Senate  Sénat

Pages of Reflection

A Journal of Essays by Senate Pages

Edited by

The Honourable Sharon Carstairs, P.C., Senator

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This journal would not have been possible without the work and dedication of certain individuals.

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The Honourable Jane Cordy, Senator

The Honourable Yonah Martin, Senator

The Honourable Elaine McCoy, Senator

The Honourable Grant Mitchell, Senator

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Foreword

Senate Pages are privileged to gain firsthand knowledge of Canada's Parliamentary system in a distinct working environment. In 2004 the University of Ottawa entered into an agreement with the Senate of Canada to provide Senate Pages with the opportunity to gain university credit for a fourth year political science course for participating in the Senate Page Program. To earn the credit, Pages must write an essay on a topic of their choice which demonstrates the knowledge they have acquired throughout the year. The credit is also transferable to Carleton University.

In 2006, the Senate published the first volume of essays by Senate Pages in the *Pages Journal*. This is the third volume of the *Pages Journal*. As with the volumes published in 2006 and 2008, the printing of this volume is possible due to funding from the Standing Senate Committee on Internal Economy, Budgets and Administration.

As with the previous two volumes of the *Pages Journal*, Senate Pages from the last two years were invited to submit essays to a Selection Committee. This year, the Selection Committee was made up of the Honourable Senators Cordy, Martin, McCoy and Mitchell who reviewed the essays submitted and selected those for inclusion in the journal.

The essays were graded on the following elements: a clear thesis and outline; knowledge and understanding of the subject matter; ability to develop an argument; organization and style; contribution to the academia surrounding government; capacity for intellectual initiative; and the integration and evaluation of appropriate evidence from a wide range of available sources. The seven essays with the highest combined scores from the reviewers were selected for inclusion in this journal. The selected essays were reviewed by Michael Orsini, Ph. D., Associate Professor at the University of Ottawa, the Academic Advisor on the project. Finally, the essays were edited for grammar and punctuation, but not for style or content.

Thank you to all who have contributed to the printing of this document. I would also like to express a special thank you to the young men and women who have served the Senate as Pages so well over the years. The essays contained within this journal are representative of the excellent academic achievements of the Pages, but their service in the Chamber does not go unnoticed.

The Honourable Sharon Carstairs, P.C., Senator
The Senate of Canada, Ottawa
November 2010

Introduction

As silent witnesses to history, Senate Pages occupy an exclusive position in Parliament and therefore bring a unique perspective to their academic writings about the Senate and its role. This is the third journal of essays constructed by Senate Pages as part of the requirements for academic accreditation within the Senate Page Program.

Under the requirements of the accreditation program, Pages have the discretion to choose the topic for their essay, but they must demonstrate the knowledge they have learned as a Page during the year within their essay. This journal is representative of the variety of topics which have been explored by the Pages in the past two years.

Chapter 1

Canada's role as a middle power in the United Nations: Establisher, 'Universalist', Reformer, and Peacekeeper

Canada was one of the original 51 nations which formed the United Nations in 1945. In this essay, Maria Habanikova explores the evolution of Canada's role as a middle power in the United Nations. From establisher, to universalist, to reformer, to peacekeeper, the author examines Canada's contributions on the world stage as a member of the United Nations, proving that even middle powers can make a contribution.

Chapter 2

Understanding Both Official Languages at the Supreme Court of Canada

Canada has been an officially bilingual country for over 40 years. Yet, as Amanda Simard explores in her essay, despite the legal protection and symbolic recognition of linguistic duality in this country, judges who sit on the Supreme Court of Canada are not required to understand both official languages. The author examines the legal, practical and symbolic questions around whether the understanding of both official languages should be a requirement to sit on the bench of the Supreme Court of Canada.

Chapter 3

Constitutional Monarchy in Canada: Still Relevant?

In this essay, Marc-André Roy examines the role of the Crown in Canada's system of government. The author provides an analysis of the history of the monarchy in Canada, the evolution of its role, and the functions and symbolism of the Crown. The author explores arguments against a constitutional monarchy in Canada and examines if there is a continued role for the Crown, including the extent to which the role can change in the 21st century.

Chapter 4

Economizing the Environment: A Critical Analysis of the Economic Returns on Green Energy Investments

Phenomena such as rising ultraviolet indexes, oil spills and natural disasters have triggered recent demands for action on climate change. Marie-Michelle Jobin explores the potential for Canada to play a leading role in the creation and usage of green technologies. In her essay she explores the financial benefits of Canada using its wealth of natural resources to design and test new, renewable energy technologies with international applications, thereby benefitting both the environment and the Canadian economy.

Chapter 5

Since Women Are Evil, Keep Them Out of Parliament

Jonathan Yantzi explores the declining representation of women in Parliament in this essay. The author explores the sociological barriers to equal representation and the need to reframe the debate. The paper offers concrete solutions designed to improve the representation of women in politics, while arguing that what is most needed is education, leadership and political will.

Chapter 6

Understanding Aboriginal Rights and the Need for Self-Reliance

This essay by Peter Doherty explores aboriginal self-reliance and its fundamental role in healing the dismal historical and present state of most Canadian Indian Reserves. It examines the historical context of First Nations self-reliance and Aboriginal peoples' rights for self-determination and self-government. Self-reliance, itself, is broken down into its political and economic aspects, and the importance of accountability to any self-reliant system in the context of Indian Reserves is elaborated and defended.

Chapter 7

Rising with the Occasion: How the Institutionalization of Citizen Engagement Can Save Democracy in Canada

Canadian governance models and institutions serve Canadians well; however, there exists an inherent need for the way government serves its citizenry to continuously improve, and for citizen engagement to deepen. Canadians are growing more discontent with existing democratic structures and want systems which are more reflective of their evolving shared values. In this essay Jonathan Yantzi explores the democratic deficit, the need for renewed participatory politics and the institutionalization of citizen engagement, with an aim to reinvigorate people's faith in the democratic process.

Chapter 1

Canada's Role as a Middle Power in the United Nations: Establisher, 'Universalist', Reformer, and Peacekeeper

Maria Habanikova

The United Nations (UN) was established on June 26, 1945 in an effort to prevent what its predecessor, the League of Nations, had not been able to – an armed conflict on a global scale with hundreds of thousands of casualties. It became an international organization whose mandate has to this day been to provide a diplomatic territory in which delegates and representatives of different countries can meet in an attempt to find solutions to political, environmental, military, security and many other problems facing our planet, as well as to strengthen and improve diplomatic relations with one another. The United Nations originated with 51 members, and has grown over the years significantly, presently consisting of 192 members, with the most recent accession being Montenegro in 2006.

Canada was among the first 51 states that witnessed the birth of this multinational organization and signed the Charter in October of the same year. Its foreign ministers and external affairs representatives have, since its creation, viewed the UN as a basis of their country's foreign policy. There is no easy way to describe Canada's role in the United Nations as its contribution has evolved and grown, but also weakened in certain aspects since the 1950s. There is, however, no doubt that Canada has been with the United Nations from the very start when the time to draft the UN Charter came. In fact, a few of the Articles of the Charter were brought forward by the Canadian delegation at the time and Canada also contributed to the creation of some of the UN agencies in years to come.

Canada took on a role of a 'middle power' and a so-called 'universalist', having as one of its priorities within the United Nations admittance of all countries, leading to equal dialogue of developed as well as less developed nations and finally to further universality of the organization. As the United States of America's economic and political importance has grown since the Cold War period, Canada has also considered the United Nations an effective means of establishing its individual character on the world scene and pursuing its own policy and security policies independently of those of the United States. Canada, like many other countries and the UN leadership, believes that there is always room for improvement especially in the area of administration, planning and decision enforcement. That is why the Canadian diplomatic delegation to the UN has been actively participating in and presenting proposals to the Security Council reform debate.

Canada's greatest contribution, nevertheless, was in its peacekeeping initiatives. Political analysts often call Canada the inventor of peacekeeping, most likely basing their claims on the address of Lester B. Pearson in front of the General Assembly in response to the problematic of the Suez Crisis in 1956. Since the success of the peacekeeping mission in solution of the crisis, Canada became one of the largest (if not the largest) contributor of UN peacekeeping endeavours in many different missions under the UN

mandate. Nevertheless, when deciding on how to most accurately describe today's role of the country in the organization, 'peacekeeper' becomes outweighed by the four preliminary functions – establisher, mediator, reformer, and universalist. These were the main positions Canada held at the beginning of its international journey within the United Nations and that remain justly attributed to the country thanks to continued building on its initial priorities within the organization. When it comes to the involvement in peacekeeping missions under the UN mandate - considering all the recent statistical analyses, reports, and decisions Canadian government has made in the past decade - Canada's position of a creator and top contributor shifted to a significantly declining presence on the peacekeeping stage.

Canada's role as one of the establishers of the UN as well as a mediator within the institution was and has stayed undeniable. Not only was Canada one of the most actively involved delegations in drafting the Charter in 1945, but it has also established itself as a middle power and thus propagated universality and an equal opportunity for dialogue for all within the organization. At the San Francisco Conference, the Canadian delegation with Prime Minister W.L. Mackenzie King at the lead "developed a reputation as a strong supporter of the Organization in all areas of its activities, and as an 'honest broker' and mediator trusted by both developed and developing countries." [1] Canada made its position clear: it wanted to aid in developing an organization that would become "strong enough and flexible enough to stand any strains to which it may be subjected"[2]; it regarded the UN as "a place where one can conduct diplomacy more effectively"[3]; and it considered the UN as a "cornerstone of its foreign policy."[4] Moreover, as a believer in a non-isolationist foreign policy after having seen the gravity of World War II and its impact on world affairs, Canada understood very well that in order to maintain its own prosperity, openness on the international trade field was essential.[5] Having learned from the mistakes of the League of Nations, the Canadian delegation realized how important the accountability of an organization's administration was, and with a focus on "independence, integrity, and efficiency of the Secretariat", decided to directly contribute with proposals and ideas in the drafting of the UN Charter. These materialized in Article 100, 101, and 105, respectively ensuring that the Secretariat is independent of external or state influence, that the Secretary General is appointed as opposed to elected and that the UN representatives and officials have diplomatic immunity necessary for effectively carrying out their international duties.[6]

Canada's role did not stay as one of an enthusiastic establisher; in the 1950s the country managed to present itself as a 'golden mean' power, or in other words a "middle power" and an advocate of equal accession rights and opportunities for all nations. Canada's greatest impact and 'mediatory triumph' came in 1955 when Paul Martin Sr.

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[1] UNA Canada Factsheets. 1997.
[2] Canada Department of External Affairs, We the peoples…Canada and the United Nations: 1945-1965." (Ottawa : Queen's Printer. 1966) 9.
[3] Canada Department of External Affairs 102.
[4] *Ibid.* 103.
[5] Department of External Affairs. Canada and the United Nations: 1945-1975. (Ottawa: Printing and Publishing Supply and Services Canada. 1977) 6.
[6] Department of External Affairs 14.

openly expressed his belief in universalism of the United Nations. As a result, all sovereign states were able to apply for accession to the organization – a major change that "empowered the world's middle powers and small states" and placed a new internationally renowned label on our country – one that "shaped the world order." [7] Canada believed that every nation regardless of its size, economic and political stability or location could greatly contribute to the growth and development of the United Nations and was crucial in diplomatic and security debates. This trust in the significance of less developed nations and middle powers demonstrated not only Canada's multinational angle of its policies, but also helped the country become an advocate of universalism. Canada did not want to see the actions of the great powers in the United Nations' decisions come to the detriment of the contribution of other nations. "The contribution of smaller powers is not a negligible one," said the Prime Minister in San Francisco. [8] This 'lobbying' for acceptance of more middle and smaller powers to the UN was in alignment with Canada's current policy of "functional approach" from 1943, when the Prime Minister stated that when it came to international relations he disagreed with too much power being accumulated in the hands of the great powers and none in the others, but that he also did not fully agree with its equal distribution. "Representation should be determined on a functional basis which will admit to full membership those countries, large or small, which have the greatest contribution to the particular object in question." [9]

In 1954 Lester B. Pearson made a speech at the 7th session of the General Assembly expressing his support for universality of the United Nations. He claimed that by establishing the organization on the threshold of the Cold War and thus neutralizing the two opposing poles of the political sphere, the UN was moving towards universality that, however, needed to be furthered. "It is precisely this near universality that can make the United Nations valuable if we are ever to move toward the gradual relaxation of tension and lowering of temperatures essential to any secure peace."[10]

Canadian universalistic initiatives led to another significant contribution in the UN Charter materializing in Article 23 which ensures that in selection of a member of the organization, attention is paid especially to "the contribution of the [country] to the maintenance of international peace and security…" [11] Canada's consistent efforts of enforcing universality in admission of new members into the institution undoubtedly contributed to the fact the United Nations today consists of almost four times the number of member nations it had originally.

As a committed United Nations member, Canada's reform and improvement initiatives did not stop at the equality of accession for all countries and a few Articles of the Charter. They continued throughout the years as Canada never lost belief in the institution's purpose and realized only consistent changes and advancement could ensure the success and progress of the organization. Over the years, Canada's focus was on

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[7] Kirton, John. Canadian Foreign Policy in a Changing World. (Toronto : Nelson, a division of Thomson Canada Limited. 2007) 114.
[8] Department of External Affairs 8.
[9] Department of External Affairs 10.
[10] Soward, F.H. and McInnis, Edgar. Canada and the United Nations. (New York: Manhattan Publishing Company: 1956) 228-9.
[11] Department of External Affairs 10.

Security Council reform, financial assistance, effective prevention of conflict and maintenance of peace, arms proliferation and conservation of basic human rights. Already in 1994, as was stated in a report by the Canadian Committee for the Fiftieth Anniversary of the United Nations from June of that year, Security Council reform was the first priority on Canada's UN Reform agenda.[12] The reason for Canada's persistence in terms of the Security Council reform was the fact that all the decisions of this United Nations body were binding upon all the UN members and so its effectiveness and transparency were extremely crucial. In 1994, Canada's two biggest concerns about the Security Council were that "its permanent membership no longer reflects the reality of global power" and that "its credibility as an impartial intervenor in situations that threaten common security is undermined by the disproportionate influence within it of Northern, and especially North Atlantic states." [13] It has been more than 15 years since this report was published yet some of its priorities stay on Canada's UN reform agenda. In 1994, Canada's position was one of "support [for] an increase in the number of Security Council members up to twenty-one members (from the current fifteen)" and "reduction in the significance of the veto power."[14]

Today, seeing as there are still five permanent and ten non-permanent members who sit on the Security Council, the permanent five armed with the veto power, Canada's foreign ministers' and diplomatic representatives' focus has remained parallel to that from fifteen years ago. On November 11th, in a Statement on the Security Council Reform, the Canadian Ambassador John McNee stressed the need for a "council that is more representative of the world's regions, more transparent in its operations, more accountable to the member states whom it serves, more responsive to contemporary challenges, and more legitimate in its composition and more effective in its performance." [15] From Mr. McNee's recent statements, it is very clear that Canada intends to stay committed to its original mission within this international organization and to ensuring that the United Nations improves and grows in order to carry out its main functions.

One year later, on November 13th, 2009 John McNee reiterated Canada's suggested steps of Security Council reform, mainly that the number of members in the Security Council should increase, but in a way that the Body is still able to carry out its mandate effectively and correctly. When it comes to the conditions of membership, Canada holds– as John McNee claims – that it won't be enough to "simply extend the privileges of a few, to a few more"

> …while we support enlarging the Council, Canada remains opposed to the idea of adding new permanent seats. We oppose the establishment of new permanent seats because we believe, fundamentally, that such a course would detract from

[12] Canadian Committee for the Fiftieth Anniversary of the United Nations. "Canadian Priorities for United Nations Reform." United Nations Reform: Looking Ahead after Fifty Years. Ed. Eric Fawcett and Hanna Newcombe. (Toronto : Best Book Manufacturers. 1995) 309.
[13] Eric Fawcett and Hanna Newcombe 309.
[14] *Ibid.* 310.
[15] McNee, John. Canadian Statement on the Security Council Report: The Question of Equitable Membership of the Security Council. (New York: 18 November, 2008)

> the General Assembly's important oversight role. Ultimately, accountability to the membership cannot be ensured without the discipline of regular elections.

This is another clear indicator of Canada's continuation of its primary commitment to actively contribute to making the United Nations a place where *all* have a say, not just a powerful few with some key economic actors. Realizing that the Security Council is not the General Assembly but at the same time striving to make the Body more democratic, equal, representative, legitimate and accountable, John McNee in his speech stated that it is the "*elected* membership [that needs to be expanded]" and that African countries in particular should gain more seats as he views the continent severely under-represented: [16]

> While Canada agrees that legitimacy is tied, in part, to Council composition, we believe this is best achieved by ensuring the broadest possible representation of the world's regions, not by permanently extending the privileges and prerogatives enjoyed by a few, to a few more.

Canada's reasoning behind its policy of encouraging more middle and small powers to join the Security Council and extending the number of elected members as opposed to the permanent seats stems from history which, as John McNee confidently pointed out, is full of "accomplishments of its elected members."

> In recent years, elected members have led the way in breaking new ground on thematic issues of direct relevance to peacekeeping mandates. Resolutions on issues such as the Protection of Civilians, Children and Armed Conflict and Women Peace and Security stand as testament to the power and agility of elected members, and remain to guide the Council's actions long after the elected members who drafted them have left the Council.[17]

Another concern the Canadian delegation has in terms of Security Council reform is the veto. As Mr. McNee explains, it has been at times an obstacle to adopting fast and effective responses to crises occurring worldwide. He also reminded the other delegates that the veto is not there to deter countries from making decisions on specific issues or worse, to delay debate on certain matters:

> Canada believes that any use of the veto should be publicly explained and justified. We also strongly believe that the veto has no place in deliberations on situations of genocide, crimes against humanity and war crimes and urge the five Permanent members to commit to voluntary restrictions on its use in these situations.

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[16] McNee, John, Statement to the General Assembly on the Annual Report of the Security Council. (New York, November 13, 2009)

[17] McNee, John

Just a few weeks before McNee's speech, Canadian Foreign Minister Lawrence Cannon addressed the United Nations General Assembly presenting Canada's views on what should be done in the UN reform area. His concerns and ideas did not very much differ from those of McNee; Cannon also stressed the importance of the Security Council's transparency and accountability as the global diplomatic, political, environmental and security landscape has gone through many developments and changes over the decades. Cannon believes that the first step in the UN reform should thus be an adjustment of the Security Council to this landscape and he stated that Canada is more than ready to "support efforts to make the Security Council more responsive."[18] Based on the recent reactions and official responses of Canada to the progress of UN and Security Council reform, it is clear that Canada's foreign policy of the 1950's within the United Nations is not likely to change and will remain – at least in the coming years – a policy of a country supporting development, growth and most importantly adaptability of this international organization.

It is not difficult to demonstrate how Canada still occupies a very significant position in the United Nations by looking back at the start of the organization and drafting of the Charter, explaining the role the country played in admission of new members and observing the developments of UN reform. When it comes to peacekeeping missions under the United Nations mandate, however, we have seen a significant drop in Canada's contribution. Nevertheless, simply concluding that associating Canada with a role of a peacekeeper is no longer appropriate would be an unfair label to put on a country whose link to the idea of peacekeeping is unbreakable as it was our very own Lester B. Pearson who contributed greatly to its creation. Moreover, for years Canada was in the lead of peacekeeping missions and it is only in the last decade that its participation has dropped, firstly because of a changing civilian and war climate in affected regions and secondly because of the way Canada regards the United Nations: as a peace keeper, and not necessarily as a peace maker or a peace enforcer.

