

# The hidden key to the SNC-Lavalin scandal

By [Sandy Garossino](#) in [Analysis](#),  
[Business](#), [Politics](#)  
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Left: Muammar Gaddafi in Addis Abeba on February 2, 2009, photo by Jesse B. on Wikimedia Commons. Right: File photo of Prime Minister Justin Trudeau by Alex Tétreault

SNC-Lavalin, a Canadian corporate giant with an established history of corruption, is charged with bribing the Libyan dictator Muammar Gaddafi's brutal regime over many years, in exchange for lucrative contracts.

This case is the most serious and important prosecution of corporate corruption in modern Canadian history, and we're arguing about jobs and whether Jody Wilson-Raybould is hard to get along with.

It is not only appropriate, but essential that this matter go to trial in an open and public hearing, so that Canadians can see how the world's bloodiest tyrants are cossetted, indulged, and enabled.

Perhaps the most depressing spectacle of the entire affair is watching Justin Trudeau, a man who clearly aspires to greatness, **debase himself** and this nation, by begging, pushing, imploring Canada's attorney general to let this company off the hook.

Then effectively firing her when she wouldn't comply, and allowing her credibility to be undermined.

Just what kind of story does he think SNC-Lavalin's caught up in, Anne of Green Gables?

# **SNC, a corporate giant, bribed a bloody despot's regime in exchange for billions in contracts**

For 16 years the global engineering and construction giant SNC-Lavalin cultivated a close relationship with the Muammar Gaddafi family, particularly his son Saadi.

According to criminal charges, for almost a decade of that period, up until the fall of the regime, SNC paid Saadi Gaadafi almost \$50 million in exchange for billions of dollars in airport, pipeline, and water infrastructure projects.

Oh, and prisons.

Let's go over that again.

A Canadian company is charged with bribing a family infamous around the world for murder, torture, rape, abductions, and widespread human rights abuses, and doing it for its own profit. They didn't stop until the regime collapsed in 2011 and Swiss authorities came knocking. Charges were laid in April 2015.

Because of corruption's profoundly oppressive impact on the Libyan people, the SNC-Libya charges are vastly more serious even than the McGill hospital bribery scandal, in which SNC paid **bribes of \$22.5 million** to secure the contract.

Yet repeatedly and overwhelmingly from the prime minister and his advisors, the hand-wringing has focused on Canadian jobs, without substantiation of what the real job losses might be.

Not a whisper for the innocent civilians trampled under a dictator's boot.

The kind of people who don't have Michael Wernick's mobile number.

The decision whether to proceed with criminal charges is something professional prosecutors do every day, following well-established principles of which the PMO seems blindly unaware.

In the case of remediation agreements, or DPAs (deferred prosecution agreements), those principles are supplemented by new amendments to the Criminal Code of Canada. But those changes don't dramatically alter the prosecutorial landscape.

Crucially, the Director of Public Prosecutions (DPP) also has the benefit of the full police investigation, other court records, documents and witness interviews, including material that may never be publicly disclosed.

The only complaint that's been made over this whole scandal seems to be that the AG was not sufficiently persuaded by concerns about job losses to overturn the professional opinion of Canada's most senior prosecutor.

Canadians need a lot more context about what this case is about.



# **We need to talk about where this money went and who got hurt**

At its heart, the SNC prosecution is the embodiment of the OECD anti-bribery framework to which Canada has long been a signatory, and on which our legislation, including DPAs, is modeled.

Corruption strikes the weak and disenfranchised first, last, and hardest.

It's not the affluent who find bodies dumped on the side of the road, or militias opening fire on rebels and dissidents. Or have to re-assemble brutalized women and girls.

Eman al-Obeidy dragged a...



In March, 2011, a [Libyan woman, Eman al-Obeidy](#), was filmed during an outburst, telling reporters she had been gang-raped by Gaddafi militiamen. She was swarmed, arrested and silenced. Journalists were attacked and beaten.

As soon as priorities shift to the most vulnerable victims of corruption, it's not hard to see why the AG declined to overturn the decision of Kathleen Roussel, Canada's DPP, to proceed to trial.

A corruption prosecution of this gravity is unprecedented in Canada.

