Federalism has been almost completely absent from the current federal election campaign. Yet, the management of the Canadian federation is a crucial issue that has far-reaching consequences for Canadians. Here are, in our view, the six main tasks awaiting the future Prime Minister on the federalism front.

First, the future Prime Minister of Canada should fundamentally overhaul the institutions that facilitate relations among our federal, provincial, and territorial officials. Ignored or abandoned for more than a decade, face-to-face meetings that bring together representatives from all of Canada’s governments, supported by an effective permanent staff, are in desperate need of revitalization. Properly executed, such meetings will invigorate the federation, enable the pooling of our collective strength, while simultaneously protecting the independence of the orders of government, which together constitute the Canadian federation. The provinces and territories have already broken ground with the Council of the Federation. The time has come for the federal
government to work in partnership with the other orders and participate in collectively building intergovernmental institutions that could reshape and strengthen the Canadian federation. From the management of equalization to the oversight of the environment, Canada’s enduring policy issues require the active engagement of all the orders of government – federal, provincial, and territorial. Often perceived as a means for one government to unilaterally impose its will under the guise of such words as ‘collaboration’ and ‘cooperation,’ such effects are more likely when these institutions are at the whim of the federal government. Instead, if established through real partnerships, intergovernmental institutions can be used for open information sharing, joining together the knowledge and expertise of all our respective governments, towards the collective benefit of all Canadians. Fortunately for our leaders, they do not need to reinvent the wheel. The Australian federation, for example, recently transformed its intergovernmental institutions. Together in partnership, the Commonwealth, State and Territorial leaders have taken great strides establishing permanent bodies, regularizing interactions, stabilizing meetings, and producing high quality data that officials from all governments can use in the resolution of problems and assess the effectiveness of active programs. The era of ‘ostrich federalism’ needs to end. Canada’s PM needs to accept and embrace the collective potential that can come when it engages the provinces and territories as full partners of the federation.

Second, the future Prime Minister should keep out of provincial jurisdictions. If Stephen Harper’s Conservatives win, it should not be a problem. The past nine years of Conservative government has seen little encroachments of federal policies into provincial domains. The other parties, however, might be tempted to develop such policies, if only because they are ideologically more inclined toward social policy, which often falls within provincial areas. While the current government’s approach to intergovernmental relations has many weaknesses, we cannot help but notice that the tensions with Quebec over the division of powers have receded since 2006. Federal interventions in spheres of provincial jurisdictions led to major conflicts between the federal government and Quebec in the 1990s and early 2000s, feeding into sovereigntist sentiments. A return to such tensed years should and can be avoided. Of course, keeping out of provincial jurisdictions is not the same as keeping out of intergovernmental relations. Even in its own areas of jurisdiction, the federal government is often well advised to consult with
provinces. Jurisdictions are not watertight compartments. Some level of coordination is often necessary for policy success. For example, agreeing with foreign countries on reduction targets for carbon gas emission is without a doubt within federal responsibilities, but, both federal and provincial policies affect emission levels. Policy coordination is no less important in other areas of provincial jurisdictions and, therefore, the federal government could participate in intergovernmental meetings having to do with such areas. However, in these meetings, the federal government should adopt somewhat of a withdrawn position. Instead of seeking leadership, the federal government could participate more as a listener. In these provincial fields, the federal government has more to learn from the provinces than it has to teach them. This simple attitude should keep at bay most conflicts with Quebec over the division of powers.

Third, the future Prime Minister of Canada should seriously re-assess the policy purpose of the largest transfers the federal governments makes to the provinces. The three largest transfers are the Canada Health Transfer (CHT), the Canada Social Transfer (CST) and Equalization. In addition to constituting a major part of the federal budget, historically these transfers have been critical in upholding a few basic national standards and have allowed Canadians to receive roughly comparable services across the country. In the last couple of decades, however, changes to the transfers have made it more difficult for some of the have-not provinces to provide residents with reasonably comparable public services. For this reason, the next prime minister should consider an Equalization formula that better reflects the revenue-gathering capacity of provincial governments, and alter the CHT so that it takes into consideration the unavoidably higher health care costs faced by those jurisdictions who most serve an older and a more regionally scattered population. Although the federal government should be prudent when it comes to the enforcement of standards, it could consider using the existing CHT to better enforce the portability condition of the Canada Health Act which, at least for physician services, is not being respected by some provinces.