In the previous discussion, we have seen how Canada established itself within the organization in the past and how it continued to build on its initial priorities over the years and how that record has helped position the country fairly high in the membership hierarchy of the UN. Therefore, before further explaining the conclusions just made and looking more closely at some statistical data and reports, as well as recent governmental decisions that make political scientists and United Nations observers believe Canada's role as a peacekeeper is not what it used to be and is in fact diminishing, Canada's significant historical role as a United Nations peacekeeper must not be overlooked.

Deliberately or not, Lester B. Pearson, the External Affairs Minister at the time, established Canadian peacekeeping legacy within the United Nations in 1956 as a response to the critical situation in the Suez. Before the Suez crisis, Canada's ideas in terms of preserving peace were heard but rarely acknowledged as exceptional. In other words, until Pearson's address to the General Assembly in 1956, Canadian contribution in peace settlement often went unnoticed.[19] This was for the most part because Canadian policy was meant to highlight "maximum use of conciliation with the minimum of

[18] Cannon, Lawrence. Address to the General Assembly. (October 2009)
[19] Soward and McInnis 103.

intervention" in an attempt to avoid having to go to measures that would involve violence "or encourage the forces of disruption within the United Nations."[20] Less than ten years before the Suez crisis broke out, Mr. J. L. Ilsley, then Canadian Minister of Justice, outlined Canada's primary role as a mediator aiming at "breaking deadlocks, or effecting compromises which do not sacrifice essential principles."[21] In other words, Canada was never reluctant to provide aid when it came to peacekeeping but it was willing to do so solely on the grounds that would allow it to maintain a reasonable distance from internal affairs of every sovereign state.[22]

In a way, this was a demonstration of how Canada would not compromise its role as an "establisher" and a member committed to abiding by the UN Charter that it had once helped to draft. This does not, however, mean that Pearson's address to the UN General Assembly in any way demonstrated disrespect of the Charter. On the other hand, it was meant to enhance the organization just like Canada had promised to do at its establishment - to ensure its continual growth and improvement.

When Louis St. Laurent received the news on October 30th, 1956 about the ultimatum England and France had given the Israelis and the Egyptians – "telling them to pull back from the Suez Canal Zone or [they] would resort to war to see that they did"[23] – both himself and his External Affairs Minister Lester B. Pearson were disappointed in the French and English decision and did not hesitate to outline their views in a letter that left Ottawa shortly afterwards. "The fact that the action which you took was taken while the Security Council was seized of the matter is, I think, most regrettable."[24] Canada knew "posting forces in the Canal Zone was perhaps not the best way to settle the dispute and keep the belligerents apart"[25] and was determined to do more than just send a letter expressing its disagreement with France and England. On the day the General Assembly convened to deal with the matter, every delegate felt the threat of another possible nuclear disaster just outside the international door. Lester B. Pearson's goal on this day was thus "the need to try to curtail the madness of men. He understood too well what was at stake. "The crisis threatened to destroy Anglo-American cooperation, to split the Commonwealth, and brand [Canada's] two mother countries, Britain and France, as aggressors."[26] Even according to the report produced by the Department of External Affairs of Canada in 1966, "Canada had a special reason [to try to effectively intervene in the Suez crisis in 1956] because of the close ties between Canada and Britain and France and because of the potential strains on Commonwealth unity which continued fighting would be bound to cause."[27]

When formulating his speech, Pearson remembered the idea of "an international police force to control rogue nations" that had been mentioned several times since the UN's formation but never fully acted upon or leading to a concrete result. He believed

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[20] *Ibid.*. 102.
[21] Ibid. 102.
[22] *Ibid.* 103.
[23] Melady, John. Pearson's Prize: Canada and the Suez Crisis. (Toronto: The Dundurn Group. 2006) 107.
[24] Melady 111.
[25] *Ibid.* 110.
[26] *Ibid.* 124.
[27] Canada Department of External Affairs 43.

that considering the gravity of the current situation and the aforementioned ultimatum, more was needed than an attempt for a compromise and thus he decided it was definitely worth it to look into the idea again.[28] As an accountable diplomat, Pearson was determined to find out the UK's stance on his proposal and after a few phone calls with Canada's High Commissioner in London, he was encouraged to go ahead and finalize his speech as the British Prime Minister (and one of the ultimatum givers), Anthony Eden, had showed support for Pearson's plan in an address to Parliament on the same day.

> "I made the suggestion that a United Nations force should eventually be associated with the Anglo-French police action…If the United Nations were…willing to take over the physical task of maintaining peace in that area, no one would be better pleased than me."[29]

This was precisely what Pearson needed in order to confidently stand up in front of the General Assembly's eighty members on November 23rd and make a change whose scope he most likely was not aware of at the time. Having begun with background information and an overview of the gravity of the crisis at hand, he continued by stating that without some kind of a "policing proviso" it will be impossible to find a solution to the Suez Crisis in Egypt and encouraged the Secretary General to make a further discussion of this with the other General Assembly member states an immediate priority. He concluded his speech with what now became not only an inscription on a peacekeeping monument in Ottawa but also a way to present what Canada was about to mean to the world and the United Nations in the decades to come: "My own government would be glad to recommend Canadian participation in such a United Nations Force, a truly international peace and police force."[30] He then continued by expressing what he hoped the future of peacekeeping and Canada's role in it would look like, and through his words once again reiterated Canada's foreign policy within the United Nations: a strong belief in the Organization's ability to succeed and commitment to assurance of its constant improvement.

> There is very strong, enthusiastic support in my country for this Force – but only as a United Nations Force, under United Nations control, and as an effective and organized Force which can do the job that has been given to it and which, if it can do that job, may be the beginning of something bigger and more permanent in the history of our Organization: something which we have talked about at United Nations meetings for many years, the organization of the peace through international action. Therefore, it is important that this Force should be so constituted and so organized that it will be able to do the work that it has been given to do and thereby set a precedent for the future.[31]

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[28] Melady 124.
[29] Melady 125.
[30] Melady 127.
[31] Canada Department of External Affairs 45.

As John Melady wrote in his book, "Canada has truly become a peacekeeper."[32] The 1950s are the years of Canada's greatest impact on the United Nations. First, there was the already mentioned 1955 Paul Martin Sr.'s contribution to enlargement of the UN as well as strengthening of its universality; then only a year afterwards, Pearson made history with his address to the General Assembly and it is safe to say changed the world. The events of 1956 reaffirmed Canada's position within the United Nations and strengthened its international focus even though in 1957 Diefenbaker was not showing much interest in UN policy at first.[33] This was mainly because one of Diefenbaker's main priorities was Canada's membership in NATO but he still maintained – as per his address in the General Assembly in September 1957 – just like his predecessor, that the "UN was the cornerstone of Canada's foreign policy."[34]

After the Suez Crisis had been resolved, Canada's greatest commitments in terms of peacekeeping were in the Congo and Cyprus, 1960-64 and 1964-94, the latter being Canada's longest peacekeeping mission. Canada did not forget Paul Martin Sr.'s achievements of 1955 and his belief in equal representation of nations within the UN. Before officially deciding to support the Secretary-General in dealing with the Congo Operation, our Prime Minister spoke on September 26th, 1960: "The African nations must be permitted to work out their own destinies; when they need help the best source is through the agencies of the United Nations."[35] He also used the situation in the Congo to illustrate the need for military forces of the UN in conflict zones and reminded the members that as always, "Canada held in reserve a battalion transportable by air and earmarked for such service."[36] Congo was one of the peacekeeping missions where Canada's financial contribution was not as great as in other missions it participated in, but it had a significant role of a "bilingual communication network for the many national units making up the United Nations Force."[37] In terms of the experience with the peacekeeping mission in Cyprus, Canada saw the UN Force's presence contribute to settlement of many local disputes that might have otherwise had serious consequences.[38] Other noteworthy large Canadian peacekeeping deployments were the ones in Yemen in 1963-64 and India-Pakistan mission in 1965-66.[39]

Canada's countless contributions to peacekeeping missions under the UN mandate taught the leaders some valuable lessons in managing operations and training personnel. By the mid-1960s Canada placed a lot of importance on "advance planning" and encouraged all governments to "[examine] techniques of peace-keeping operations…pool resources and the development in a co-ordinate way of trained and equipped collective forces for United Nations service."[40]

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[32] Melady 128.
[33] Maloney, Sean M. Canada and UN Peacekeeping: Cold War by Other Means, 1945-1970. (St. Catharines: Vanwell Publishing Limited. 2002) 85.
[34] Maloney 87.
[35] Canada Department of External Affairs 48.
[36] *Ibid.* 48.
[37] *Ibid.*. 49.
[38] Canada Department of External Affairs 52.
[39] Maloney 164.
[40] Canada Department of External Affairs 52.

It is interesting to observe how Canada stayed a middle power in the hierarchy of UN members but very quickly became a number one peacekeeping contributor. It seems that modesty also played a role to a certain extent in the country's policies within the United Nations. Canada never portrayed itself as somehow better qualified and as a result meant to become a leader in peacekeeping; in fact, "Canada has been in the forefront of United Nations efforts to keep peace [yet] does not claim any special virtue which qualifies her for this role, although she has on the whole been in a position to give assistance when needed."[41] If it is not about being better politically and resource equipped, then what is it about? The answer seems to be fairly simple: because of Canada's functional approach of its foreign policy and status of a middle power already mentioned in the previous part of this discussion.

> Canada was ready and willing, when the Charter system of security was found wanting, to put into practice that theory of functional contribution to the United Nations which she had advocated from the beginning. If the Great Powers were not to perform the function of maintaining peace, then it was natural for a middle power with the required military capability and without major political handicaps to make an appropriate contribution.[42]

Peacekeeping also gave Canada another opportunity to push for universality of the United Nations by reminding all the members to "unite for peace when the occasion requires."[43]

When Pierre E. Trudeau came to power as Prime Minister of Canada, he was – strangely enough – also fairly reluctant to strengthen Canada's role within the United Nations at first. Nevertheless, by 1973 Trudeau and his staff changed their perspective on Canada in the UN and in the world. Canada joined the United Nations Emergency Force II in the Sinai and the United Nations Disengagement Force on the Golan Heights in 1973. In 1974, the Canadian Airborne Regiment was sent to Cyprus after having been invaded by Turkey. In 1978, a number of Canadian contingents were sent to Lebanon to serve on the United Nations Interim Force Lebanon.[44]

As mentioned before, Canada's role as a peacekeeper has changed significantly, especially in the last decade. Canadian participation in peacekeeping missions and operations has experienced a significant decrease since the mid-1990s.[45] David Kilgour, M.P. for Edmonton Southeast, spoke to social studies students at the University of Alberta on November 19th, 1999 with the aim of providing information on Canada's involvement with the Security Council reform, the country's policy of non-isolationism, threats to human security, UN reform, Canada in NATO and also peacekeeping. Based on the information provided in his address, 11 years ago Canada was "the sixth largest UN troop contributor, with more than 1,000 personnel deployed in UN operations in the

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[41] *Ibid.* 56.
[42] Canada Department of External Affairs 56.
[43] *Ibid.* 57.
[44] Maloney 240-241.
[45] "Canada and UN Peacekeeping." Peacebuild Peace Operating Working Group. 2009.

world. Tens of thousands of Canadians have served in 30 different UN missions, and more than 100 lost their lives doing so."[46]

According to the statistical data that can be found on the peacebuild.ca website, today:

> Canada maintains a small presence in UN as well as non-UN peace operations around the world, [with] the vast majority of Canada's military effort [being] dedicated to the war in Afghanistan. While Canada's treaty-mandated cash contributions to the UN peacekeeping budget have grown in parallel with the growth in peacekeeping, Canada's contribution of military personnel has collapsed. Canada has fallen from being the single largest contributor of UN peacekeepers, a position it often held before 1992, to 56th position today. Once the supplier of nearly 3,300 peacekeeping soldiers, Canada now contributes less than one busload, just 57. Since early 2006, Canada's police contribution has outnumbered its military contribution. [47]

Finding statistics and numbers is not what poses the challenge; it is trying to find a reason to this almost drastic drop in the number of Canada's peacekeeping operations. That being said, there are a few quite obvious reasons.

In the last decade or so, the global political scene has changed greatly and many conflicts that occur around the world are often very complex, with civilians and military groups involved as well as organized civil society. As Senator Raynell Andreychuk, a former Canadian Representative to the United Nations in the Human Rights Commission and the United Nations Environment Program explained, in such an unstable, unpredictable and complicated climate it is impossible to distinguish between who the enemy is and isn't. She used Somalia in the early 1990s as an example of the time when she herself advised the UN not to send in any peacekeeping troops because this was, as she said:

> … [the] first time we wouldn't know who combatants and enemies were and who the civilians…It was a no man's land full of gangs, militia, warlords all dressed the same; the enemy was undefined and no one played by the rules of the international game.

Senator Andreychuk asks herself, "Whose peace were they fighting for, who were the combatants, and at what time?

Other examples Senator Andreychuk used to answer the question of decline in Canadian peacekeeping missions were the Democratic Republic of Congo and Bosnia. "There have been 40,000 peacekeepers and 18 technical advisors in the DRC, a country where white face equals colonial face." To answer the question more directly, she used

[46] Kilgour, David. November 19, 1999, Address at the Faculty Club, University of Alberta
[47] "Canada and UN Peacekeeping." Peacebuild Peace Operating Working Group. 2009.

Bosnia: "Why did peacekeeping change? Because of what is happening on the ground. We don't know who the enemies are and without knowing who is on our side, there is no leverage that can help the peacekeepers?"

As for Afghanistan, it is now well-known Canada will withdraw the troops in 2011. According to what Senator Andreychuk said about the situation in Afghanistan, if Canada wants to keep its former reputation as a peacekeeper, it is best they withdraw in 2011 rather than stay because if they stay, they will become peace enforcers. "Afghanistan is not a war, but a conflict. It is a UN authorized but NATO led mission where civilian strife prevails and where it is no longer about an outside force invasion…Take Darfur for example and the intermigration happening within, internally. These people are refugees in their own land."

Senator Andreychuk's statements are also reiterated in an article written by Maurice Baril for a report *Rethinking Canada's International Priorities* published only recently through the Centre of Policy and International Studies. He talks about the future of Canadian forces and also explains that what makes it hard for Canada is that "security is no longer exclusively measured in geographic borders that are physical" and "the nature of intra-state conflicts" has changed. In other words, it is not going to be possible for much longer to keep up with the legacy of so-called Pearsonian peacekeeping. Why? As H.E. Antonio Guterres, UN High Commissioner for Refugees explained very clearly, if we want to begin a peacekeeping mission, there must be "peace to keep" and what we are witnessing today are mostly situations in which there is no such thing. "If the mandate is a traditional peacekeeping mandate, obviously you become unable to do anything that makes sense," says Mr. Guterres in response to a question by one of the Senators in a Foreign Affairs Committee session on March 25th, 2010:

> In my opinion, there are two kinds of solutions that need to be enforced, with two different approaches. One is to have robust peacekeeping, which makes peacekeeping look more like peace enforcing, which then is to assume that the international force will fight if necessary to guarantee a certain number of defined objectives.

When we look at the example of Bosnia which Senator Andreychuk had mentioned before through Mr. Guterres's perspective, we can see what he meant by "peace to keep." As he himself states, in Bosnia we witnessed "a peace-enforcing situation, not peacekeeping. [Peacekeeping] is just to keep the peace that was established by the parties. If the parties do not establish peace, you cannot keep peace that does not exist."

What's more, having Canada operate under the mandate of the United Nations that can be problematic in terms of not only effectiveness of a mission but also in terms of the decision Canada or any country is to make about whether to send in their troops or not. Guterres believes that one of the problems behind the declining peacekeeping presence [of Canada] has to do with the "mandate established by the UN forces. These distinctions need to be established. If you are presented with a situation in which there is no peace to keep, and you establish a peacekeeping mandate, the forces will be unable to act."

Outlined above are just some of the reasons for general as well as Canadian decline in the number of peacekeeping missions worldwide, and when it comes to just Canada, it does not look like the numbers are going to be increasing any time soon. On May 1st 2010 Canada "has turned down the command of a major UN peacekeeping mission in Congo," writes Campbell Clark for the Globe and Mail.[48] It seems like Senator Romeo Dallaire's and M.P. Paul Dewar's view that "Canadian action for peace in the Congo is long overdue"[49] did not get its message across to the Canadian Forces. Dallaire sums up well what Senator Andreychuk and Mr. Guterres have mentioned before already - today's peacekeeping is more "peacemaking in our era" and it is our obligation to "protect the moderates, protect the innocents from extremism – and that means that no matter what mission you'll be engaged in, the risks of casualties exist [and] troops must be prepared to protect the vulnerable."[50]

Finally, since its formation, Canada perpetuated the UN as a place for neutrality and negotiation among nations, not as a world government.[51] Therefore, peace *enforcement* propagation through the UN does not make much sense for Canada. In fact, Allan Rock, Canada's Permanent Representative to the UN until 2006 "believes the international momentum is [if anything] building [not enforcing]."[52] It can be concluded from above statements and data, the changing international climate as well as the nature of peacekeeping itself have a direct impact on Canada's engagement in missions under the UN mandate.

In October 2009, Canada's Foreign Affairs minister spoke at the General Assembly and proudly announced that Canada "is meeting its international commitments [and is] on track to double international assistance to $5 billion by [the end of] 2010."[53] Since the establishment of the Organization, Canada has been committed to aligning its foreign policy with priorities and goals of the United Nations. Canada's functional approach used in the formation of Canada's policies helped immensely with universalizing the UN which led to its significant growth from merely 50 to 192 members today. Also, this approach systematized the UN's peacekeeping operations, troops' training and their more effective deployment. Canada established itself as a committed member, not just by actively participating in drafting the UN Charter in 1945 and sealing its 'drafter' contribution by 'fathering' at least three of its Articles, but also by placing upon itself a label of a mediator or a middle power always willing to collaborate with the other nations and 'unite for peace'. Canada's historical as well as present role is hard to be overlooked because since the UN's formation, our country always worked towards its improvement and believed in its purposes.

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[48] Clark, Campbell. "Canada rejects UN call to lead in Congo." *Globe and Mail* 1 May 2010: CTV globemedia Publishing Inc.

[49] Dallaire, Romeo and Dewar, Paul. Canada Must Intervene. *The Ottawa Citizen* 30 April 2010. Leader-Post: Division of Canwest Publishing Inc.

[50] Weese, Bryn. "Dallaire wants Canada engaged in UN-peacekeeping again." Parliamentary Bureau 22 April, 2010

[51] Canadian Department of External Affairs 102.

[52] Foreign Affairs Canada. "Canada World View: The UN at 60; Where to Now?" (Summer 2005) 7.

[53] Cannon, Lawrence. Address to the General Assembly. (October 2009)

Already a non-permanent member of the Security Council six times, Canada has been 'jockeying' for a seat for September 2010. It is not surprising the country wants to once again take an active role in this UN body because, as the *New York Times* said shortly after the UN Charter came into force in 1945, "when the chips were down the Canadians fought harder and more effectively for the principle of collective security than anybody else."[54]

An active involvement of Canada in the UN and most importantly Security Council reform is a clear demonstration of this. In 1956, Lester B. Pearson reopened a discussion on a subject that had never before been brought to a concrete end result and, intentionally or not, he changed the way most conflicts have been resolved ever since. Historically, but also to this day, Canada presented itself on the United Nations stage as the establisher, mediator, reformer and a universalist. Gilbert Laurin, Canada's Ambassador and a Deputy Permanent Representative to the UN, sums up Canada's contribution to and leadership in the UN as "our expertise in peacekeeping, in women's and children's concerns, in disability issues; our contributions to policing in Haiti; and our role in the development of an international criminal court."[55] Peacekeeping is a chapter of Canada's involvement in the UN that has evolved and changed probably the most out of all the other ones just mentioned. While Canada was the top contributor in peacekeeping operations worldwide until only a decade ago, due to the unpredictability of the present political climate, complexity of conflicts, and often very inflexible UN mandate, Canada today occupies only the 57th position, falling behind countries such as Bangladesh or India. It seems, though, that Canada was right about one thing: middle powers do have the capacity to contribute.