Moreover, had the Libyan regime not collapsed and the bribery discovered, would this company still be in the game, still arranging prostitute parties and funnelling money to the Gaddafis?

It's highly significant that SNC is no stranger to disciplinary action over its conduct. During the 2001-2011 period of the alleged Libyan bribery, the company has:

- been **barred from bidding** on Asian Development Bank projects for fabricating qualifications and documents (2004);
- settled **corruption allegations** with the African Development Bank over bribes in Mozambique (2008) and Uganda (2010);
- **bribed Canadian officials** with \$22.5 million in relation to a McGill hospital contract (2009);
- been **credibly found** by the World Bank as participating in high-level corruption in Bangladesh in 2009-2010, and entered into a voluntary debarment from World Bank-financed projects;
- entered into a **voluntary agreement** to compensate

- seven Quebec municipalities for obtaining contracts through questionable means (1996-2011);
- made **illegal federal election** campaign donations (2004-2011), entering into a voluntary compliance agreement with the federal elections commissioner

In other words, from a prosecutor's standpoint, SNC's past history is a serious aggravating factor that militates against lenience.

# **SNC sponsored Gaddafi soccer team after bodyguards opened fire on booing fans, killing several**

A further aggravating circumstance is that this was not a classic case of pure bribery. SNC knowingly enabled and overlooked monstrous tyranny and abuse.

The company cannot pretend it was unaware of Gaddafi's vicious cruelty while expensing his son Saadi Gaddafi's prostitutes, lavish lifestyle, and showering him with millions of dollars a year.

The company financed his soccer aspirations and sponsored his team despite widespread reports that, just a few years earlier, his bodyguards had [opened fire on soccer fans](#) for booing a referee favouring him. Between 20 and 50 were killed in the ensuing chaos.



Al-Saadi Gaddafi in Barcelona in 2003. SNC-Lavalin is charged with paying him \$48 million in exchange for airport and prison construction contracts. Photo republished with permission by Miguel Ruiz/Marca.

Then there was Bashir al-Rayani, a professional soccer coach who challenged Saadi Gaddafi in 2005, only to disappear shortly before his **bludgeoned body** was dumped near his home.



According to witnesses, al-Rayani was last seen alive at Gaddafi's seaside villa.

And still, the reported gusher of cash to Saadi from SNC-Lavalin never stopped. After the revolution, Saadi Gaddafi was charged with this murder, but acquitted at trial in 2018.

From the Lockerbie bombing of the 80's, to the [prison massacres](#), the disappearances, the tortures and football killings, the [systemic rape](#) of young girls in the 2000's, the blood trickled down through the decades, even through its brief years of Western "rehabilitation" after 9/11.

# **‘(T)he more serious the offence, the less likely a DPA is in the interest of justice’—U.K. courts**

Notwithstanding that Canada's DPA legislation is recent (even suspiciously rushed), its terms and origin are well established in the international setting.

The United Kingdom, which has authorized DPAs since 2013, with very comparable legislation to Canada's, demonstrate that these agreements are rare, and only exercised in exceptional circumstances.

In *SFO v Standard Bank plc*, a leading U.K. judicial decision on DPA eligibility, the court [held that](#):

“The first consideration must be the seriousness of the conduct for the more serious the offence... the less likely it is that a DPA will be in the interest of justice.”

Bribery of the Gaddafis clearly qualifies as among the most serious case Canada has encountered.

Notably, in the [OECD guidelines](#), and both the U.K. and Canadian legislation one of several enumerated purposes is to reduce consequences for innocent third parties such as employees.

In *SFO v Rolls Royce*, the court flatly discounted the national economic interest, and treated employment concerns as peripheral (para 57):

"The final consideration... is the impact of prosecution on employees and others innocent of any misconduct or what might otherwise be described as the consequences of a conviction. I have no difficulty in accepting... that a criminal conviction against Rolls-Royce would have a very substantial impact

on the  
company...and Rolls-  
Royce employees...  
None of these  
factors is  
determinative of my  
decision in relation  
to this DPA; indeed,  
*the national  
economic interest is  
irrelevant...*

As I have made clear... *a company that commits serious crimes must expect to be prosecuted and if convicted dealt with severely and, absent sufficient countervailing factors, cannot expect to have an application for approval of a DPA accepted.*"  
(emphasis added)

In the U.K., job losses on their own are not sufficient to justify a DPA.

