la justesse du ton, lequel se révèle très diplomatique. Le livre aborde bien la détérioration du Ministère, mais aussi le déclin de notre politique étrangère grignotée à petit feu et maintenant méconnaissable et amateur. (Léopold Battel, ancien haut-commissaire)

À déguster et à partager sans modération. (Ginette Beaulieu, travailleuse sociale à la retraite)

Votre livre me rappelle de nombreux souvenirs et illustre les aléas de politiciens sans envergure. Mon séjour chez les délégués commerciaux de la grande époque et l'emploi fréquent que j'en ai fait suite à mon passage au secteur privé en témoigne. Votre appui soutenu auprès de la BAD, depuis Abidjan, fait partie de mes bons souvenirs. Je recommande vivement votre livre aux délégués commerciaux, actuels et retraités, et aux autres personnes voulant contribuer au développement économique du Canada. (Jean-Denis Bélisle, ancien ambassadeur)

Un livre différent pour voir le côté méconnu de la vie des diplomates canadiens avec leurs défis quotidiens et les résultats obtenus, parfois fructueux, parfois frustrants. Le

livre fourmille de faits vécus représentatifs d'une vie consacrée au service de son pays. Il dénonce une tendance de fond qui mine le Service extérieur et propose des mesures concrètes pour lui rendre sa mission comme au temps glorieux de Lester B. Pearson. (Gilles Poirier, ex-diplomate de carrière)