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Chapter 2

Understanding Both Official Languages at the Supreme Court of Canada

Amanda Simard

It has been over 40 years since the *Official Languages Act* was enacted. In 1969, Pierre Elliott Trudeau's Liberal government had the Act passed by the Parliament of Canada, giving equal status to English and French. Canada became an officially bilingual country with the entry into force of that Act. In 1982, the *Canadian Charter of Rights and Freedoms* was entrenched in the Constitution, thus giving language rights constitutional status. Over the years, linguistic duality has become one of Canada's most fundamental values, as demonstrated by case law, literature and agreements.

In spite of the legal protection and symbolic recognition achieved, official language minorities still suffer injustice in the exercise of their language rights. Recent calls for people to be understood in the official language of their choice in the highest court in the land offers a good illustration of the inequality that still exists in 2010. The judges who sit on the Supreme Court of Canada are not required to understand both official languages, even though they hear cases in both languages. Bilingualism[1] is not a requirement; it is a consideration in the selection process. Is it necessary to understand both official languages of the country to sit on the Supreme Court of Canada? The question is a legitimate one, for legal, practical and symbolic reasons.

Background and Bill

Since the appointment of a unilingual judge in 2006, calls for a language proficiency criterion to be included in the appointment process have grown louder, and the question has become particularly serious since Justice Michel Bastarache, one of the greatest advocates of language rights, retired from the bench in 2008.

To ensure that unilingual judges are not appointed to the court of last resort in Canada in the future, parliamentarians are taking action: Liberal M.P Mauril Bélanger introduced a bill[2] to amend the *Supreme Court Act* to add the requirement of an ability to understand both official languages for all appointments to the Supreme Court of Canada. The bill died on the Order Paper when Parliament was dissolved, but the battle for a bilingual Supreme Court did not end there. Again in this Parliament, New Democratic Party M.P. Yvon Godin introduced Bill C-232[3], which reiterates the principles in

[1] In this paper, the word "bilingualism" refers to the ability to understand both official languages of Canada, English and French.

[2] Bill C-559 – An Act to amend the Supreme Court Act (understanding the official languages), 39th Parliament, 2nd Session.

[3] Bill C-232, An Act to amend the Supreme Court Act (understanding the official languages), 40th Parliament, 3rd Session.

Mr. Bélanger's bill. That bill has been passed by the House of Commons and is currently being considered in the Senate.

Much ink has been spilled over the bill. Some people are shocked by it, and at the same time, others find it entirely logical. On the one hand, opponents are concerned that adding a language proficiency criterion presents significant potential challenges. Among other things, they are afraid that the pool of candidates will be limited and competent jurists will be eliminated because they are unilingual. One senator has even gone so far as to say that such a requirement is unconstitutional. On the other hand, a large segment of society understands the objectives of the bill: to respect the principle of substantive equality; to solve technical problems associated with unilingualism of the part of judges; to protect linguistic minorities; and to reflect the linguistic duality of Canada.

1. Potential Challenges

Potential challenges include limiting the pool of candidates, eliminating "competent" jurists, the difficulty of recruiting bilingual jurists in some regions to ensure regional representation on the Court, the challenge of learning the other official language, and the challenge of training bilingual jurists. Because of these various challenges, opponents of the bill argue that requiring an understanding of both Canada's official languages will diminish the quality of the Court.

Even before analyzing the potential challenges, we have to face reality: vacancies on the Supreme Court bench are rare. There are nine judges who hold office until the age of 75. On average, there is one vacancy every five years.[4] The bar and bench will certainly have enough time to adapt. As in the case of every other job, there are criteria that must be met in order to fill a position, and if candidates do not meet those criteria, they are not qualified for the position. Recruiting the necessary two judges from the West in the next 10 years will not be a problem if the ability to understand both official languages is added to the selection criteria. The chance that both positions reserved for the Western provinces will become vacant at the same time is minimal. Those who are calling for a coming into force date that will prepare the bar and bench for this requirement have to take this factor into account. The fact is that the nine judges on the Supreme Court are not going to have to be replaced every year, all at the same time. This is a case of gradual recruiting.

1.1 Limiting the pool of candidates

Without reiterating that all candidates will have more than a few years to adapt, it must be noted that recruiting is done among the judges of the superior courts and lawyers who have been members of a bar for at least 10 years.[5] It goes without saying that these candidates are very competent. No one is suggesting that just any judge or lawyer in Canada be recruited simply to find one who is bilingual.

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[4] SUPREME COURT OF CANADA. "Current and Former Puisne Judges". Accessed on March 14, 2010, at http://www.scc-csc.gc.ca/court-cour/ju/cfpju-jupp/index-eng.asp.

[5] Under section 5 of the *Supreme Court Act*, R.S.C. 1985, c. S-26.

Requiring that candidates understand both official languages does not jeopardize legal competence as some argue. Chantal Hébert, a respected journalist who reports on Canadian politics, notes that "when Jean Chrétien was prime minister … he achieved a fully bilingual Supreme Court. And with **equal competence** there is something to be said about favouring bilingual people."[6] In fact, a jurist who understands both official languages is considered to be more competent than their colleagues who understand only one.

1.2 Recruiting "competent" lawyers and judges

In Canada, federal legislation is co-drafted, not translated. Sébastien Grammond comments that [TRANSLATION] "the rules of interpretation sometimes result in the French text being given precedence over the English text, as in *Daoust*[7] in 2004".[8] Unilingual judges who will have to apply that rule of interpretation will not be able to read the French text. They will have to assign a definitive meaning to legislation written in a language that is foreign to them. It is crucial that they understand both official languages.

In R. v. Mac,[9] the issue was the interpretation of the word "adapted". The Ontario Court of Appeal held that there was ambiguity in the statute since the English word can have two meanings. In an eight-paragraph judgment, the Supreme Court explained that there is no ambiguity and the parties must consult the French version of the statute to understand the meaning of the word, which is in fact clear in that version.[10] That case clearly illustrates that the meaning of a bilingual statute must be determined from both versions.[11] Judges must be able to understand both versions of legislation; otherwise, they cannot truly grasp the meaning of the entire statute.

If jurists who do not understand one of the official languages cannot understand a statute in its entirety, are they then "highly qualified" to sit on the highest court in the land? In view of the foregoing explanation, linguistic competence is essential to legal competence. In addition, language is not merely a tool of communication; it is an integral part of an individual's life. It must be understood properly not only in order to understand the meaning of legislation, but also to understand the parties to a proceeding.

Conventionally, understanding both official languages is *de facto* mandatory for anyone who holds an important federal office in Canadian society. Commissioner of Official Languages Graham Fraser stated that "[u]nderstanding both official languages must be among the qualifications required for these positions, because linguistic duality is one of Canada's most fundamental values".[12] Allan Gregg, a well-known pollster and commentator who is respected in the Canadian political arena, has said the same thing:

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[6] CBC News, *The National* "At Issue", broadcast interview with Andrew Coyne, Allan Gregg and Chantal Hébert, April 22, 2010, Ottawa.
[7] *R. v. Daoust*, [2004] 1 S.C.R. 217, 2004 SCC 6.
[8] GRAMMOND, S. "Des juges bilingues à la Cour supreme", *La Presse*, Montréal, May 20, 2008.
[9] *R. v. Mac*, [2002] 1 S.C.R. 856, 2002 SCC 24.
[10] Interview with Mark Power, professor in the University of Ottawa Faculty of Law – Common Law Section, April 30, 2010, Ottawa.
[11] COTE, P.-A (1999). *Interprétation des lois*, 3rd ed., Montréal, Les Éditions Thémis, pp. 413-414.
[12] BUZZETTI, H. (April 24, 2010). "Les hautes sphères canadiennes doivent-elles être bilingues?", *Le Devoir*, Montreal.

"There is a virtually universal embracement in this country that bilingualism is a *prima facie* prerequisite of holding national office. … There's a recognition that if you cannot speak the language of the nation, you aren't qualified, full stop."[13] The bill would entrench that convention in legislation, to provide legal assurance that judges appointed to the Supreme Court are bilingual.

1.3 Regional representation

Under section 6 of the *Supreme Court Act*, three judges must come from Quebec, because of its different legal system. By convention, the other six judges are divided geographically: two from the western provinces, three from Ontario and one from the Maritime provinces. Recruiting judges from those regions at present might indeed limit the pool of candidates, given that in the Maritimes, 93% of the population uses English as the language of work, while in the western provinces that is true of 98% of the population.[14] It might be thought that recruiting judges who understand both official languages will be a major challenge in those regions.

However, recent cases brought before the Manitoba, Alberta, Yukon and Northwest Territories Courts of Appeal have all been heard in French, without the assistance of interpreters.[15] The judges of those courts were able to understand trials held in French very well. These are obviously highly qualified judges who understand French and who come from the western region. Judges of the Supreme Court are particularly chosen from the benches of those appeal courts.

Finding competent candidates in the West will not be an obstacle. As independent Senator Jean-Claude Rivest said, "We can find bilingual politicians and administrators, so why would we be unable to find bilingual judges, especially since we are not talking about people lacking in intelligence, but rather about people of superior intellect who can easily learn a second language?" Clearly judges and lawyers have the intellectual capacity to learn the other official language.

1.4 Learning the other official language

While many Canadians are not bilingual, their geographic distribution cannot offer a legitimate excuse. Learning the other official language is not merely a question of who is around them; it calls for considerable motivation and effort. Senator Claudette Tardif, who sponsors Bill C-232 in the Senate, gives the example of her students at the University of Alberta's Faculté St-Jean, where she was Dean some years ago.[16] She describes how some new students in that francophone faculty were anglophones. They were motivated to learn French and put considerable effort into achieving that objective. In the space of a year, they had succeeded in mastering French very well. If understanding the two official languages is required in order to sit on the Supreme Court

[13] *Op. cit.*, CBC News, April 22, 2010.

[14] STATISTICS CANADA. "Workers who use an official language most often or regularly at work, by province and territory", 2006 Census. Accessed on April 2, 2010, at http://www40.statcan.gc.ca/l02/cst01/demo44a-eng.htm.

[15] See *Rémillard (*Manitoba), *Caron* (Alberta), *Halotier* (Yukon), and *Fédération franco-ténoise* (Northwest Territories).

[16] Interview with the Hon. Claudette Tardif, francophone Liberal senator from Alberta (sponsor of the bill), April 29, 2010, Ottawa.

of Canada, judges and lawyers will be motivated to learn the other official language and will devote all necessary effort to learning the other official language.

The situation for judges and lawyers can also be compared to that of people who want to immigrate to Canada. Immigrants have to learn at least one of the official languages of Canada to be able to settle here. They make the choice to immigrate to Canada and meet the requirements for living here. They learn either English or French. In Quebec, they are required to learn French, under the *Charter of the French Language* and the *Act respecting the ministère de l'Immigration et des Communautés culturelles*.[17] They settle in Canada by choice, just like lawyers aspire to become judges by choice. In fact, lawyers had the ambition to undertake rigorous courses of study in law and to make their career in that demanding field. A requirement that they learn the other official language is not something beyond their ability to meet.

All national leaders, regardless of the region they come from, understand that bilingualism is one of the most important skills needed to hold the highest positions in the country. Prime Minister Stephen Harper from Calgary, Chief of Defence Staff General Walter Natynczyk from Winnipeg and his predecessor Rick Hillier from Newfoundland all learned the other official language despite being in a geographic area where English was in a definite majority. The present Chief Justice of the Supreme Court, the Right Honourable Beverley McLachlin, who comes from Alberta, also understands both official languages.

1.5 Training bilingual lawyers and judges

The last potential challenge involves training bilingual lawyers and judges. Even before starting law school, students take courses in the other official language in elementary school and can enroll in immersion programs, in both elementary and secondary school, and also at the postsecondary level. The number of students in immersion programs in the other official language is in fact rising.[18] Canadians are aware that understanding both official languages is a very important competency for achieving a senior position in the federal public service or any other public office. Parents are dealing with the new reality of bilingualism in Canada. They are enrolling their children in immersion programs starting in elementary school.

Some law faculties, and in particular the University of Ottawa, McGill University and the Université de Moncton, offer law courses in English and French. Bilingualism is in fact already a prerequisite for applying to the Programme de droit canadien (LL.L-LL.B) at the University of Ottawa. The University of Western Ontario and the University of Manitoba offer courses in legal terminology in French and the University of Toronto has said it is prepared to adapt if bilingualism is added to the list of requirements for

[17] Charter of the French Language, R.S.Q., chapter C-11 and section 4 of the Act respecting the ministère de l'Immigration et des Communautés culturelles, R.S.Q., chapter M-16.1.

[18] DEPARTMENT OF CANADIAN HERITAGE (2008). *Official Languages: Annual Report 2007-2008*, Vol. 1, Ottawa, pp. 15 and 30.

becoming a judge of the Supreme Court.[19] The demand for bilingual legal professionals is rising, and Canadian law faculties are adapting.

A new provision has been added to the Canadian Bar Association's Code of Conduct.[20] It requires that lawyers respect their client's official language, and this will have a significant impact in terms of bilingual lawyers being hired in private law firms. The universities are getting the tools they need to train lawyers so they are able to meet the expectations of law firms in this regard, which is also an expectation of government departments and of society. Bilingual lawyers are in great demand, and students attending law school are aware of this. If Bill C-232 is enacted, students and lawyers will do more to prepare to meet the requirement, which will then be the norm.

2. Constitutionality of requiring language proficiency

In addition to the potential challenges raised, the constitutionality of the bill has also been questioned. Some opponents of the bill believe that the language proficiency requirement not only presents challenges, but also is unconstitutional.[21] They argue that adopting such a provision would discriminate against unilingual judges and lawyers and would even require a constitutional amendment.

First, the critics argue that the requirement of the ability to understand both official languages is unconstitutional because it discriminates against unilingual lawyers and judges. However, that discrimination is justified by section 16(3) which provides that even if a provision is discriminatory, "[n]othing in this Charter limits the authority of Parliament … to advance the equality of status or use of English and French".[22] That clause allows for positive discrimination in relation to language.

Second, the opponents believe that adding a criterion requires a constitutional amendment under sections 41(d) and 42(1) of the *Constitution Act, 1982*. Those sections set out the procedure for amending the Constitution to be used if the Constitution is to be amended in a way that affects the Supreme Court of Canada. However, a constitutional amendment is not required to change the selection criteria for appointing judges to the bench of that Court. Although the Supreme Court was created under section 101 of the *Constitution Act, 1867*, the criteria for appointing judges to that Court are not laid down in the Constitution of Canada. They are found in the *Supreme Court of Canada Act* and the *Judges Act*.

Adding that criterion will not prevent judges from speaking the official language of their choice. On the contrary, it will specifically allow each of them to speak in their chosen language, given that they will all be able to understand both languages. At

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[19] HOUSE OF COMMONS. Debates. (40th Parliament, 2nd Session, March 19, 2010). *Third reading of Bill C-232 – An Act to amend the Supreme Court Act. Speech by Yvon Godin*, Revised Hansard, No. 13, Ottawa.

[20] CANADIAN BAR ASSOCIATION. *Code of Conduct 2009.* Accessed on April 11, 2010, at http://www.cba.org/abc/activities_f/pdf/codeofconduct.pdf (http://www.cba.org/CBA/activities/pdf/codeofconduct.pdf).

[21] Interview with the Honourable Claude Carignan, francophone Conservative senator from Quebec, April 29, 2010, Ottawa.

[22] Section 16(3), *Constitution Act, 1982* (U.K.), being Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11.

present, the judges have to speak in English if they want their unilingual colleagues to understand what they are saying.

The bill is definitely constitutional and any demand for a personal right to be free not to understand both languages will be ignored. The right of members of the public to a fair trial and to be understood is guaranteed by the Charter. Judges may continue to use the official language of their choice in the activities of the Court. They will be required to understand both languages, not to speak them.

The term used in the bill is "understanding". In a judgment of the Manitoba Court of Appeal, quoted by the Supreme Court of Canada, Chief Justice Monnin explained that there are four phases of language comprehension: the understanding of the written language; the understanding of that language as it is spoken; being able to express oneself orally in that language; and the ability to write in that language. The Chief Justice wrote that it is not necessary for judges to achieve the third or fourth level, but it is essential that they understand the language.[23] The requirement of understanding both official languages therefore does not limit the pool of candidates to lawyers and judges who are perfectly bilingual.

3. Legitimate demands

The arguments made against the bill stress the office of judge and the additional burden that a language proficiency criterion will create. However, the Court was created to give the public access to justice, and not to accommodate the legal professionals who aspire to sit on its bench. Being appointed to the position of judge of the Supreme Court of Canada is not a right, it is a privilege. Neither the Constitution nor any other legislation gives anyone the right to be appointed as a judge. The appointment criteria are at the discretion of Parliament and people who wish to be appointed to the bench must meet the established requirements. The purpose of Bill C-232 is to ensure that the judges of the highest court in the land are capable of understanding the two official languages spoken by its people, and thus that the parties that appear before it are genuinely understood.

By simply adding a provision that calls for the judges selected to be able to understand both official languages without the assistance of an interpreter, the bill, when passed, will have a positive impact in many respects. First, in terms of the law, the provision will ensure that the Court is in compliance with the principle of the substantive equality of the two official languages. Second, in practical terms, the new provision will solve the technical problems associated with unilingualism on the part of judges on the Court. And third, in symbolic terms, the provision will ensure that the Supreme Court genuinely reflects the linguistic duality of Canada, one of the most important Canadian values.

3.1 Legal obligations and the principle of substantive equality

Language rights are historic, inalienable rights. The two founding peoples have equal rights and privileges that are protected by section 133 of the *Constitution Act, 1867*, by sections 16 *et seq.* of the *Canadian Charter of Rights and Freedoms*, by the *Official Languages Act* and by sections 530 and 530.1 of the *Criminal Code*. Those rights include

[23] Robin v. College de St.-Boniface, 1984 MBCA 42.

the right to be understood, without the assistance of an interpreter, by the federal courts in the official language of one's choice.

The Supreme Court is a federal court, but it is exempt from section 16 of the *Official Languages Act*, which guarantees members of the public the right to be understood by judges in the official language of their choice without the assistance of an interpreter. Independent Senator Jean-Claude Rivest believes that the exemption is ridiculous: "[i]t would be ridiculous [...] if we said that the Supreme Court of Canada is such an important institution that there is no need for those seated on its bench to know both of the country's official languages."[24]

Before section 16 was added to the *Official Languages Act* in 1988, the right to be heard in the language of one's choice, which is guaranteed by section 19 of the Charter, did not imply the right to be understood. In its 1986 decision in *Société des Acadiens du Nouveau-Brunswick*, for example, the Supreme Court interpreted language rights narrowly, in a seven to two decision. In that decision, however, Justice Wilson, dissenting, stated:

> At a certain point, for example, the steps taken to upgrade the bilingual capabilities of the federal judiciary will lead the public to expect access to a bilingually competent court. Those expectations would then be not only legitimate but also the subject of constitutional protection under ss. 16 and 19.[25]

At the time, Justice Wilson predicted that legislation would naturally evolve to meet the demands made by the public. The *Official Languages Act* was revised in 1988 and section 16 was added. French-speaking and English-speaking members of the public then achieved substantive equality before the federal courts subject to section 16. The exemption for the Supreme Court was not removed, however. Substantive equality of the two language groups before the Supreme Court of Canada is now being demanded and the legislation must evolve.