There, the great majority of foreign bribery cases proceeded to trial, with only three DPAs being entered into since 2013.

The single most common factor? Self-reporting to authorities when the company discovered wrongdoing. SNC did not self-report, but was discovered by Swiss authorities.

Section 715.3 of the [Criminal Code of Canada](#) then sets out several pre-conditions and mandatory considerations that the Canadian prosecutor is required by law to consider.



The first pre-condition to consideration of a DPA in the Canadian legislation is that the prosecutor must form the opinion that “the offence *did not cause and was not likely to have caused* serious bodily harm or death.”

A prosecutor could hardly ignore the Gaddafi reign of terror over the Libyan people, and the company's role in supporting that, particularly by continuing involvement with Saadi Gaddafi after the murder of his coach. Prosecutors are entitled to consider more background on this subject than can be publicly disclosed.

The Criminal Code then sets out a number of circumstances that the prosecutor **MUST** consider, which are similar to the U.K. framework:

These include whether the accused organization self-reported to authorities (it did not); the nature and gravity of the offence (extremely serious); the involvement of senior officers (high); whether the organization has entered into a previous remediation agreement for similar conduct (multiple); whether the organization or its officers committed other offences (many).

Of special note is that the reported conduct continued over an extended period, almost a decade, with an extremely high dollar value.

On the positive side for SNC-Lavalin, it fired the people directly involved, had a complete turnover of senior management, and have instituted better internal checks and balances. So there's that.

In sum, SNC fails on all the primary tests a prosecutor would take into account, and passes only the most marginal or peripheral ones. Barring evidentiary issues that we have no way to assess, there is more than ample reason to support the determination of the DPP, and no substantial cause to overturn it.

As to the evidentiary strength of the case, we'll have to wait and see.

# It shocks the conscience that government members would press for leniency

Yet it still shocks the conscience that senior Canadian government members would pressure the AG for yet another get-out-of-jail free card to a company with as poor a record as SNC-Lavalin, in such a serious case.

While cabinet concerns over jobs are understandable, the failure to grasp, let alone respect, the role and function of the attorney-general is not.

The Supreme Court of Canada  
unanimously affirmed the crucial  
importance of prosecutorial  
independence in [Miazga v Kvello  
Estate](#):

"The independence of the Attorney General is so fundamental to the integrity and efficiency of the criminal justice system that it is constitutionally entrenched. The principle of independence requires that the Attorney General act independently of political pressures from government..."

These principles are beyond debate, and all cabinet members have a duty to uphold the constitution, above partisan considerations.

Yet everywhere Canadians who know nothing about the Crown's case are second-guessing the most experienced prosecutors in the country, ginned up by the prime minister's **most senior advisors**.

Has one person remaining in cabinet or this government said a single word about the harm done when law enforcement cuts deals at the behest of politicians?

Or what it tells other companies — and the world — about Canada's determination to expose and punish corruption by Canadians, even in the most desperate places on earth?

This government seems plenty brave when it comes to tweeting at Saudi Arabia, or passing a Magnitsky Act promising action against corrupt foreign regimes, or lecturing China about the rule of law, but hasn't the spine to prosecute its own.

What does it say to Canadians that a former justice of the Supreme Court of Canada is hammering away behind the scenes, demanding lenience for a company charged with bribing the Gaddafi family?



It tells us everything we need to know about SNC's contrition that they threatened to move their head office to London if they don't get their way.

If they did their homework and read some U.K. court decisions on DPAs, they wouldn't be in such a rush.

For decades the company was perfectly happy to hire, train, promote, and profit handsomely from individuals who engaged in dangerously corrupt practices at home and abroad. With millions of dollars of their own money.

Take Riadh Ben Aïssa, the former executive vice president of the company who funnelled millions to the Gaddafi family, now blamed by senior management for all their Libya problems. Ben Aïssa was hired as a young man and rose through the company for almost 30 years, until the Gaddafi regime fell in 2011.