Fourth, the future Prime Minister should work to appease interprovincial tensions over energy. Canada has a huge potential in energy production from a wide variety of sources: conventional and unconventional natural gas in British Columbia; tar sands in Alberta; uranium in Saskatchewan; wind and solar energy in Ontario; hydro-electricity in Quebec; off shore oil in
Newfoundland. While an obvious economic asset, this energy mix has created significant interprovincial tension, to an extent that reaping the economic benefits of this potential has become increasingly difficult. For example, some provinces claim that investments should go toward greener sources of energy while others point at demands for fossil fuel to justify the undertaking of controversial projects (e.g., oil pipeline construction). It is undoubtedly in the country’s interest that provinces agree on some directions for future energy development. To be clear, however, it is not the role of the federal government to find and impose a solution. A better way of working toward the realization of the country’s interests would be for the federal government to act as a facilitator of interprovincial discussions and negotiations over energy. The more impartial the government will be at the outset, the more credibility it will enjoy in this role. One difficulty of the past several years has been the outright partiality of the federal government, too obviously biased toward tar sand development. The next government should be careful not to position itself quickly in its mandate when it comes to energy issues to avoid biases, in one direction or the other, which would unavoidably erode its credibility in some provinces. Interprovincial tension over energy is a problem that a federal government, in a credible mediating role, could contribute to appease.

Fifth, the next government should take Aboriginal peoples seriously. To do so, the very first gesture of a new Prime Minister should be to call a First Ministers’ meeting with Aboriginal organizations in order to establish a common agenda for change. The last ten years have seen minimal progress in improving the quality of life, job prospects, and education outcomes of First Nations, Inuit, and Métis. With a young and growing population, Aboriginal peoples are bound to play a key role in the future of this country. If we want this role to be positive, we need federal, provincial, and Aboriginal authorities to work together. The Harper Conservatives abandoned the commitments made by their predecessor in the Kelowna Accord over Aboriginal education, health and infrastructure. A “Kelowna Two” process should commit federal and provincial authorities to working with Aboriginal organizations in order to establish a tripartite approach to education reform, housing, and economic opportunities for Aboriginal people. This would send a clear message that unilateral policy-making in those areas is no longer acceptable. But a renewed agenda for change should also be far more ambitious than the original Kelowna Accord. A common intergovernmental strategy is needed to address the Truth and Reconciliation Commission’s recommendations on the legacies
of the residential schools. Perhaps most significantly, a new Kelowna should commit all partners in the federation to renewing our approach to Aboriginal land claims and treaty rights. As recent controversies over pipelines and various natural resource extraction projects across the country have shown, the current way of dealing with Aboriginal claims is a failure. A truly ambitious transformative plan in this respect would commit federal and provincial governments to the implementation of the United Nation’s Declaration on the Rights of Indigenous Peoples, including the Aboriginal right to free, prior and informed consent over resource extraction projects on their traditional lands. If major international organizations such as the World Bank have endorsed this principle, there is no reason a country like Canada could not. A strong endorsement from the new federal government would be a true game changer. It would set the tone for relations with Aboriginal peoples and send a powerful message to provincial governments. It would also create much needed clarity and certainty for the industry in defining the role of Aboriginal peoples in regulatory approval processes for resource extraction projects. Investing in better, truly respectful, relationships with Aboriginal peoples makes sense politically, but it is also sound economic policy.

Finally, the next Canadian Prime Minister and his government should cooperate closely with the provinces and territories in implementing the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (EU), which is expected to come into effect in the second half of 2016. CETA is the most important regional trade agreement negotiated by Canada since the North American Free Trade Agreement (NAFTA). Unlike NAFTA, however, CETA is about much more than zero tariffs. Notably, it includes provisions on regulatory and standards cooperation, the environment, labour mobility and public procurement. Such provisions are meant to decrease the “beyond-the-border” (as opposed to “at-the-border”) costs of trade and investment between Canada and the EU, which are caused by different and potentially discriminating rules being applied on each side of the Atlantic. Although negotiating international trade agreements is an exclusive competence of the federal government, the provinces were closely involved in the CETA negotiations precisely because many of the agreement’s “beyond-the-border” provisions fall within their competencies. Having shaped CETA's content, it is now even more important for the provinces (and territories) to be actively involved in its implementation. Unlike reducing tariffs to zero, which happens on day one of a free-trade agreement coming
This intergovernmental cooperation is unlikely to happen without the active leadership and coordination of the federal government. Into force, rendering effective provisions on public procurement and labour mobility requires a lot of follow-up work by the government machinery to enact secondary legislations, rules and regulations, standards and procedures. This demands the effective cooperation of Canada’s ten provinces and three territories, in some cases without the formal involvement of the federal government. But this intergovernmental cooperation is unlikely to happen without the active leadership and coordination of the federal government, which is ultimately responsible for CETA’s full implementation and success (and financially on the hook if it is not). Given that the tendency is for everyone to move on once a free-trade agreement is signed and comes into force, it falls on the Prime Minister to ensure that his cabinet and the federal civil service work closely with the provinces and territories to realize CETA’s full potential for the Canadian economy.