At present, to comply with the federal equality requirements the Court uses a system of interpreters to hear cases that are argued in the other language.[26] However, requiring that all judges of the Court understand the official language chosen by a party will ensure that the principle of substantive equality can be honoured.

The 1999 decision in *Beaulac* was when the Supreme Court introduced the principle of the substantive equality of the two official languages.[27] In *Beaulac*, the Supreme Court stated:

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[24] SENATE OF CANADA. Debates of the Senate. (40th Parliament, 3rd Session, April 20, 2010). *Second reading of Bill C-232 – Adjournment of the Debate. Speech by the Honourable Jean-Claude Rivest,* Vol. 147, No. 18, Ottawa.

[25] Société des Acadiens du Nouveau-Brunswick inc. v. Association of Parents for Fairness in Education, [1986] 1 S.C.R. 549.

[26] *Official Languages Act*, R.S.C. 1985, c. 31 (4^{e} suppl.)

[27] This guiding principle was then confirmed in *Desrochers v. Canada (Industry)*, [2009] 1 S.C.R. 194.

> This Court has recognized that substantive equality is the correct norm to apply in Canadian law. Where institutional bilingualism in the courts is provided for, it refers to equal access to services of equal quality for members of both official language communities in Canada.[28]

Where a trial is held in the official language other than the one understood by the judges of the Court it will be done with the assistance of an interpreter. Where a trial is held in the official language understood by the judges of the Court it will be argued by counsel directly – including the nuances, subtleties and expressions that are unique to the language. When we compare the two scenarios, we see that the principle of substantive equality is not followed.

3.2 Technical problems

A. Use of interpreters

The use of interpreters jeopardizes the principle of substantive equality before the Supreme Court. Simultaneous translation does not always reflect what is really said in the original language. There are nuances and subtleties that have to be understood by the Court in order for it to genuinely understand the argument. As Chantal Hébert said, "... a lawyer who is arguing and knows that he is being carried in simultaneous translation knows that he's losing something in the process."[29] Word for word translation does not guarantee that the message the parties want to communicate will be conveyed.

When Michel Doucet appeared before the Supreme Court of Canada in French in a language rights case, he lost the case in a five to four decision, where three judges on the Court were unilingual anglophones. He then listened to the trial over again on CPAC, with the interpreters' voices, and he could not understand what he himself was arguing.[30] The interpreter made no mention of section 16(3) of the Charter, a section that is crucial to the rights of official language minority groups, and also did not mention [TRANSLATION] "civil litigation" when he referred to that type of case. He still wonders today whether the outcome would have been the same if he had appeared in English. In fact, in a country where the two official languages have equal status, lawyers and members of the public should not feel that they are compelled to speak either of the official languages in a federal institution.

The use of interpreters is the result of an accommodation made for the use of one of the official languages. In 1999 in *Beaulac*, Justice Bastarache clearly stated that this must be avoided:

> ...in the context of institutional bilingualism, an application for service in the language of the official minority language group must not be treated as though there was one primary

[28] R. v. Beaulac, [1999] 1 S.C.R. 768.
[29] *Op. cit.*, CBC News, April 22, 2010.
[30] HOUSE OF COMMONS. Standing Committee on Official Languages. (39th Parliament, 2nd Session, May 8, 2008). *Committee Proceedings. Evidence of Michel Doucet on access to justice in both official languages*, Ottawa.

> official language and a duty to accommodate with regard to the use of the other official language. The governing principle is that of the equality of both official languages.[31]

A party should in no circumstances be heard before the highest court in the land through an interpreter, if they are speaking in one of the two official languages. On second reading of Bill C-232 in the Senate, Senator Maria Chaput from Manitoba pointed out that "[n]o burden must be put upon those who ask for a trial in French …"[32] Francophones must not be treated like second-class citizens in the courts because they are in the minority, and particularly not in Canada's final court of appeal.

As well, there is no interpreter present when the judges meet in camera to discuss their views, which will lead to the final judgment. The judges talk with one another, and there need be only one unilingual judge for the language of communication to be that judge's language. They exchange draft reasons. As Chantal Hébert said, "... it allows the justices to write in their own language and trade papers in their own languages when they come to decisions, and that's not a small factor."[33]

Unilingual judges are also denied access to major sources. The decisions of the appellant courts and lower courts, and the memoranda and literature submitted, are not translated. A major study[34] has shown that from 1985 to 2004, the Supreme Court consulted more legal sources in English than in French. Sébastien Grammond, Dean of the Civil Law Section of the University of Ottawa's Faculty of Law, points out that [TRANSLATION] "the presence of unilingual English judges on the Supreme Court marginalizes francophone academics, who find themselves facing the dilemma of publishing in English or seeing their work ignored."[35]

Francophone academics who write in English so their publications will be read by the Court will be able to write in the language in which they are comfortable if this requirement is adopted. The number of francophone legal sources consulted by the Court might rise, given that there will be more of them and the judges of the Court will be able to understand them. Unilingual judges who want to consult those resources have to wait for translation, and this leads to delays and deters them from reading those resources.

B. Translation time

The presence of unilingual judges on the Supreme Court may interfere with the effectiveness of the Court. When judges recommend to one another that they read certain material in the literature, case law and legislation from other provinces and countries written in English or French, in order to understand a case, unilingual judges have to wait

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[31] R. v. Beaulac, [1999] 1 S.C.R. 768.

[32] SENATE OF CANADA. Debates of the Senate. (40th Parliament, 3rd Session, April 27, 2010). *Second reading of Bill C-232 – Debate Continued. Speech of the Honourable Maria Chaput*, Vol. 147, No. 21, Ottawa.

[33] *Op. cit.*, CBC News, April 22, 2010.

[34] MCCORMICK, P. (2004). *Judicial* Independence *and Judicial Governance in the Provincial Courts*, Canadian Association of Provincial Court Judges, quoted in GRAMMOND, S. (May 20, 2008).

[35] *Op. cit.*, GRAMMOND, S. (May 20, 2008).

for translation in order to be able to use those resources. A case can therefore take much longer when there are unilingual judges on the Court.

As well, all judgments of the Supreme Court that are written in the official language other than the language of unilingual judges have to be written in their language before they are able to approve the text or make changes to it. That situation forces the other judges to write in the language of the unilingual judges, to expedite the process.[36] Professor Sébastien Grammond has made his own compilation and found that in 2006 and 2007, only 10% of the judgments of the Supreme Court were written in French or partially in French.[37]

The reality is that where only one judge, be they anglophone or francophone, is unilingual, the other judges are forced to speak and write in that judge's language. The Court's activities take place in English in the highest court in a country where linguistic duality is a fundamental principle.

3.3 Linguistic duality in Canada

Canada is a bijural and bilingual country. Two legal systems coexist and two official languages coexist. Because the private law legal system is the *droit civil* in Quebec, three judges come from that province, by law,[38] for practical reasons. However, the other judges on the Court come from the various provinces to reflect the diverse regions of the country, for symbolic reasons. There is no law or convention of that nature that has been put in place to reflect the linguistic duality of this officially bilingual country. The judges of the Supreme Court could, in theory, all be unilingual anglophones.

The Supreme Court of Canada is the most important court in Canada. It makes decisions that have important impacts on Canadian society and its judgments are final. If bilingualism becomes a criterion for appointments to that Court, a message will have been sent - the two official languages are each as important as the other. That message is precisely what Parliament sought to convey when it enacted the *Official Languages Act* in 1969 and entrenched language rights in the *Canadian Charter of Rights and Freedoms* – the two official languages have equal status at the federal level. The bilingualism criterion would strengthen linguistic duality and guarantee the equality of the two official languages by establishing that both official languages must be understood in order for a person to be appointed to the highest court in the land.

The highest court in the land cannot truly reflect Canada if the judges on that court do not understand both official languages. [TRANSLATION] "Imagine how Canada appears on the international stage: a bilingual country where the judges of the highest court in the land are not required to understand the official languages of their country, of their fellow citizens,"[39] said Senator Marie-P. Poulin from Ontario. "No

[36] The unilingual judges appointed to the Court are always anglophones. In history, no unilingual francophone judge has ever been appointed as a judge of the Supreme Court of Canada. (Information from the Honourable Marie-P. Poulin, senator from Ontario, interviewed on May 3, 2010, Ottawa).

[37] *Op. cit.*, GRAMMOND, S. (May 20, 2008).

[38] Under section 6 of the *Supreme Court Act*, R.S. 1985, c. S-26.

[39] Interview with the Honourable Marie-P. Poulin, francophone Liberal senator from Ontario, May 3, 2010, Ottawa.

country in the world would agree that their highest court not speak the official language of the country," she commented.

The Supreme Court must be a reflection of our Canadian values and identity; it is the image of Canadian justice on the international scene. The Court must be able to understand all of the cases that come before it directly; it is the final court of appeal in Canada. The Supreme Court is a federal institution and is not above the law; it must comply with the *Official Languages Act*, and obviously must comply with the provisions of the Constitution of Canada that govern language rights.

The call for bilingual judges on the Supreme Court is legitimate. There are legal, practical and symbolic reasons behind the demand that show that it is essential, in all regards, that judges appointed to the final court of appeal be bilingual. The potential challenges can clearly be overcome, and the arguments advanced by opponents have been rebutted. The majority of MPs have already supported Bill C-232, which requires Supreme Court judges to understand both official languages. It is up to the Senate, which advocates for minorities, to act in the interests of official language minorities and show that the languages of the two founding peoples truly have equal status in Canada.

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Chapter 3

Constitutional Monarchy in Canada: Still Relevant?

Marc-André Roy

INTRODUCTION

The political events that culminated in the first session of Canada's 40th Parliament being prorogued in December 2008 have been the topic of much discussion. For the first time in years, a governor general was asked to make a decision in circumstances with no clear precedent. After all, it is not every day that the Governor General of Canada is called upon to make a determination in matters which could have such great impact on governance of the country. Governors general have for decades simply followed the Prime Minister's advice. Moreover, situations of this nature—where the legitimacy of a prime minister's action is being challenged—occur only rarely and especially in the case of a minority government.

These events raise questions about the role of the Governor General in our system of government. We tend to forget that behind the largely symbolic function of our constitutional monarch lie genuine powers and responsibilities. Should such powers and responsibilities rest in these hands? Today, and particularly in the wake of what occurred in the fall of 2008, we have reason to wonder whether the monarchy is still relevant in the governing of Canada. It is from this perspective that this paper analyses the role of the Crown in Canada's system of government.

Many Canadians take the view that the monarchy is an unwanted relic of a bygone era and that the time has come to abolish it and make Canada a republic. Despite the flagging popularity of the monarchy in Canada, this paper is based on the premise that keeping the institutions and traditions we have inherited from Great Britain is still the best course of action in today's political climate. However, this argument is not black and white: it does not mean that the role of Governor General should not continue to evolve so that it remains relevant in 21st-century Canada.

Four main arguments are examined in this paper. The first section is a brief analysis of the history of the monarchy in Canada. We look at how the role of the monarchy has changed since responsible government was first established. The second section analyses the primary functions and symbolism of the Crown in Canada, more specifically the constitutional role of the Queen and the Governor General and the role those institutions play in Canadian society. The third section is an overview of the main arguments against Canada's constitutional monarchy. The final section aims to determine the extent to which the role of the Crown in Canada can change in the 21st century.

THE ROLE OF THE CROWN IN CANADA: AN HISTORICAL OVERVIEW

Before we can examine the role of the Crown in modern-day Canada, we have to take a look back. The purpose of this is to understand how the roles of the Governor General and the monarch have evolved in British North America.

In the 18th century and for much of the 19th century, representatives of British monarchs played a dominant role in the colonies, overseeing their administration in the name of the Crown and the imperial government.[1] The elected assemblies therefore had very few real powers, as the governor blocked any proposal he or she found unacceptable. The transition to responsible government took place gradually in the mid-19th century. It was not until 1848 in Nova Scotia that the first overseas responsible government was established.[2] With this change, governors, while keeping their powers on paper, saw their influence diminish; governors now had to accept appointing ministers who had the confidence of the legislative assembly and consent to laws on domestic matters enacted by the legislature.[3] It was at that point that the British government's involvement in Canadian affairs began to decline and the role of the monarchy began to evolve into what it is today. The process was gradual, but there were a number of dramatic changes along the way.

A key event in the history of the Crown in Canada was Confederation, which was confirmed by the *British North America Act*. Unlike in America, the Fathers of Confederation chose to remain loyal to the Crown and adopt a constitutional monarchy as the form of government in the new dominion.[4] The Act established much of the legal framework within which the monarchy would operate in Canada. For example, section 9 states that executive authority is vested in the Queen.[5] The Governor General of Canada exercises that authority on the Queen's behalf. Even more importantly, the preamble to the Act states that Canada is a dominion "with a Constitution similar in principle to that of the United Kingdom."[6] That section of the preamble is in part the source for the application in Canada of many conventions rooted in British practices: responsible government, the very existence of the position of Prime Minister, and so on. At that time, however, the Governor General did more than simply represent the monarch and play a symbolic role as is the case today: the Governor General had a dual role. The Governor General also represented the British government and thus had a duty to ensure that actions taken by the dominion did not undermine the empire's interests.[7]

In the decades that immediately followed Confederation, the role of the Governor General as a representative of the British government came to entail frequent use of the authority to reserve bills for approval by London.[8] It was not until the Imperial Conference of 1926 that the Governor General's role was split in two: the Governor General became simply the Crown's representative while the position of High Commissioner was created to ensure diplomatic representation of the British

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[1] *A Crown of Maples: Constitutional Monarchy in Canada,* Gatineau: Canadian Heritage, 2008, p. 6.
[2] *Ibid.*, United Canada obtained responsible government the same year, Prince Edward Island in 1851, New Brunswick in 1854 and Newfoundland in 1855.
[3] Library and Archives Canada, May 3, 2005, *Responsible Government – Canadian Confederation*, viewed on May 2, 2009, on Canadian Confederation, http://www.collectionscanada.gc.ca/confederation/023001-2974-e.html.
[4] *A Crown of Maples: Constitutional Monarchy in Canada,* p. 7.
[5] *Constitution Act, 1867*, (U.K.), 30 & 31 Victoria, c. 3, s. 9.
[6] *Ibid.*, preamble.
[7] *Corpus constitutionnel*, Vol. 2/1, 1974, Leiden: E.J. Brill, p. 105.
[8] *Ibid.*

government.[9] The delegates at the 1926 conference also produced a sketch of the *Statute of Westminster*, legislation which put an end to British colonialism and made Canada truly independent in managing its external affairs.[10] The conference took place shortly after the notorious King-Byng affair, where the Governor General denied Prime Minister William Lyon Mackenzie King's request to dissolve Parliament. King replied by tendering his resignation, and Byng asked the Leader of the Opposition, Arthur Meighen, to form a government. The new government soon lost the confidence of the House, and the Governor General agreed to call an election. The Governor General's actions were the subject of much controversy. It was customary at the time for the Crown's representative to refrain from interfering in the affairs of the dominions and to accept the Prime Minister's advice.[11] Since the King-Byng affair, no Canadian governor general has denied a request from the Prime Minister.

The *Statute of Westminster* also solidified the independence of the dominions by making the British monarch the sovereign of each separate dominion. That is why the current monarch is styled "Queen of Canada".[12] The "Canadianization" of the monarchy in Canada did not end there. After the *Statute of Westminster* was passed, the Prime Minister became more and more involved in the appointment of governors general. That involvement culminated in the appointment of the first Canadian to the position—Charles Vincent Massey—in 1952.[13] The fact that this position was held by a Canadian would not change the Governor General's role, which would remain largely symbolic.

The last milestone in the history of the Canadian monarchy was the repatriation of the Constitution in 1982. Repatriation severed its last subordinate ties to the British parliament, but Canada preserved constitutional monarchy as its form of government and established parameters to guide any attempt to change the role of the monarchy in this country. The *Constitution Act, 1982* contains a new amending formula that requires the consent of the 10 provinces and Parliament in order for an amendment to take effect.[14] This condition all but eliminates the likelihood of the monarchy being abolished in the near future. There would have to be broad consensus not only on the desire to remove the monarchy, but also on the system of government that would take its place in a new republic.

If a conclusion can be drawn from this historical analysis, it is that the role of the Crown has evolved in Canada. History shows that the roles of the Queen and the Governor General have significantly changed over the years from within the rigid structure in which they operated. The flexibility of this system, which has adapted through constitutional conventions, likely explains its survival through the years.

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[9] *Ibid.*
[10] *Corpus constitutionnel*, Vol. 2/1, 1974, Leiden: E.J. Brill, p. 105
[11] McWhinney, E., *The Governor General and the Prime Ministers: The Making and Unmaking of Governments*, Vancouver: Ronsdale Press, 2005, p. 61.
[12] *A Crown of Maples: Constitutional Monarchy in Canada*, p. 10.
[13] Pelletier, R., and M. Tremblay, *Le parlementarisme canadien: 3e édition revue et augmentée.* Montreal: Les Presses de l'Université Laval, 2006, p. 318.
[14] *Constitution Act, 1982*. In Schedule B of the *Canada Act, 1982*, (U.K.) 1982, c. 11, section 41.

CONSTITUTIONAL ROLE OF THE QUEEN AND THE GOVERNOR GENERAL

The preceding section described the evolution of the monarchy through Canadian history. The Queen and the Governor General play a largely symbolic role today. However, the Queen and especially the Governor General still have powers that are important even if they are not used often. The purpose of this section is to explain and evaluate the constitutional responsibilities of the Governor General. It should be noted that this section does not address the powers of the Queen in Canada. The Queen has a truly symbolic role in Canada, as practically almost all the powers conferred on her are exercised by the Governor General.

The Governor General is now appointed by the Queen on the recommendation of the Prime Minister of Canada. He or she performs on the Queen's behalf the duties of Canada's head of state. The Governor General's powers include the power to convene, prorogue and dissolve Parliament; to grant, deny or reserve royal consent to bills; and to appoint or dismiss the Prime Minister and other members of Cabinet.[15] In reality, the Queen's only remaining powers are to appoint the Governor General and additional senators pursuant to section 26 of the *Constitution Act, 1867*.[16]

Despite the position and powers of the office, the Governor General, like the Queen, has almost no political influence: by convention, the Prime Minister, as head of the government, is the country's true political leader, and the Governor General's political activities are carried out on the Prime Minister's recommendation.[17] Much of the Governor General's work is guided by convention, making any personal initiative virtually impossible. For example, if the Prime Minister loses an election, the Governor General accepts his or her resignation and asks the leader of the winning party to form a government.

It can therefore be said that the Governor General has almost no power and very little influence in Canada's political system. That is perhaps the rule, but there have been a number of exceptions in Canada's history. There are some who believe that while the office of Governor General may have become obsolete, it is not because holders of the office have not made extensive use of their powers. Jacques Monet is of the opinion that royal prerogative also represents subtle control.[18] He believes that governors general are bound to respect the Constitution and Canadian constitutional conventions. He wrote that most constitutional experts agree that representatives of the Crown still have the prerogative to intervene personally and should exercise that prerogative in a crisis.[19] Monet identified two key responsibilities which may require use of this prerogative: appointment of the Prime Minster, and dissolution of Parliament.

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[15] *A Crown of Maples: Constitutional Monarchy in Canada,* pp. 25-25.
[16] Pelletier, R., and M. Tremblay, *op. cit.*, p. 318.
[17] *Ibid.*, p. 319.
[18] Monet, J. S., *La Monarchie au Canada.* Ottawa: Canadian Government Publishing Centre, 1979, p. 51.
[19] *Ibid.*, p. 53.