SNC-Lavalin had control of the funds Ben Aïssa used to bribe Saadi Gaddafi, and profited from his relationships in Libya for 15 years.

Only a fool wouldn't understand the rules of that game, and SNC-Lavalin were no fools.

# **Is the true purpose to prevent a public trial, rather than save jobs?**

Now the game appears to be to keep any trial from happening at all.

There's a great rending of garments over the supposedly mandatory 10 year debarment from bidding on federal infrastructure projects under the government's Integrity Regime (IR), which apparently would cause undue hardship and thousands of layoffs. Yet there's no hard evidence of this, and it would be a very simple matter to amend the Integrity Regime to grant permits in the public interest.

Something's not adding up.

Is it because Riadh Ben Aïssa has been cooperating with authorities, and his and others' testimony at trial might be much more damaging than anyone can guess? Will Ben Aïssa be the Michael Cohen of this case, pointing to much greater acquiescence of his activities than has been admitted by the company?

Or is there other evidence the company hopes will never see the light of day?

Whatever the case, we should hear it all.

It's long past time that Canada stops doing favours for SNC-Lavalin.

*Editor's note: This article was updated at 1:46 p.m. ET on March 8, 2019 to add an additional detail about a settlement reached by SNC-Lavalin with the African Development Bank.*

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Andrew | a day ago

Others have asked questions about the former Supreme Court judge's potentially conflicted involvement in issues related to TMX while being a lawyer (and lobbyist?) for SNC. Could there be a possibility that SNC-Lavalin might be able to benefit financially from the TMX twinning that could be complicated by a trial? Perhaps due either to the 10y procurement ban, bad optics from the trial, or both?

And while the legislative remedy you suggest may be 'easy', in life timing is everything, and so I wonder if there is internal concern that SNC might 'miss out' on TMX if this prosecution is not nipped in the bud?

David | a day ago

Thank you Sandy. Democracy is still working.

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DanielEss | a day ago

Awesome article; great context for "what is happening" on the political front.

SNC needs to be a "lessons learned" for most Canadians, especially in regards to the proliferation of unaligned corporate (overt) determination to put business before (and after) EVERYTHING: witness the ever-present "normalizing" of business relations with Saudi Arabia in general and Prince Mohammad Bin Salman in particular.



A very public trial of SNC is the way to go here.

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Susan O'Donnell | 21 hours ago

Thank you for this excellent analysis, I will share it widely.

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Robert Chisholm | 18 hours ago

Quote: "Or is there other evidence the company hopes will never see the light of day?"

Whatever the case, we should hear it all.

It's long past time that Canada stops doing favours for SNC-Lavalin."

Yes, there IS other evidence the company hopes will never see the light of day.

It's THIS:-

<https://www.facebook.com/ExposeSNCcorr>

And It's long past time that Canada stopped doing favours for SNC-Lavalin inc. by refusing to investigate and report on this. As far as I'm concerned, Canada consistently ignores its own experts such as ex-CBC "Fifth Estate" co-host Linden MacIntyre and his October 31st 2013 online article, "Why Whistleblowers are Crucial for Democracy". Or Robert Sibley's February 2, 2016 article in the "Ottawa Citizen" titled, "Newspapers Irresponsible in Failing to Hold the Powerful to Account". All documented fact, so there's no argument about what I've just said.

Robert Chisholm | 4 hours ago

Reference again:

<https://www.facebook.com/ExposeS>

Don't ANYBODY fool themselves into thinking that this has no lessons and no implications for ANYBODY except for myself. I've lost count of the number of people who have tried that bloody game on at my personal expense over the years and decades; it was their way of "going with the flow" and assuring their own appearances of "strength", "importance", "righteousness", "knowledge" etc. within their own willfully-ignorant little office cliques and their little social cliques.. The other dimension to the behaviour of the people referred to was their obsession with appearing to be "politically correct" at the expense of the documented facts, aided and

abetted by popular but mis-informed social prejudices about people out of work.

The "National Observer" has done a great job by publishing this article.

At the same time, nobody should fool themselves into thinking that bribery and improper payments such as those committed by SNC-Lavalin Inc. constitute the only form of corruption in business. They do NOT, and everybody knows that perfectly well - but at the same time, EVERYBODY in the mainstream news media whom I have told about this SNC business has refused to admit any such thing to me and made various weak "excuses" for doing nothing.