Power to appoint the Prime Minister

The Governor General is responsible for ensuring that Canada is at all times led by a Prime Minister who has the confidence of the House of Commons.[20] This can be a somewhat automatic process given that the leader of the winning party is customarily named Prime Minister. However, a Prime Minister may die or resign suddenly while in office, putting the onus on the Governor General to consult with party officials and appoint someone who is able to hold the position on an interim basis.[21] This is an easy responsibility to fulfill, and never in Canadian history have there been problems in this regard.[22]

A Governor General may also have to relieve the Prime Minister of his or her duties. Such action would be warranted, for example, if the government violated a principle of constitutional law or became embroiled in a serious scandal and members of Parliament and the electorate were unable to stand up to the government or bring the government down.[23] Never has a Prime Minister of Canada been removed from office. However, some provincial premiers were dismissed in the early years of Confederation, and this situation has occurred in other Commonwealth countries.[24]

Power to dissolve Parliament

The Governor General's second prerogative is dissolving Parliament. While dissolution is automatic in normal circumstances, Monet takes the view that the Crown is not compelled to blindly follow the Prime Minister's advice in that regard.[25] For example, the Governor General could step in to prevent a Prime Minister who has lost an election from having Parliament dissolved even before it is convened.[26] Monet believes that if a government is defeated in the House shortly after a general election, the Governor General could assess the situation and determine whether another party could form a government that is likely to gain the confidence of the House.[27]

This is without question the prerogative that has generated the most debate in Canadian history, mainly because there is one major precedent, the aforementioned King-Byng affair. The request from Prime Minister Mackenzie King came just months after a general election and even before a non-confidence motion was passed by the House of Commons.[28] This constitutional incident was relatively controversial: many people still wonder if Byng's decision to ask Meighen to form a government was the right one; it was not long before Meighen lost the confidence of the House.[29] One thing is certain however, the King-Byng affair shows that the Governor General has managed to act independently of the Prime Minister's requests in special circumstances.

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[20] *Ibid.*
[21] Monet, J.S. *op.cit.*, p. 54.
[22] *Ibid.*
[23] *Ibid.*, p. 57.
[24] *Ibid.*, p. 55.
[25] *Ibid.*, p. 58.
[26] Monet, J.S., *op.cit.*, p. 59.
[27] *Ibid.*, pp. 59-60.
[28] McWhinney, E., *op. cit.*, p. 58.
[29] *Ibid.*, p. 57.

Another incident involving the Governor General's power to dissolve Parliament occurred after Joe Clark's government was defeated in 1979 just months after the election. The Prime Minister went to Rideau Hall to ask that Parliament be dissolved. The Governor General at the time, Edward Schreyer, did not answer right away. He told Clark that he would get back to him.[30] The Governor General subsequently granted the Prime Minister's request after deliberating a mere 90 minutes or so, but the fact remains that the incident, more recent than the King-Byng affair, proves that even today requests from the Prime Minister can be denied.[31]

A look back at the 2008 crisis

More recently, the events that unfolded in the fall of 2008 also captured headlines. Governor General Michaëlle Jean found herself in a situation where there were going to be serious repercussions no matter what she decided. The whole thing started on November 27, 2008, when the government tabled its economic update. The three opposition parties immediately indicated that they would be voting against it. Had the government lost a confidence motion, the Prime Minister would probably have requested the dissolution of Parliament. Meanwhile, the Liberals and the New Democrats let it be known that they planned to form a coalition supported by the Bloc Québécois. They duly informed the Governor General of their intentions and asked her to give them a chance to govern should the current government fall. Knowing that defeat in the House was imminent, Prime Minister Harper delayed the vote one week. When he subsequently realized that the opposition was determined to bring his government down, he asked the Governor General to prorogue Parliament mere weeks after the session opened and barely two months after the latest general election.

On the morning of December 4, 2008, the Prime Minister went to Rideau Hall to officially request that Parliament be prorogued. Never before had a request to prorogue Parliament been denied. This was the first time a Prime Minister had made such a request specifically to avoid a confidence vote.[32] The meeting between him and the Governor General and a small circle of advisors lasted some two and a half hours.[33] The length of the meeting alone is sign enough, as was the case for Joe Clark in 1979, that the Prime Minister's requests are not automatically granted. Sources later suggested that the discussion between the two key players covered a number of topics, including the mood of Parliament, the country's economic situation and the viability of a coalition government.[34] At one point, the Governor General even left the room to seek advice from an expert on the issue.[35] All indications are that while she granted the Prime Minister's request, Michaëlle Jean did so after careful consideration and only because she believed it was the right thing to do. It is therefore safe to assume that the Governor General

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[30] McWhinney, E., *op. cit*, p. 98.
[31] *Ibid.*, p. 99.
[32] Franks, C., "To Prorogue or Not to Prorogue: Did the Governor General Make the Right Decision?", in P. Russell and L. Sossin, *Parliamentary Democracy in Crisis* (pp. 34-46), Toronto: University of Toronto Press, 2009.
[33] *Ibid.*, p. 35.
[34] *Ibid.*
[35] *Ibid.*

would have denied the request if she thought it was in the country's best interests to do so.

That is the conclusion drawn by constitutional expert Ned Franks. According to Franks, the rules that apply in situations where the Prime Minister requests dissolution in order to avoid a confidence vote should apply in the case of prorogation.[36] He also believes it is clear that Parliament should not be prorogued, or dissolved, in circumstances like those which existed in December 2008.[37] The request to prorogue could therefore be reviewed before obtaining the Governor General's consent. Franks theorizes that Michaëlle Jean felt the coalition did not have strong support and that the Prime Minister would probably have challenged her decision if it were unfavourable.[38] In his opinion, there was considerable risk of the coalition dividing the country and the Governor General made the right call.[39]

The incidents recounted above show that the Governor General has sometimes had a role to play in resolving difficult political situations. The Governor General's powers may not be used often, but they are still very real. These examples show that governors general have sometimes played the role of moderator and judge among politicians. There is reason to believe that a person having this type of power to act is needed in order to ensure stability in a parliamentary system like ours.

SYMBOLISM OF THE CROWN: STRENGTHS AND WEAKNESSES

The institution of the Governor General is arguably still relevant when it comes to constitutional matters, but that does not mean the monarchy is immune to criticism on other levels. Symbolism is a key point. There is not a vast body of literature on the symbolism of the monarchy in Canada, but symbolism is important none the less. This section examines the strengths and weaknesses of the monarchy, which are often cited by those who would like Canada to become a republic.

Governors general may have gone decades without using their constitutional powers, but that does not mean they have done nothing during this time. The role of the Queen's representative in Canada is not confined to the use of constitutional powers. Her duties as Head of State entail a great deal more than that: she travels throughout Canada and around the world, plays host to heads of state visiting Canada, presents numerous awards and medals, and takes part in many official ceremonies.[40]

The Crown holds deep meaning for those who support it. One aspect that is valued most about the monarchy today is its non-partisanship, or, according to some, its unifying effect. Monet believes that the monarchy, governors general and lieutenant governors have the capacity to transcend the numbers game that is democracy. To him, they embody all points of view, all provinces, all allegiances.[41] The neutrality of the

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[36] Franks, C., *op. cit.*, p. 33.
[37] *Ibid.*
[38] *Ibid.*, p. 46.
[39] *Ibid.*
[40] Rideau Hall, *Role and Responsibilities of the Governor General*, April 30, 2009, visited on May 8, 2009, at http://www.gg.ca/gg/rr/index_e.asp.
[41] Monet, J.S., *op. cit.*, p. 18.

Crown creates a oneness that fosters national unity. The Crown also represents continuity: the Queen has reigned over Canada since 1952 and has seen many prime ministers come and go.[42] The monarchy also makes us quite distinct in comparison with our neighbour to the south. Many Canadians who love the monarch love it in part because it differentiates Canada from the United States.[43]

Many in this country believe that the pomp associated with the Crown—from the installation of the Governor General to the Throne Speech to Royal Assent—is good for Canadian unity. They believe that these ceremonial functions and all the traditions that go with them "enhance our sense of identity and reflect our rich and vibrant traditions."[44] There is a direct link between these ceremonies and history, although many of the components are rooted primarily in Anglo-Saxon history and British culture.

Traditional ceremonies aside, the Governor General performs other duties normally assigned to a country's Head of State. Those duties vary considerably and draw different degrees of media attention. For example, the Governor General accepts the credentials of foreign ambassadors and greets foreign dignitaries. In addition, attendance by the Queen's representative will often make an already important event such as an official opening or anniversary even more special.[45] Royal visits to Canada are another element. Royal visits "bring to life the institution of the Canadian Crown through close-up encounters and the active involvement of as many Canadians as possible" and often attract huge crowds.[46]

As the Queen's representative, the Governor General performs many symbolic duties. It is difficult to gauge the success of the monarchy's efforts to foster Canadian unity. If they do have an impact, however, it is mainly because of the personal attributes of the office holder.[47] That logic can be extended to the Queen herself. It would be fair to say that the Queen's personal popularity accounts for much of the support the monarchy enjoys in Canada today.

The symbolic aspect of the Canadian monarchy is probably the biggest source of problems. The monarchy is a long-established institution in Canada, but the rise of Quebec nationalism quickly made it a wedge between English- and French-speaking Canadians.[48] Moreover, the growing number of new Canadians, who have no attachment to the institution, creates more scepticism about the Crown, even in English Canada.[49] This change in attitude among Canadians is quite evident: surveys suggest that barely half of all Canadians support the monarchy.[50] Many Canadians believe that preserving

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[42] *A Crown of Maples: Constitutional Monarchy in Canada,* p. 60.
[43] Bernard, A., *Vie politique au Canada*, Sainte-Foy: Presses de l'Université du Québec, 2005, p. 217.
[44] *A Crown of Maples: Constitutional Monarchy in Canada,* p. 54.
[45] Bernard, A., *op. cit.*, p. 226.
[46] *A Crown of Maples: Constitutional Monarchy in Canada,* p. 56.
[47] Pelletier, R., and M. Tremblay, *op. cit.*, p. 321.
[48] *Ibid.*, p. 322.
[49] *Ibid.*
[50] Trent, J. E. (no date), *Modernizing Canada's Monarchical System*, viewed on May 8, 2009, at http://www.uni.ca/Modernizing_canada.html/.

the monarchy is counterproductive and that the monarchy is an obstacle to the creation of a truly Canadian identity.[51]

The monarchy draws criticism from many different angles, but the common target is its lack of legitimacy. The issue of legitimacy is not confined to the lack of support for the Queen among French Canadians. A monarchy is not a good fit with contemporary democratic aspirations, which advocate heads of state elected by the people.[52] Most proponents of a Canadian republic believe that the hereditary nature of the monarchy is a problem. It is hard to understand in this day and age how a head of state could attain that position by virtue of his or her birth.

Supporters of the monarchy believe it is a good thing that the Queen of Canada also reigns over other countries, but opponents disagree. They argue that the Canadian monarchy might be more popular if the monarchs were Canadian or lived in Canada. The "non-native" nature of the Canadian monarchy - that the Queen does not live in Canada - makes the system unique, but undermines its popularity.[53] Canadians want a head of state that is first and foremost a Canadian. The Crown has tried, without much success, to solve the problem, for example styling the Queen as "Queen of Canada" when she is referred to in a Canadian context.[54] This is the main reason why governors general increasingly try to portray themselves as true heads of state: to give the institution a more Canadian image.

It is hard to reach an absolute conclusion based on the preceding pages. Having a head of state who can perform many ceremonial duties like the Governor General is quite useful in the Canadian context. Moreover, the fact that this person is non-partisan and is able to represent national unity is a strong argument, and many experts consider this to be one of the strengths of our system.[55] Good or bad, the monarchy is an indelible part of our history. Throughout its history, Canada has learned to adapt, and the predominant feeling today is indifference.[56] For that reason, it is difficult to believe, despite the fact there is no consensus, that the monarchy is detrimental to Canadian unity.

FUTURE OF THE CONSTITUTIONAL MONARCHY IN CANADA

There is much about Canada's constitutional monarchy that can be criticized. Our system, like many others around the globe, is not perfect. But does that mean we should rush to dump the Queen and the Governor General and become a republic overnight? Say what one will, the Canadian system has proved adaptable through the years and is still functioning effectively in the early 21st century.

As this paper shows, the evolution of constitutional conventions has enabled the role of the Governor General to change. We have gone from a representative of the mother country assigned to oversee a colony to a Governor General and quasi head of

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[51] *Ibid.*
[52] Pelletier, R., and M. Tremblay, *op. cit.* p. 316.
[53] *Ibid.*, p. 317.
[54] Trent, J. E. (no date), *Modernizing Canada's Monarchical System*, viewed on May 8, 2009, at http://www.uni.ca/Modernizing_canada.html/.
[55] Trent, J. E. (no date), *Modernizing Canada's Monarchical System*, viewed on May 8, 2009, at http://www.uni.ca/Modernizing_canada.html/.
[56] Pelletier, R., and M. Tremblay, *op. cit.*, p. 323.

state who is sometimes able to step in as a constitutional referee when the circumstances warrant but still allow Canada to become a modern democracy. More often than not, the Governor General's role is mainly symbolic. That does mean, however, that the Governor General serves no purpose. Even though the Governor General does not take political initiatives, he or she is often very active on other levels. Governors general have taken on the task of "promoting Canada" at home and abroad.[57] It is important to remember also that many parliamentary democracies, including republics, have a head of state who essentially plays the same symbolic role.[58]

Many people think that the problem does not lie with the Governor General, but rather the Queen, who does not live in Canada and is a symbol that is not supported by all Canadians.[59] There is some truth to that statement. However, the indifference of most Canadians is not fertile ground for a debate over the value of these institutions. Nor is there consensus, even among fervent abolitionists, on the form of government that would replace our constitutional monarchy.[60] That is what happened when a referendum on abolition of the monarchy was held in Australia, another country of which Elizabeth II is the sovereign. Surveys showed that the majority of Australians favoured abolition, but the blueprint for a republic that was on the table did not garner enough votes to carry the day.[61]

The comparison with Australia can be taken only so far, however. As McWhinney writes, anti-monarchy sentiment is probably stronger in Australia than in Canada, and unhappiness with the Crown is part of a bigger problem, namely the lack of trust in politicians generally.[62] The Governor General is a victim of this wave of criticism, as are most politicians. The criticisms levelled at Rideau Hall today are based far more on spending and budgets; history and tradition are secondary.[63]

From a somewhat more practical standpoint, it is important to realize that it will not be easy to change the Canadian Crown, especially under the Constitution that was repatriated in 1982. Changes to the powers of the Queen or the Governor General require the consent of Parliament and all the provinces. Considering all that this paper has covered to this point, it is highly unlikely that such consensus will be reached in the foreseeable future. Further, it can be stated based on analysis of all the arguments in this paper that a constitutional monarchy, even though it is a system we acquired, is probably the best system for Canada, not because it is perfect and not because it is popular, but primarily because it has survived for so long and has managed to evolve and adapt to the point that it still works today.

There is still a possibility, however, that our constitutional monarchy will continue to evolve in the short and medium term within the existing constitutional

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[57] Rideau Hall, *A Modern Governor General – Action and Involvement*, April 30, 2009, visited on May 8, 2009, at http://www.gg.ca/gg/rr/05/index_e.asp.
[58] *A Crown of Maples: Constitutional Monarchy in Canada*, p. 45.
[59] Trent, J. E. (no date), *Modernizing Canada's Monarchical System*, viewed on May 8, 2009, at http://www.uni.ca/Modernizing_canada.html/.
[60] Pelletier, R., and M. Tremblay, *op. cit.*, p. 323.
[61] McWhinney, E., *op. cit.*, p. 123.
[62] McWhinney, E., *op. cit.*, pp. 128-129.
[63] *Ibid.*, p. 129.

framework. One change that could be made is in the tradition whereby the Governor General never discloses the reasons for his or her decisions.[64] This practice is justified primarily by a desire to retain some impartiality and prevent decisions from being perceived as political, but current accountability requirements sometimes make it necessary for political players to explain themselves.[65] Sossin and Dodek contend[66] that the 2008 crisis and questions about the Governor General's reasons prove this assertion. Other changes could be made without getting into a maze of constitutional negotiations: for example, changing the conventions governing the appointment of the governor general to enhance the constitutional monarchy.

CONCLUSION

The constitutional monarchy we know today has enabled and continues to enable Canada to be a modern, democratic country. The fact that some institutions make reference to historic symbols and traditions that some believe belong in the past does not mean that those institutions cannot work today. The fall 2008 crisis clearly shows that the Governor General had full command of constitutional duties, an indication that the office of Governor General still has a role to play and that it might be useful to consider certain reforms to modernize its role. The Queen, meanwhile, despite her limited role in our system of government, remains a symbol for many Canadians. From that perspective the constitutional monarchy seems to be, still today, the system that best suits the Canadian reality.

However, this paper is not a reflection on the glory of the Canadian constitutional monarchy: like all other states, our system of government is not perfect and must always be viewed with a critical eye. Canada is a country that is constantly changing. Institutions must be able to adapt to those changes just as they have adapted since they were created. That is true of any system based on precedent and common law. Despite its imperfections, the monarchy is a pillar of our constitution and will remain in place for years to come. There is always a chance that Canada will eventually change so much that it will be prepared to sever the last formal tie to its colonial past. However, that day is not imminent. In the meantime, our constitutional monarchy will remain in place and will continue to face new challenges.

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Library and Archives Canada, *Responsible Government – Canadian Confederation*, May 3, 2005, visited on May 2, 2009, on Canadian Confederation: http://www.collectionscanada.gc.ca/confederation/023001-2974-e.html

[64] Sossin, L., and A. Dodek, "When Silence Isn't Golden: Constitutional Conventions, Constitutional Culture and the Governor General", in L. Sossin and P.H. Russell, *Parliamentary Democracy in Crisis* (pp. 91-104), Toronto: University of Toronto Press, 2009, p. 91.
[65] *Ibid.*, p. 100
[66] *Ibid.*

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Chapter 4

Economizing the Environment: A Critical Analysis of the Economic Returns on Green Energy Investments

Marie-Michelle Jobin

Introduction

The recent events associated with the failure of the oil platform in the Gulf of Mexico expose the potential negative consequences of our search to access the ever diminishing sources of non-renewable energy. As ultraviolet indexes rise[1] and natural disasters occur more frequently, the effects of human activity on the environment become more apparent and severe. The gravity of such phenomena has triggered a demand for government action in response to climate change on behalf citizens and activist groups worldwide. Although forums and conferences are an avenue through which world leaders have had the opportunity to discuss the issue, there has been no collective action substantial enough to slow the effects of climate change to date.[2] Nonetheless, where problems exist, so do opportunities. Canada has the potential to play a leading role in the creation and usage of green technologies, while benefiting financially from these investments.

It is evident that a clean environment is a desirable outcome; however, the means of achieving this goal remain controversial. Emerging economies aspire to flourish without environmental restrictions, as European and western countries have done in previous decades. Oppositely, developed countries urge the largest carbon producers, including China and India, to commit to significantly reducing emissions. Both cap and trade and carbon tax systems have been explored and debated, with no optimal, global solution in sight. Many consumers believe that corporations should take responsibility for the pollution they produce, while corporations' profit maximization targets seem to discourage this course of action. This pinball effect hinders the development of a global strategy for a cleaner planet. The only consensus seems to be that, ultimately, the costs will be borne by someone. Regardless of the disagreement between political and private actors, consumers continue to exert increasing pressure on corporations to make their production greener.[3] The Earth's fragile condition will equally force environmental investments in the near future.[4] Consequently, a green market has already begun to emerge, creating a wealth of economic opportunity.

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[1] Fioletov, V., et al. "Estimating UV Index Climatology over Canada." Journal of Applied Meteorology 42 (2003): 417.

[2] Hoffert, Martin, et al. "Advanced Technology Paths to Global Climate Stability: Energy for a Greenhouse Planet." Science 298 (2002): 981.

[3] Foster, T., Sampson, S., and Dunn, S. "The impact of customer contact on environmental initiatives for service firms." International Journal of Operations & Production Management 20 (2000): 187 & 188.

[4] Hawken, Paul. The Ecology of Commerce New York: Harper Collins Publishers, 1993. p. 3.

When a new market materializes, there is potential for returns on investments. Because the market for green technologies is still largely underdeveloped, Canada can become a major player in this field. Canada's wealth of natural resources makes it the ideal country for the design and testing of a large scope of technologies that can be used in different environments worldwide. The creation of a green market in Canada can also offset a decline in the demand for coal, oil and natural gas as cleaner energy options become available. By creating such technologies at home, Canadian businesses will gain a competitive edge on world markets. Although the short-term investment will be very costly, there will be short-term gains in job creation as well as positive long-term employment trends. Also, Canada's performance during and following the recent recession has enabled it to make a large investment at this point in time, compared to other G7 countries, as the Canadian debt to GDP ratio remains respectably low. Investing in clean, renewable technologies will inevitably benefit the environment but can also give Canada a clear economic advantage.

First Mover Advantage

The importance of capitalizing a market in its initial stages should not be understated. Securing a share of market space early on can allow for the monopolization, or more realistically oligopolization, of the green technology market. The existence of only a few producers of clean technologies engenders many benefits to the firms who find themselves within this group. Three of the most recognized advantages of being a first-mover include technological leadership, pre-emption of assets and consumer loyalty.[5]

Canada has not been a notable performer in the technological development sector in recent years, aside from a few exploits made by firms such as Research in Motion. American, German and Asian firms have cornered the markets for the pharmaceutical and digital sectors, among others, making it increasingly difficult for Canadian firms to compete. In the newly emerging green economy, there is still room for major players. With the exception of firewood and hydroelectricity, which is close to saturation, green energy sources constitute less than one percent of global power.[6] If Canadian companies take a leading role in the research and production of clean technologies at the inceptive stage, they will likely retain a large market share of the green energy sector as research and time progress. When firms possess a large percentage of the market, economies of scale will emerge, thus lowering the marginal cost of production. Although wind energy has become widely explored, wave and tidal energy sectors have hardly surpassed testing stages. Opportunities in undeveloped areas of clean energy are ideal for first-mover firms, especially in light of today's intellectual property protection systems. Canadian firms must take advantage of the occasion to develop and implement technologies that will assure them a share of the green technology market in years to come.

As firms become first-movers, they generate a demand for inputs for their products. When these inputs are limited resources, it is crucial to pre-emptively secure a

[5] Lieberman, Marvin and Montgomery, David. "First Mover Advantages" Strategic Management Journal 9 (1988): 41.

[6] Hoffert, Martin, et al. "Advanced Technology Paths to Global Climate Stability: Energy for a Greenhouse Planet." Science 298 (2002): 984.

constant supply. Without one, the expansion of a firm's production becomes limited as well. In the case of green technologies, there is no shortage of parts manufacturers. However, there is an evident scarcity of land where these technologies can be utilized. There is a limited amount of coastal regions that maximize tidal energy production or fields conducive to wind turbine energy creation, especially near large energy-consuming centers. Additionally, it has been demonstrated that first-mover firms may be accorded preferential treatment to operate in certain regions, for example Shell in Nigeria.[7] To ensure economic viability through inputs for the green industry, Canadian firms must act pre-emptively.

Consumer loyalty is key to the success of any firm. Therefore, a firm that produces a quality product will retain its customers. If Canadian firms enter the clean technology market first, their competitors will need to invest larger sums in order to break the consumer loyalty bias. Hence, by simply making the first investment, a firm is put at a considerable advantage. Because the green technology sector is still underdeveloped, opportunities to gain consumer loyalty without superlative measures still exist. In short, acting first means making an equal investment at a lesser cost.

The green technology industry presents a limited-time opportunity for Canada to seize a market share of the emerging clean energy and technology market. By doing so, Canadian companies will reap economic benefits as the demand for green technologies increases as they secure technological market share, inputs and customers.

Comparative Advantage in Resources

Canada's wealth of natural resources makes it the ideal location to develop, test and utilize green technologies. As the second largest country in the world, Canada harbours resources that are native to and span from the arctic, to the lush pacific region, to the Canadian Shield. The abundance of resources in Canada reduces the cost of using them.[8] Additionally, the widespread availability of Canada's natural resources enables firms across the country to use these resources for energy generation. Low prices and varied locations make these valuable, workable resources accessible and favourable to Canadian firms.

Clean energy technology options include "biomass, solar thermal and photovoltaic, wind, hydropower, ocean thermal, geothermal and tidal"[9] energy. Utilizing the longest coastline in the world,[10] Canadian firms can design and develop ocean thermal and tidal technologies, much more so than their European or American competitors. The prairie region produces the eighth largest amount of corn crops in the

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[7] Frynas, J. George. "Political instability and business: focus on Shell in Nigeria". Third World Quarterly 19 (1998): 457.

[8] Lederman, Daniel, and Maloney, William. Natural resources, neither curse nor destiny. Washington: The International Bank for Reconstruction and Development and Stanford University Press, 2007.

[9] Government of Canada. Sustainable Development Technology Canada, News Room: Media Releases. 3 March 2010. <http://www.sdtc.ca/en/news/media_releases/media_0603> and
Hoffert, Martin, et al. "Advanced Technology Paths to Global Climate Stability: Energy for a Greenhouse Planet." Science 298 (2002) 983.

[10] "World's longest coastlines." 23 April 2010. <http://www.mapsofworld.com/world-top-ten/world-top-ten-longest-coastline-countries-map.html>

world,[11] which can encourage the development and continuous support of a growing biomass energy supply. The undeveloped land in northern Canada could also be used to effectively capture solar power and experiment with geothermal energy extraction. As many different resources are accessible in different parts of the country, green technology producing firms can specialize in the production of one type of clean technology. In short, Canadian firms could greatly benefit from the wide array of easily available and accessible natural resources that can be used towards the generation of clean energy.

The benefit that natural resources provide to Canadian firms is referred to as comparative advantage. This means that Canadian firms can produce resource related products with a lesser opportunity cost than firms abroad. In other words, Canadian firms could shift production from less advantageous industries in Canada to concentrate predominantly on a sector for which the inputs are available at home and at low costs. According to modern economic theory, a country should specialize in the production of goods for which they have a comparative advantage, in order to maximize the utility of inputs and profits. Holding a comparative advantage allows a country to produce more of a certain good, in this case green technologies, while drawing upon the benefits of large-scale production and exports as cost reducers.[12] Consequently, increased production in this sector would undoubtedly yield increased profits for Canadian firms, as well as environmental benefits for all.

Canada's Terms of Trade

Canada is a recognized net exporter of natural resources, including crude oil, base metals, forestry and agricultural products, precious metals and natural gas, all of which significantly contribute to Canada's terms of trade. If commodity prices rise, the Canadian export sector benefits and Canada's terms of trade are said to be improving. However, if prices rise too much or too quickly, foreign importers will tend to buy from other countries, thus worsening Canada's terms of trade. Following the 2008 recession, Canadian commodity prices have been rising at a steady rate and are significantly contributing to the reestablishment of Canada's economic situation.[13] Thus, the importance and volatility of Canada's natural resources to its terms of trade should be highlighted.

"Technological innovation has generally been accepted as one important basis for substantive, sustained, long-term improvements in both economic and environmental performance". [14] The emergence of green technologies will eventually instigate a decline in the need of some of Canada's largest export sectors. The European Union has already set renewable electricity targets at twenty percent by 2020, with some of its members

[11] "World's top ten corn producers, exporters." 23 April 2010. <http://in.reuters.com/article/company News/ idINSP54019020090903>

[12] See Annex 1 and Thompson, Aileen. "Trade liberalization, comparative advantage, and scale economies, stock market evidence from Canada." Journal of International Economics 37 (1994): 1.

[13] See Annex 2.

[14] Klassen, Robert. "Exploring the linkage between investment in manufacturing and environmental technologies." International Journal of Operations & Production Management 20 (2000): 128.

aiming for as high as eighty percent.[15] Denmark produces twenty-two percent of its energy through wind power alone.[16] As the Earth's fragile condition worsens and economic incentives are provided to reduce carbon dioxide emissions, there will be less and less demand for Canadian energy-related commodity exports. Not only will the quantity of export commodities be reduced, but so will their prices. When this occurs, it will worsen Canada's terms of trade, putting Canada at an economic disadvantage.

Much of Canada's growth stems from the export of energy-related commodity exports, which may not be a sustainable source of growth in the future. In order to retain control over its terms of trade, it would be advisable for Canada to compensate for the future decline in commodity exports by taking a leadership role in the investment and production of green energy technologies. The eventual decline in demand for coal, oil and natural gas products could be counterbalanced by the growth of the green energy sector in Canada. With the clean energy industry reaching multi-billion dollar levels, it could be a viable source of growth for Canada when the commodity export market is experiencing a downtrend. In the more immediate future, a budding green technology industry could help absorb the volatility of the commodity sector.[17] Although there will always be a need for non renewable commodities, the relative share of these exports will decrease because of the planet's physical and biotic limitations. Canada's wealth of natural resources can still constitute a large part of the country's economic growth, but the resources exploited and the way they are used needs to be transformed to keep Canada's trade balance positive. Green technologies can help achieve this economic goal, while benefiting the environment.

Cost of Investment

To further develop the growing sector of green technologies, much capital investment is still needed. According to the director of the Institute for Sustainable Energy, Environment and Economy, "Canada needs to invest triple, or even quadruple the amount of spending on green energy technologies – or kill it".[18] Investing small amounts will not give Canadian firms the required initial and recurring investments. If Canada wants to be a major player in the world of green technologies, the cost of investment will be very important, but it will be worthwhile for both the economy and the environment.

First, firms need to be able to assess whether or not their investment will generate returns over the medium and long term. If an investment will not generate more profits than costs over the course of its lifetime, it would be unwise to invest in it. However, to make these simple calculations, there is a requirement for data. These indications are

[15] Weis, Tim. Director of Renewable Energy & Efficiency at the Pembina Institute. "Thinking big on clean energy" Presentation on April 29th 2010 for the Standing Senate Committee on Energy, Environment and Natural Resources.
[16] Ibid.
[17] Dickey, C. and McNicoll T. "A Green New Deal". Newsweek Magazine Nov. 3 2008 Issue.<http://www.newsweek.com/id/165769>
[18] Keith, David. Director at the Institute for Sustainable Energy, Environment and Economy. "Dangerous Abundance" Presentation on April 20th 2010 for the Standing Senate Committee on Energy, Environment and Natural Resources.

most clearly provided through channels such as energy prices.[19] Transparent pricing of energy to reflect its true costs attracts investment, encourages innovation and contributes to strong environmental performance.[20] Although the way energy should be priced remains a highly debated topic, it is evident that a price needs to be set if investment is a desired outcome. Until then, the size of investment needed will not be supplied by the private sector, as the only returns they are sure of are positive environmental externalities.

Second, as price setting may take time other measures may also be used to kick-start the investment process by firms. Population response to incentives is an economic principle presented by Adam Smith that dates back to 1776. This principle, which still holds today, explains how a governmental form of incentive could make it worthwhile for firms to start investing in green technologies. For example, a tax break or a grant to invest in greener machinery may provide the necessary motivation for a firm to invest in clean production technologies. Research demonstrates that there is a positive correlation between investment in manufacturing and investment in green technologies.[21] This tendency, coupled with the use of a comparative advantage resource, illustrates the fact that government investment into the public clean energy sector would maximize the Canadian comparative advantage in resources. Because clean air is a public good, everyone wants to use it without having to pay for it, which makes the market for carbon dioxide emission reduction inefficient. When markets are inefficient there is a need, and often a general consensus, for governments to step in. However, the amount of government funding needed to achieve a booming green market in Canada surpasses the amount currently available.

Another successful way of inducing firm investment is consumer pressure. If firms feel that by producing in a greener way they will attract and retain customers, they may be willing to allocate resources and funding to green technologies. Recently, companies have been doing more to improve their green image. Green labels are appearing on packaging and recycle initiatives are being marketed. For example, Hewlett-Packard, ranked number one on Newsweek's Greenlist, has actually started financially benefiting from their recycle program. This program "pays consumers to ship back old machines, which has allowed HP to reclaim 1.7 billion pounds of e-waste including gold and copper which are then re-sold for profit."[22] Some financial firms that do not produce large quantity of emissions, such as Wells Fargo, has chosen to provide financing for green businesses and projects as their contribution for a greener planet. However, this form of investing is designed with increased profit in mind since banks are investing to improve their image, not the environment. That being said, and regardless of

[19] Gillingham et al. "Modeling endogenous technological change for climate policy analysis". Energy Economics 30 (2008): 2735.

[20] Canadian Association of Petroleum Producers et al. "An Integrated Clean Energy Framework for Canada: Setting the Stage." Presentation on March 18th 2010 for the Standing Senate Committee on Energy, Environment and Natural Resources.

[21] Klassen, Robert. "Exploring the linkage between investment in manufacturing and environmental technologies." International Journal of Operations & Production Management 20 (2000): 138.

[22] McGinn, Daniel. "The greenest big companies in America". Newsweek Magazine Sept. 28 2009 Issue, p. 36 & 37.

their motives, they are still contributing to a cleaner environment in exchange for a good reputation and increased profits.

Third, sizeable green technology investments go beyond the proper allocation of funds. In order for the green technologies to take-off in Canada, generation of revenues destined for green investment is primordial. Increased revenues can be used to finance the transition to a green technology society and the research and development of green technologies that can be exported. This can be achieved in many ways. However it is not a popular political issue because *tax* is an unsettling word. It has been suggested that consumer consumption levels are so high because of the low cost of energy.[23] Therefore, if energy costs increased, consumers would curtail their consumption while the extra revenue could temporarily subsidize the implementation of and research into green technologies in Canada. There are many theories concerning where revenue for green technologies should come from, but it is not the focus of this discussion. The important thing to note is that a transition into a green economy will require the generation of new revenue destined exclusively for investments in green technologies.

Fourth, the costs of initial investment are immense; but the costs of not investing in green technologies may be even larger, especially since Canada finds itself among the top ten emission producing countries in the world, on both an absolute and on a per capita basis.[24] Although these costs of omission are difficult to anticipate and to calculate, they are equally important when it comes to deciding on an investment strategy.[25] Costs of omission can include anything from the energy costs of inefficient petroleum technologies, to the costs of repairing damages caused by global warming. Even though the cost of omission covers a large scope of potential costs, which are difficultly translated into raw figures, they should be taken into careful consideration.

In sum, the costs of investing in green technologies will be very costly to both government and consumers, especially in the short term. However, the long term economic and environmental benefits will greatly surpass their cost, as industries and governments work together to progressively transition to green energy sources.

Competitive Industries

Environmental protection and economic prosperity has often been perceived as trade-offs. In fact, investing in green technologies can actually help Canadian firms in other industries to become more competitive in world markets. The investment process can be either state regulated or self-imposed, but in both cases, can be effective.

Strict environmental regulations are not welcomed by all firms. Many may feel threatened by foreign competitors that do not have to abide by these standards. Although

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[23] Pineau, Pierre-Olivier. Assistant Professor HEC Montreal. Presentation on April 20th 2010 for the Standing Senate Committee on Energy, Environment and Natural Resources.

[24] Weis, Tim. Director of Renewable Energy & Efficiency at the Pembina Institute. "Thinking big on clean energy" Presentation on April 29th 2010 for the Standing Senate Committee on Energy, Environment and Natural Resources.

[25] Toner, Glen. Innovation, Science, and Environment: Canadian Policies and Performance. Montreal: McGill-Queens University Press, 2009. p. 10.

this may be the case in the immediate future, medium-run trends demonstrate that firms who opt for the investment in cleaner technologies will come out on top. The strongest proof that environmental standards do not hinder competitiveness is the economic performance of nations imposing the strictest laws,[26] including Germany and Japan. Green standards force firms to reduce consumption as well as adopt new technologies to deal with production emissions. Thus, firms will inevitably diminish the amount and the cost of inputs, resulting in the reduction of operating costs. This will become an even more important point once carbon sequestration policies take shape and firms will be required to pay for their direct cost of emissions. Moreover, governments use legislation, for example the *Clean Air Act*, to accomplish environmental goals, with the added bonus of making firms more competitive.

Unfortunately, standards are often difficult and costly to impose or monitor. Therefore, it is especially beneficial when firms take it upon themselves to invest in green technologies, while improving their bottom line. "While investment and subsequent use of such technologies may contribute to minimizing waste, pollution, and dependence on non-renewable resources, they are seen by industry executives as a business strategy."[27] Business decisions depend on many factors. Green technologies evidently contribute to better the image and reputation of a company, while profits are a more uncertain factor. Although return on green investment is difficult to assess, firms who choose to invest have been known to profit from taking the risk of investing. Furthermore, individual firms who make green changes will be more competitive on foreign markets, as well as domestic ones. A rise in domestic competition will also entice other firms in Canada to invest in green technologies, without government intervention. One initiative governments can also take to facilitate and encourage investment is to put in place strong patent systems, which allow green technology firms to benefit from their research and development for the duration of their patent.

In short, firms can gain a competitive edge by investing in green technologies. Whether it is through governmental environmental regulations, or self-imposed measures, firms are generating positive environmental externalities and economic profit.

Employment

Supporting growth through the creation of jobs has been outlined as a governmental priority in the Speech from the Throne and this year's budget. In spite of government initiatives and sound fiscal management, Canada was not spared from job loss in many sectors of the economy, particularly in the manufacturing and forestry sectors. Investments in green technologies have the potential to fuel job creation, reverse the brain drain trend and foster high quality research in an immediate and sustainable way.

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[26] Porter, Micheal. "Green Competitivenesss" New York Times. April 5 1991. < http://www.worldpolicy.newschool.edu/globalrights/environment/scientam-apr91.html>

[27] Madu, Christina N. Managing Green Technologies for Global Competitiveness. London: Quorum Books, 1996. p. 38.

The market for green technologies is expanding rapidly, creating job opportunities all over the world. Jobs related to the wind technology sector in the EU alone have grown by 226 percent since 2008.[28] Such a dramatic increase certainly deserves further investment to perpetuate this trend. An important feature of investment in green technologies is its efficient allocation of funds. Instead of spending money on high energy costs, funds are put to better use by stimulating the economy through job creation.[29] Moreover, investments in the green energy sector may help the Canadian economy transition to a more environmentally conscious one. In addition, there is a trend of growing green technology job creation, while traditional coal extraction or electricity generation jobs are declining.[30] Another relevant issue for Canada is the wide array of job types required to innovate, produce and deliver green technologies. There is a need for environmental assessment technicians, engineers, and manufacturers, among many others. This is particularly important in light of the past recession, which deprived Ontario and Quebec of over 350 000 manufacturing sector jobs combined.[31] The Canadian government should further investigate the potentially enormous economic benefits of green energy investments on the struggling Canadian job market.

Another significant advantage of investing in green technology development is the positive effect it has on science and innovation. It is widely known that Canada loses a great deal of its scientific experts to countries that fund research and development more aggressively, namely the United States. This phenomenon, commonly referred to as brain drain, could indeed be reversed if Canada becomes a leader in green technology development and implementation. Not only would Canada retain some of its most renowned scientists, it would also attract experts from around the globe. Having high-quality technologies developed at home and sold on world markets is a tremendous economic advantage that would generate high-level jobs and prestige for Canada.