I can propose a solution to the current dilemma around whether SNC-Lavalin Inc. should be granted a D.P.A., while at the same time showing respect for Jody Wilson-Raybould, the new Attorney General David Lametti, and everybody else involved in the current controversy. In my view, there is no "perfect" solution to all this. Therefore, a workable compromise that everybody can agree with is necessary. I have already posted numerous times on Facebook about this and had some positive feedback.

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Fred McInnis | 15 hours ago

Thanks to the Observer for this very revealing article. SNC Lavalin has blood on it's hands and does not hesitate to reward human rights abuses as the basis of it's business. Canadians need to know, in the face of multiple international sanctions against SNC Lavalin, what the Liberal government of Justin Trudeau is prepared to accept for illegal massive political donations from his real " bosses " at Lavalin. This matter dwarfs abuses uncovered by the Gomery and Charbonneau Commissions of Enquiry and must be prosecuted in the courts.

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Robert Chisholm | 4 hours ago

I could not agree more with Mr. McInnis' comments.



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Dan Armeneau | 14 hours ago

Now there's some journalism!

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Pam FitzGerald | 5 hours ago

Thank you for this excellent article. We also owe much thanks to former AG Jody Wilson-Raybould for her integrity. It seems that Justin Trudeau has never met a corporation he didn't like. We've been kept in the dark for far too long about Canadian companies behaviour abroad and it is high time we found out. Trudeau knows Canadians generally respect the rule of law ... and that we might not like what we see.

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George Dyson | 5 hours ago

The problem I have with this story is that it seems to imply that a company makes decisions and can thus be held accountable. A company is nothing more than registered name on a piece of paper in a registry.

Decisions are made by company executives who do have brains and who do make decisions.

We need to hold those who **MADE** the decisions to bribe countries in order to gain contracts not a name in a registry.

Yet somehow, this never seems to happen. White crimes are, in my opinion, not treated nearly as seriously as they should be. How many people ended up with severe penalties from the banking crisis a decade ago? Not many. The same here with SNC-Lavalin, we will not stop this type of occurrence until people responsible for making these decisions are held accountable.

Charging and trying a company is not going to help anyone. It is a way of avoiding the true culprits. Then to prevent a company from being able to bid on contracts hurts no-one but the innocent.

The law needs to change such that it is not COMPANIES that are held accountable but EXECUTIVES.

Had this been the case, this whole issue with SNC and the government, the AG and the PMO would never had occurred and the right people would be the ones facing the music.

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Robert Chisholm | 3 hours ago

Quote: "The law needs to change such that it is not COMPANIES that are held accountable but EXECUTIVES."

Reference again:

<https://www.facebook.com/Expose5>

Example: Guy Saint-Pierre, O.C., and what he did back in 1991. PLUS everybody who covered up for him, directly or indirectly, and anybody else who tries it again in any capacity whatsoever from this point forward. Some people would like to ignore or peremptorily dismiss this because it involves something that is now "far too old", or some such, but that would just be a case of erasing the truths of the past in order to sustain the lies of the present, as the means for "asserting" that no such thing ever happened, so as to make it appear that I'm "lying". And it's all documented - in the Court Record ("Plumitif Inverse"), and elsewhere - so there is no issue over any

witnesses having "conveniently" forgotten what happened.

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Robert Chisholm | 2 hours ago

Correction: "Plumitif Inverse" should have read "Plumitif Civil Inverse",

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Frederick Botting | 2 hours ago

How would any of these corrupt activities change if the Canadian Government changed from one political party to another?

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Robert Chisholm | 38 minutes  
ago

In itself, changing to another political party would make no difference. It's a question of having a set of rules based on appropriate ethics - backed by the threat of public exposure in the news media and appropriate penalties for breaking them. With regard specifically to bribes or "gifts", in my view we must have international agreement to ban such bribes or "gifts" altogether. Contract awards should be based purely on the combination of proven technical competency, ability to deliver within a reasonable time scale ( depends on how busy companies are with other work), and price.



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