The effects of investments in green technologies in Canada are incredibly beneficial for the Canadian job market. The short term advantages coincide with the present needs of Canadians and a sustainable employment sector for the future.

Education

At a time when many other countries are still struggling with serious debts and unemployment issues, Canada finds itself in the ideal position to provide the required leadership, fiscal and financial incentives to promote the development of new green technologies. It is important to educate the general population about the effects of climate change and what must be done as a nation to rectify the problem. It is equally important to ensure that appropriate teaching and training facilities are available, which will spark interest and excellence in the green technology industry.

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[28] Blanco, M. and Rodrigues, G. "Direct employment in the wind energy sector: An EU study". Energy Policy 37 (2009): 2856.

[29] Wei, Max et al. "Putting renewable and energy efficiency to work: How many jobs can the clean energy industry generate in the US?" Energy Policy 38 (2010): 919.

[30] Blanco, M. and Rodrigues, G. "Direct employment in the wind energy sector: An EU study". Energy Policy 37 (2009): 2856.

[31] Thorpe, Jaqueline. "Ontario could face 250,000 more manufacturing job losses, Quebec 100,000." Financial Post 23 Feb. 2008. <http://network.nationalpost.com>

It is crucial for the average Canadian to have a clear understanding of the current environment challenges that face him or her, as well as the government's plan to tackle these issues in the short and long runs. If Canadians are made aware of the severity of environmental limitations and Canada's plan to address them, it may be easier for the government to generate support for its policies, even if it means raising taxes. Therefore, investments in informative outreach to Canadians may subdue their scepticism about the effectiveness of Canada's environmental investment planning, inviting citizens to be more involved. If citizens feel included in the process, it is only natural for them to do what they can to help, for example, by reducing their electricity consumption. In sum, if Canadians understand how the government is dealing with the problem of climate change, they will likely contribute, benefiting policy development and the economy.

Education of the general population must be supported by a growing green workforce. Opportunity exists to provide personnel retraining in key areas of green economy. Ability to develop programs and educational infrastructure that promote the development of green technologies must be one of Canada core educational mandates. Funding at the university and community college levels must increase to promote innovation and the development of a technically skilled workforce. With the revolution currently taking place in emerging markets such as India and China, Canada has a unique opportunity in the short term to benefit from the rise in commodity and oil prices and dedicate its effort with a long term view to making a difference by investing in sustainable alternatives. While coal, gas and natural gas will be put under immense price pressure in the next two decades, they remain non-renewable and will need to be addressed. Preparing for this demand in advance will undoubtedly benefit Canada's economy and environment in the future.

The Recession

Before the 2008 recession took place, "many were ready to invest in huge green technology projects"[32] because of the environmental and economic potential associated with going green. However, funds set aside for those projects were quickly reallocated to address more urgent issues, such as the steep rise in unemployment rates and the difficulties experienced by many countries' banking systems. Now that growth rates around the globe are progressively returning to positive figures, many nations are still feeling the impacts of the recession. High rates of deficit and debt load prevent countries from investing large sums of money into green technologies at this point in time.

Canada, however, finds itself in a very favourable investment position. Although the debt it accumulated is the largest in the nation's history, its deficit ratio remains at an exceptionally low 3.6 percent of GDP, one of the lowest among the G7 countries.[33] Employment and growth rates are on the rise, reaching the highest rates in months.

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[32] Dickey, C. and McNicoll T. "A Green New Deal". Newsweek Magazine Nov. 3 2008 Issue. <http://www.newsweek.com/id/165769> and Taylor, S. and Mordant, N. "New life blows into wind stocks" The Globe and Mail 21 Sept. 2009. <http://theglobeandmail.com/globe-investor/investment-ideas/new-life-blow-into-wind-stocks.html>

[33] Government of Canada. "Canada's Economic Action Plan, Budget 2010: Leading the Way on Jobs and Growth". Mar. 4 2010. http://www.budget.gc.ca/2010/pdf/ <budget-planbudgetaire-eng.pdf> and see Annex 3.

Finally, the stability of its banking system and the prudent approach taken by the Canadian large banks to protect their capital and assets make Canada's current situation a model for other world economies. Therefore, Canada should invest in innovating, designing, building and using green technologies as the benefits of these projects extend past the recession, much like those of infrastructure stimulus. It will be a costly endeavour, if it is carried out properly. Nonetheless, it is one that Canada can afford to take on right now, especially in comparison to its largest competitors.

In addition, it has been suggested by economists at the IMF that this recession is one affecting the level of growth as opposed to the rate of growth.[34] Based on simple macroeconomic models, such as the Solow Model of Growth, it is obvious that technological progress is needed to restore Canada's economy to its pre-recession level.[35] Although investments in green technologies will not single-handedly put Canada on the path to full recovery, their impacts are certainly not negligible.

In short, the past economic recession has created a climate that is conducive to sizeable investments in green energies and technologies. These investments will help Canada grow immediately and in the long run.

Conclusion

There are many measures underway to allocate funds to green energy initiatives, but there is a need for larger, long-term capital investments. The importance of the environmental returns on green technology investments is evident, whereas the economic benefits are more difficult to visualize. Nonetheless, the economic advantages of green energy investments are tremendous, especially for Canada at this point in time.

Leadership is required to address our dependence on non-renewable energy. A number of avenues have been provided to increase our commitment to the use of clean energy. Innovation and investments in sound businesses are required to ensure that Canada is playing a positive role in the endeavour. Because the market for green technologies is still largely underdeveloped, Canada has a unique opportunity to seize market share, inputs and consumers to make the most of future production. By investing first, Canadian firms will redeem profits at a lower cost than competitors who invest in green technologies later. Canada's geography and unexploited resources are a key element in the economic potential of the green sector. The geographic richness that spans from coast to coast allows different types of green technologies to be developed throughout Canada. Therefore, Canadian firms have access to consumers in various regions of the globe who have distinct geographical compositions as well. A larger consumer base enables expansion, sustainability and profit. Another benefit of green technology investments is the stabilizing effects it will have on Canada's terms of trade. In the short term, green technologies may counterbalance the volatility of Canadian commodity prices. Over a longer period of time, they may even offset a decline in non-renewable energy exports, helping the Canadian economy grow continuously.

[34] Coulombe, Serge. Economics Professor at the University of Ottawa. Personal Interview, April 29 2010.
[35] See Annex 4.

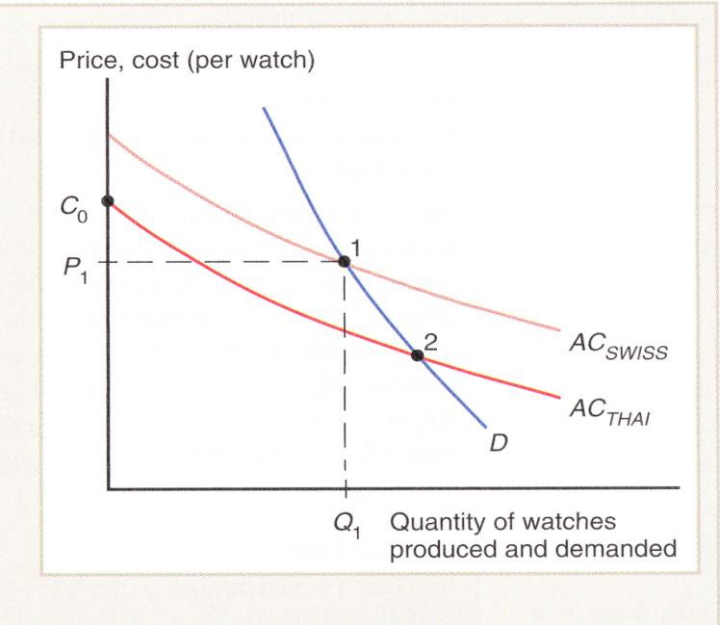
Without a doubt, the cost of investing in green technologies will be very significant. However, the costs associated with not investing may be larger and should be factored into policy making. There are many ways in which investments can be encouraged, either through governmental incentives or consumer pressure. Still, firms will not invest in green technologies if they do not foresee a return, hence, the requirement for our policy makers to take action. Furthermore, the size of investments required will call for the generation of new funds as opposed to simply reallocating them. In addition, strong environmental regulations must also be part of the equation, enabling Canada to actively pursue a greener economy while making its industries more competitive on world markets.

Creating employment in the green energy sector is probably the most relevant argument for investing in green technologies at this point in time. Job creation falls in line with the current government's objectives, while benefiting one of the most affected sectors of the Canadian economy after the recession: unemployment. However, it is not simply a temporary fix. Studies in many parts of the world have revealed that clean energy is a rapidly growing and sustainable job sector. This will provide a significant boost to the Canadian economy, while attracting experts in the green energy field to Canada. One of the most tactful ways of obtaining positive economic outcomes from investments in green technologies is to get the population on board. Education at all levels should be strongly encouraged to foster support for investments in green technologies. To maintain and demonstrate continuity in green energy development, it would be advisable to create educational programs at higher levels to produce skilled employees. While most of the other countries are still struggling with the severe impact associated with the recession, Canada is, in comparison to many others, in the best position to develop a detailed road map for the design, development and implementation of these added value long term projects.

The first mover advantage, an abundant supply of natural resources at its disposal and Canada's relative positive fiscal position, among other factors, contribute to a positive economic outcome for investment in green technologies. However, this process would be tremendously more effective if there was one more piece added to the puzzle. Although difficult to put into practice, political leaders would greatly benefit from a unified front regarding a basic environmental strategy. By accomplishing this, climate change and environmental policy would cease from being such a heavily politicized question to a reality that needs to be dealt with, regardless of who is in power. Creating a sense of continuity would lead to a more unified population that may very well accept short term sacrifices for an all-party-support long term goal.

Annexes

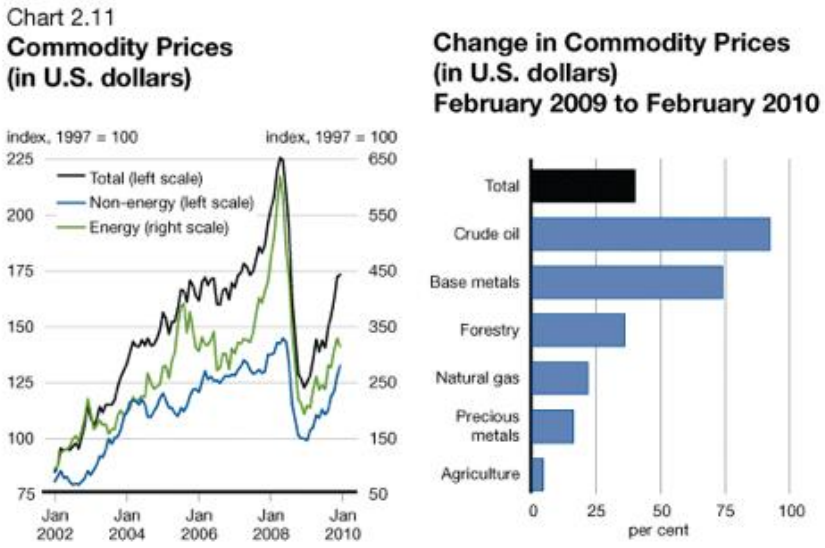
Annex 1 – Economies of scale benefit from lower marginal costs of production



In this case, the Swiss have a comparative advantage in watches. They can produce any number of watches at a lower cost than Thailand, disabling Thai watches from entering the market.

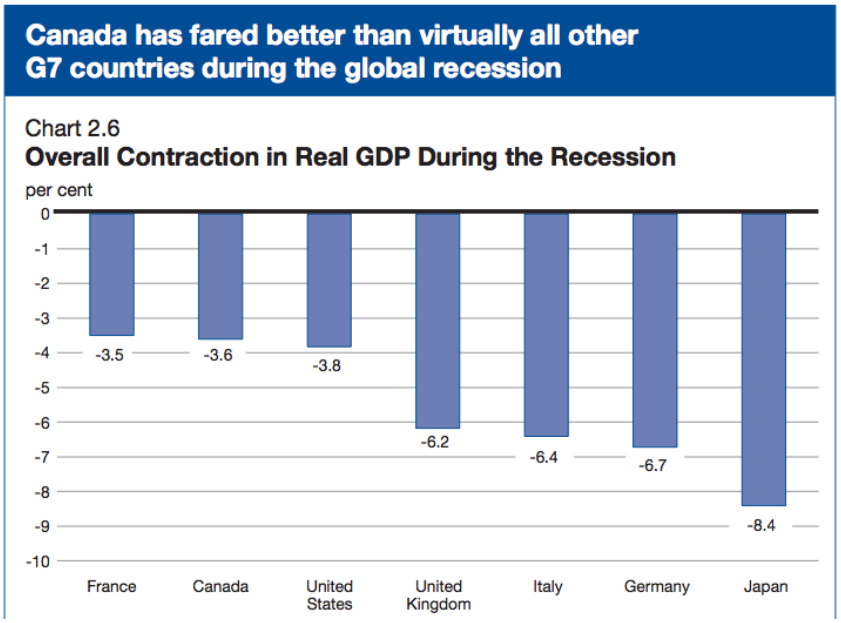
Source: Krugman, Paul and Obstfeld, Maurice. International Economics: Theory and Policy New York Pearson Publishers, 2008.

Annex 2 – Rising commodity prices are positively contributing to the Canadian Economy



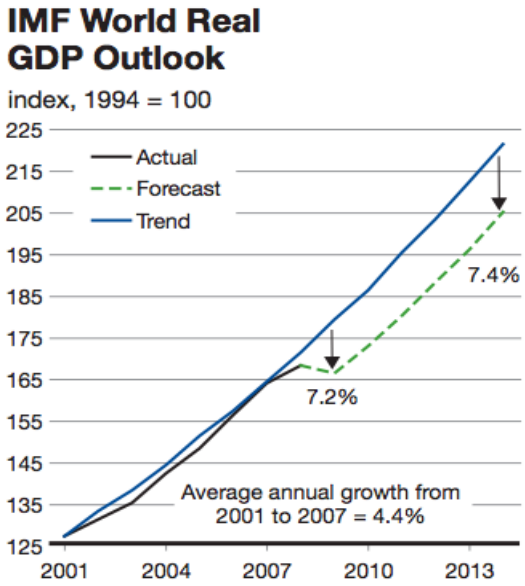
Source: Government of Canada. "Canada's Economic Action Plan, Budget 2010: Leading the Way on Jobs and Growth". Mar. 4 2010. <http://www.budget.gc.ca/2010/pdf/budget-planbudgetaire-eng.pdf>

Annex 3 – Canada's financial position relative to other countries of the G7



Source: Government of Canada. "Canada's Economic Action Plan, Budget 2010: Leading the Way on Jobs and Growth". Mar. 4 2010. <http://www.budget.gc.ca/2010/pdf/budget-planbudgetaire-eng.pdf>

Annex 4 – Recession's effect on the level of growth (as opposed to the rate)



Source: Government of Canada. "Canada's Economic Action Plan, Budget 2010: Leading the Way on Jobs and Growth". Mar. 4 2010. <http://www.budget.gc.ca/2010/pdf/budget-planbudgetaire-eng.pdf>

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"World's top ten corn producers, exporters." 23 April 2010. <http://in.reuters.com/article/companyNews/ idINSP54019020090903>

Chapter 5

Since Women Are Evil, Keep Them Out of Parliament

Jonathan Yantzi

Introduction

In his book, *Don't Think of an Elephant*, linguist George Lakoff discusses the power of frames. "Frames," he writes, "are mental structures that shape the way we see the world... They are part of what cognitive scientists call the 'cognitive unconscious'--structures in our brains that we cannot consciously access, but know by their consequences: the way we reason and what counts as common sense" (Lakoff, 2004, p. xv). Gender so vividly defines human identity because, from an early age, society develops in the individual an intrinsic conception of what it means to be a man, and what it means to be a woman. The collective and unconscious supposition that men must dominate to guarantee the continued survival and prosperity of society, and that women are wholly incapable and undeserving of an equal role, underlies the patriarchy that dominates, and has always dominated, western culture. In reality, apart from physiology, what fundamental differences exist between men and women? Both are human beings, and the *Canadian Charter of Rights and Freedoms*, in its section 15, guarantees equality amongst individuals without discrimination based on sex. Gender, though, refers more to social and cultural differences between men and women - differences not fundamental, but of society's making. It is fair to question how the *Canadian Charter of Rights and Freedoms* can guarantee equality amongst all persons - women are persons in Canada, something that unbelievably required confirmation by the British Privy Council in 1929 - yet possessing a penis entitles one to more power and privilege than another. In Canadian society and around the world this last point is absolutely, unquestionably, categorically inarguable, and has always been so. Consequently, vaginas are horribly underrepresented politically in Canada. While it is crude to refer to men and women by their genitalia, remarkably, this biological difference has been deemed sufficient by everyone in determining how Canadians elect political representatives. Rule of the majority defines democracy and yet women, demographically the majority in Canada, hold one in five seats in the House of Commons and comparably even less power at the executive level of government. Women and their vaginas must be evil. Otherwise a progressive, principled, developed country like Canada would not be so bent on keeping them out of Parliament.

Though many believe the representation of women in Canadian politics is improving, the situation has been stagnating, if not worsening, for some time. A document co-ordinated and produced by the Canadian Feminist Alliance for International Action and the Canadian Labour Congress reports, "Canada's ranking in the world has just recently slipped to 49th from 47th regarding women's representation in Parliament. This ranking places Canada behind many European countries and a significant number of developing countries" ("Reality Check," 2010, p. 26). In Canada, women account for just over twenty-two percent of Parliament, even though they comprise over half of the population (ibid). This paper reframes the debate about the need for gender equality in the context of political representation. The specific problems and solutions to this

challenge are primarily sociological, and they contribute greatly to a patriarchal political culture. Besides the need for a collective societal reframing and re-education around the issue of gender equality and politics, the state should institute constructive interim measures, namely electoral incentives for political parties to elect representatives from both sexes, to help establish and maintain a critical mass of women in Parliament. Political parties must also renew their democratic candidate-nomination processes to ensure equal opportunity and fairness for all. Establishing a critical mass is a key component to overcoming sexist sociological barriers that have survived for generations, despite the flawed perception that reasonable advances have been made where gender equality is concerned. Ultimately, however, equal and fair representation of both men and women in Canadian politics will not be achieved until education, leadership and political will transform the discriminatory way people imagine human identity and worth. In the words of Senator Elaine McCoy:

> It is about raising the issue over and over again. What is so remarkable to me is that we've seemed to slip back into a very nasty, brutish, Hobbesian world... We've [given ourselves] permission to be mean. There we were in the sixties with our flower children. How did it all go so wrong?

Reframing the Debate

In Western society, patriarchal structure was largely founded by fundamentalist Christian beliefs. The book of Genesis tells us, "man was created with 'headship' over the woman by being created first"(Genesis 2:22, English Standard Version). In the New Testament, Timothy writes, "I do not permit a woman to teach or to exercise authority over a man; rather, she is to remain quiet. For Adam was formed first, then Eve; and Adam was not deceived, but the woman was deceived and became a transgressor." (1 Timothy 2:12-14, English Standard Version). Though some progressive religions today support gender equality and do not promote a wholly literal interpretation of the Bible, many other religions support the notion of essentialism. Though not as universally and explicitly expressed as they were in decades past, complementarian and Biblical patriarchal views still support and uphold the supremacy of men over women. Moreover, while in today's society Biblical literacy is declining, popular culture more than capably supports patriarchy. In *Cultural Criticism & Transformation* (Jhally, 1997), bell hooks, in the context of popular culture, exposes the institutional structures that perpetuate what she calls 'White Supremacist Capitalist Patriarchy' and impedes society's collective consciousness and unconsciousness from moving beyond various pervasive and interlocking caste systems. For these structures to be defeated, masses of individuals must first acquire the necessary tools and abilities to recognize and understand the representational power of popular culture, and then employ a kind of critical thinking that contextualizes images and accepts or rejects them based on the individual's value system.

These structures have conditioned Canadians to resist change to the status quo even at the expense of their own values - values entrenched in the *Canadian Charter of Rights and Freedoms*. Former Chief Electoral Officer Jean-Pierre Kinglsey recalls the 1991 report of the Royal Commission on Electoral Reform and Party Financing:

> There was a Royal Commission that reported in 1991. They recommended subsidies for parties that ran women. Positive inducements, in other words, financial advantages as opposed to negative ones. And they were shot down. Public opinion just shot it down. The media just shot it down. The public didn't want it.

By contrast, section 15(2) of the *Canadian Charter of Rights and Freedoms* endorses the use of affirmative action programs for "the amelioration of conditions of disadvantaged individuals or groups," including those disadvantaged because of their sex. Certain religions, popular culture, and other propagators of the patriarchal construct have rendered Canadians unable to critically appreciate that affirmative action programs are meant to mitigate factors that disadvantage certain people and that would otherwise disqualify them from many opportunities the privileged enjoy. Somehow, there is a ubiquitous perception that affirmative action programs limit opportunities for the most qualified candidates. The reverse is true. Over half of Canadians are women, and only one-fifth of Canada's elected representatives are women. Appreciation of this gross disproportion and subsequent deductive reasoning leads to the conclusion that many of the most qualified candidates are currently not chosen, hired, nor elected to public office because of their gender. Never mind the value of equality entrenched in the Charter; blinded by gender bias, Canadians are ignorantly wasting half their human resources. Cyrus Reporter, the former chief of staff to Canadian Minister Allan Rock and now National Co-Lead of the Public Policy Practice Group at Fraser Milner Casgrain LLP, confirms, "Sixty to seventy percent of the highly qualified candidates out of law school [that our firm interviews] are women. But there is a big drop off [in terms of the representation of women] at the senior level." From a more universal perspective "women constitute more than half of the world's human resources, and those firms and countries that make efforts to realize women's potential will benefit from increased competitiveness in the global marketplace" (Campbell, 2002, p. 115). People believe that institutional measures taken to ensure gender parity amongst elected representatives are inherently unfair and compromise the ability of Parliament to perform its duties well; this is factually wrong. As Senator Joan Fraser observes, "One of the reasons there are few women [in positions of power] is because the system is controlled by men who got where they are through the system and who think it's a damn good system." Many women are as capable as their male counterparts; their under-representation is symptomatic of a patriarchal system and not of an inferior ability to contribute to good governance.

Others who diminish the need for active solutions to representational gender disparity in politics suggest men more than adequately represent their constituents, male and female alike, and that if feminists contend that men and women are equal, it should make no difference who represents whom. This position is empirically refutable:

> It is essential that women's many voices be heard in the policy-making process because restructuring, deficit reduction, cutbacks, privatization, and deregulation threaten women's private lives (in the areas of violence, reproduction, child support, and so on) while cutting programs that provide economic independence for women. Federal and provincial

> governments are doing less and asking 'families and communities' (read: women) to do more (Arscott & Trimble, 1997, p. 5).

Not enough men understand what it means for a woman to live in a phallocracy, nor can they imagine sociological implications of motherhood. More evidence of the culturally enabled power of the penis:

> Women continue to be among the poorest of the poor, encountering substantial difficulties in their searches for employment often because of their gender. Women who are employed are consistently earning less than their male colleagues despite holding comparable educational qualifications. Research demonstrates time and time again that women are struggling to achieve the equality they deserve ("The Pink Book, Volume III," 2009, p. 34).

Given that women are, on average, significantly poorer than men, and that "electoral representation is particularly important for the socially and economically disadvantaged, whose concerns generally do not 'make it' on to the political agenda" (Arscott & Trimble, 1997, p. 16), electing more women to Parliament is essential to the very survival of the most vulnerable members of Canadian society. Elected representatives contribute more than their ability; they also draw from their own social experience. Women experience Canadian society differently than men. Disadvantaged Canadians, an overwhelming number of whom are women, are not adequately represented in Parliament. Their voices are not heard, and consequently their basic human needs are not met. Men must play an important role in advocating for gender equality and human rights for all citizens, but empirically "feminist representation, or representation 'as if women matter,' is more likely to occur when it is undertaken both by and for women. While men can play a supportive role, they cannot claim power for women and they cannot hold power in women's stead" (Arscott & Trimble, 1997, p. 4). To realize gender equality, men and women alike must represent the citizenry.

Women, like men, play a key role in supporting white supremacist capitalist patriarchy. More Canadian women are educated than ever before, yet women's rights movements have had little positive effect on the civic literacy of women. "Women remain less confident than men of their ability to understand politics" (Gidengil, Giles, & Thomas, 2008, p. 1). Women who are politically active are failing to engage other women, and too many women have accepted politics as a complex arena removed from their lives:

> The fact that younger women are no more confident than older women of their ability to understand politics suggests that exposure to second- and third-wave feminism has done little to counter the effects of traditional female political socialization. This is even true of women who have a very positive opinion of the feminist movement: They are just as likely to accept the notion that politics is too complicated to understand. This is not, of course, to overlook the huge role

> that the feminist movement has played in women's advances over the past four decades, but the lack of a more direct effect on women's self-perceived ability to understand politics is nonetheless striking (Gidengil, Giles, & Thomas, 2008, p. 23).

Many women do succeed in society, but too many of them do so in a way that reinforces white supremacist capitalist patriarchy. Rather than protest male-dominated structures, they succumb to sexist structural constraints, even embrace them. Like the Aunts in Margaret Atwood's *The Handmaid's Tale*, many women adopt sexist and even misogynist attitudes that counteract positive steps toward gender equality taken by other women. Senator Yonah Martin emphasizes the need for women to support one another:

> Women can also be our own worst enemies. What I would love to encourage women [to do] is to remember where they've come from. Just because we've grown tougher skin should not make us less empathetic. What can often happen is that women in power, women who have achieved a certain status, who have overcome certain obstacles, forget to be themselves, to share honestly, to bring other women along.

There are also those who submit that it is too difficult, almost impossible, to find women qualified to run for public office. By contrast, Dr. Marie Bountrogianni, a former Member of Ontario's Provincial Parliament and that province's former Minister for Democratic Renewal, rejects the hypothesis that qualified female politicians do not exist: "They're not looking hard enough. There are women out there." Given that the female population in Canada exceeds seventeen million, it is hard to disagree.

A Fundamentally Sociological Barrier

The sociological aspect of gender inequality contributes heavily to the under-representation of women in Canadian politics. In this sense, progress toward gender equality and parity between male and female Parliamentarians represents a chicken-and-egg scenario: for issues dealing with gender inequality to be considered seriously by Parliament, Canadians must elect an equal number of men and women parliamentarians. Conversely, for Canadians to elect an equal number of men and women parliamentarians, Parliament needs to address issues dealing with gender inequality. Women are discriminated against both in the political process and in the context of Canadian society as a whole. Senator Grant Mitchell concurs:

> There's absolutely a bias, whether intentional or not, in our political process with respect to women. And there's absolutely a bias in our society, in many, many, many ways with respect to women, whether it's intentional or not... [This bias] is deeply, deeply engrained a sociological thing, in many ways.

Despite some limited sociological evolution in the late twentieth century, women still shoulder a disproportionate responsibility for child rearing and other familial obligations. Moreover, many woman experience a particular "sort of burden, in which

every success or failure that they encounter, every compliment or slur, is taken to reflect on the entire family. Articulating this sense of heightened responsibility led to a characterization of the family as a kind of corporate unit. In this environment decisions about running for elected office are not individual choices" (Carbert, 2006, p. 96). Women are forced to focus more on the consequences of public life, specifically in terms of the implications for their family. Many women are deterred from participating in electoral politics, particularly at the provincial and federal levels, because of the time commitment required. The daily schedule of a parliamentarian is not conducive to raising a family. Further, the geographic vastness of Canada requires of politicians long commutes between their home constituencies and the national capital. More often than not, these commutes mean air travel, and are too expensive and time consuming to allow mothers and fathers to return home to their children and to one another every evening. Senator Sharon Carstairs suggests certain changes that could enable more women parliamentarians to balance work and family commitments. Condensing the legislative schedule so that parliamentarians spend four week-days in Ottawa rather than five, for example, is one change that could help. Both Senators Carstairs and McCoy recommend access to child care on Parliament Hill, for both men and women parliamentarians.

In the end, however, the most successful parliamentarians with families rely heavily on the support of their spouse. Many men receive this kind of support from their partners; it's something that society almost expects for men. By contrast, many women politicians do not receive that kind of support from their partners. For some male spouses, supporting their female partners is an emasculating thing to do. Cultural norms suggest that the man, and not the woman, must be the primary breadwinner, if not the only breadwinner, in the family. So far as societal obligations go, materialism has somehow driven Canadians to specifically prioritize the professional lives of men ahead of their responsibilities as spouses and as fathers. Women are left to pick up the slack. *There is no room for them in Parliament. Their place is at home.*

Some falsely believe that, in the twenty-first century, Canadians have moved beyond these traditional sociological family roles. Sociological roles, however, are often defined by cultural norms. Given Canada's distinctly multicultural makeup, it seems difficult to imagine that any individual could be able to confidently declare which sexist norms no longer hold true. Senator Martin recalls entering public service, "[In my culture], women, typically, are not encouraged to do any kind of public service... It was quite a challenge to get acceptance and the respect from the men of my culture." In electoral politics, contradicting sociological norms often requires more than psychological fortitude - it can sometimes be a political disadvantage. Senator Fraser comments on this double-standard:

> Men and women, if they want to win votes, have to take some cognizance of reality. Because of the clichés and the way we are all culturally conditioned, a handsome man will probably be seen as a leader, especially if he's tall. A beautiful woman will be seen as a beautiful woman. Period. It shouldn't be that way, but it often is.

Maybe, slowly, some Canadians are getting used to the idea of educated women as professionals. In politics, however, women are at a significant disadvantage. "Studies

that consider the dynamics of political nomination, candidacy and election generally conclude role norms, a lack of money, discrimination by political organizations and the responsibilities of family life, especially child-rearing, militated against female involvement in the campaign process" (Bashevkin, 1993, p. 84). In politics, when a woman is matched against a man, the overwhelming presumption is that the man is more qualified and that the woman has more important things to be doing than serving her country in Parliament, like raising children, or being beautiful. *And what if she gets pregnant?* Remarkably, a woman's reproductive organs have again disqualified her for political office.

Patriarchy and Political Culture

As much as the Canadian citizenry is diverse, the Canadian political party elites are not. For the most part, they are "male, middle-aged, politicized and well-educated members of the Canadian middle class" (Bashevkin, 1993, p. 76). In Canada's party structure, rich white men are at the top. Not surprisingly, that is where they would like to stay. They support a sexist political culture that all but guarantees their continued domination. Politics as a sport, as a battle, is something that culturally appeals to few citizens and those to whom it does appeal are considerably more often men than women. Senator Fraser contends, "there is something very deep-I don't mean genetic, but culturally-that we have to counterbalance by reaching out to find good women candidates. But that is really just the beginning. You have to make it the kind of job that they would want and be willing to do." How many sane people are interested in public life? Senator Mitchell insists that men and women alike feel disenfranchised: "There is this idea that women don't like the roughness and the fight of politics. There are lots of men who don't like it either anymore." For many qualified individuals, it represents a significant pay decrease. Individual parliamentarians have limited resources to do their jobs, while technology and media evolutions, namely twenty-four hour news channels, the internet, and social media tools, mean that they are scrutinized more closely, more often, and by more people than ever before.

Politics is no longer about policy debates or ideological differences of opinion; it is a game of survival. Avoid scandal and capitalize on the gaffes of the political opponent, and almost any policy agenda is electable. In fact, the more likely scenario is that parties and candidates forgo ostensible policy agendas to begin with--recent history suggests they tend to be political liabilities anyway. Senator Carstairs wonders about the state of Canada's politics:

> [Adversarial politics] is more--and this is partly the media--about personalities, it's more about gotcha politics, than it is about trying to develop themes. I find it very difficult to know what [political parties] stand for these days... I don't see any positive direction... The reality is that it's not the kind of politics it was in my father's day, it's not the kind of politics that attracted me to politics in the first instance, which was to have genuine dialogue about how to make Canada a better country....I don't really see that kind of dialogue going on.

There is limited political will amongst those in power to change this style of politics because it makes it easier to maintain power. Though a few parliamentarians advocate certain reforms, on the whole why would the powerful change a system that engages and elects only a certain small portion of the population? Among women who are able to circumvent the patriarchal structure that so impedes their ability to win election, even fewer have the will to participate in an outwardly fruitless venture. Deborah Grey, a former Member of Parliament and a former Leader of the Opposition argues, "systemically there is something wrong [if] women don't want to put their shoulder to the wheel." Both Ms. Grey and Dr. Bountrogianni advocate more powers to the Speaker to make discourse in the House more civil, particularly during Question Period. More civil discourse will appeal to a greater number of women.

Even still, the Speaker has little power beyond the House of Commons. The media industry itself is not separate from a patriarchal, political culture. Fannie Olivier, a reporter at La Presse Canadienne's Parliamentary Bureau, laments the male-dominated media industry, and the failure so far for anyone to incite positive change:

> Women in the media. It's still an old boys' club. Issues are made my men, viewed by men. It is changing [in the sense that there are more female reporters.] It's still men who do politics though. I think it shows... Sometimes it's hard to go beyond the [physical beauty] of women politicians... Yes, of course, the media does play a role in this, especially as women journalists. I'm not sure that it's changing.

Journalists and consumers must take a vested interest in dismissing 'gotcha'-style political stories and exposing and eliminating gender bias in the media. The political and media culture both require transformative leaders who will rise above pettiness, put-downs and sexism and instead engage their political opponents in meaningful debate engineered with the betterment of the nation in mind. When it comes to political discourse and the media, only so much systemic and institutional reform can be constructive. There comes a time when the responsibility for discourse lies with the interlocutors alone. When the *Ottawa Citizen,* like many other newspapers and media outlets, consciously decides to refer to Helena Guergis as "the former Miss Huronia beauty pageant winner" (Nguyen, 2010, April 10), they succeed not only in objectifying Guergis, but also in degrading political discourse. Nothing tangible can be done except for politicians, journalists and citizens to stop this behaviour and decry its exhibition by others.

Establishing a critical mass of women would help to improve this political culture and to contribute to the eradication of patriarchy in the system. Socially and culturally, women are more inclined toward consensus building. In his experience as a Member of Parliament, David McGuinty observes, "Women deal with complexity a lot better than men...and complexity is the first casualty of politics." Though political culture is upheld by a system meant to incite adversarial debate, Cyrus Reporter believes, "Women can significantly affect public policy and the tenor of political debate. [A greater involvement of women in Canadian politics] would have an impact in that there would be more of a focus on consensus building." While Parliamentary tradition is an element of national identity, Parliament should be designed to serve the citizenry, and not the reverse.

Political institutions and political culture are still dominated and engineered by men, for men. This status quo is supported by men and women alike. Until political leadership helps to break this cycle, a Parliament that provides equal and fair opportunity for men *and* women to participate in democracy remains a pipe dream.

Electoral Incentives versus Quotas

Canadians are still faced with the aforementioned chicken-and-egg dilemma: the idea that gender equality is not possible until more women are elected, and that not many more women will be elected until gender equality is possible. In addition to charismatic, transformative leadership bent on guaranteeing gender equality for all, and reeducation and re-imagination of the societal and political constructs that restrict certain genders from performing only certain roles, electoral incentives provide a mechanism to encourage and direct political parties to embrace gender equality in the context of political representation. Institutionalized mechanisms can be dangerous, however, because while they may help in the short-term, the long term residual implications of certain measures, like fixed quotas, can be incredibly detrimental. Dr. Carolyn Bennett, a Member of Parliament, distinguishes quotas from goals: "We have to decide whether quotas are a ceiling or a floor. I think you need meaningful targets and lots of work to get at them and then keep moving the targets until its fair. You have to set goals." The United Nations has stated that, for public policy to be significantly reflective of women, women's representation in the lower house of a parliament must be no less than thirty percent ("Reality Check," 2010, p. 26). Ms. Grey insists that quotas are "*ridic*," before adding that their arbitrary nature all but eliminates their usefulness. Mr. Kingsley also dismisses the United Nations' quota: "It should be forty to forty-five percent, whichever sex. If we really want to tap the full human potential of both sexes, [we need to achieve parity]" (Kingsely). Further to Ms. Grey and Mr. Kingsley's dismissal of a thirty-percent quota, consider legislation recently passed by India's Upper House. The Women's Reservations Bill, as it is called, would reserve at least 181 of the 543 seats in the Lower House of Indian Parliament, approximately one-third, for women. While the intended effect of this legislation is to increase the representation of women in Indian Parliament, the residual and adverse effect is that the legislation conventionally reserves the remaining two-thirds of the seats for men. Recall that the intention of affirmative action programs is to give opportunities to the best possible candidates. The idea is to level the playing field, not to restrict its use to one sex at a time. "Are quotas going to work?" asks Senator Mitchell. "I have my reluctance about quotas for the reason that I'd rather work from the other side, and support and mentor women, and good men as well, who are less and less inclined to go into politics."

By contrast, electoral incentives effectively encourage all political parties and their members to engage in this kind of mentorship exercise. Mr. Kingsley calls party subsidies "one of the great equalizers of the Canadian political system." The subsidies should be reengineered in such a way that they encourage political parties to exercise due diligence in assuring that not one sex - male or female - is privileged above the other when it comes to nomination processes and access to party resources. Senator Fraser proposes one such goal oriented approach:

> If you increased the subsidy for parties that achieved more than a certain percentage of elected representatives who were women, you limit the opportunity for individual injustice...but you give women in general a leg up.

Senator Fraser's goal oriented approach is a rough skeleton of one electoral incentive formula. Different measures could be tested in the interest of guaranteeing fairness and gender equality. Ultimately, the idea is to encourage political parties to facilitate gender equality without legislating them to do so, and to establish gender equality as a priority of the citizenry.

Leadership, Political Parties, and the Democratization of Nomination Processes

The fundamental responsibility for achieving gender parity of Canada's elected representatives rests with political parties. The state cannot legislate sociological change at a political level, nor are overarching attempts at this end constructive. Senator Fraser concurs:

> I'm not in favour of too much direct, specific detailed intervention by the state, or the organs, including the Chief Electoral Officer... I am strongly in favour of parties themselves making it their business to ensure that as many women as possible are candidates... This can include mechanisms like insisting that nomination lists include a woman, or that, at very least, the local riding association be able to demonstrate factually, precisely, that it has done its level best to find qualified women to present themselves.

The state can encourage change, but it is up to political parties to incite change. Dr. Bennett insists on this responsibility:

> I believe that we can achieve dramatic results with a real strategy, an adherence to democratic principles, and persistent and determined leadership. In order to achieve success, all members of the party, men and women, must understand the importance of this issue and support and commit to realistic goals and a meaningful strategy (Bennett, 2006).

First, political parties need to make sure that their organizational structure embraces gender equity at the national and constituency levels. For the most part, "women perform stereotypically feminine types of work at the local level" (Bashevkin, 1993, p. 68). This is not helpful -women and men need to be part of transparent, ethical, and inclusive decision making processes. Typically, the reverse is true:

> Most of the important decision-making in Canadian party organizations, both between and during election campaigns, takes place among small groups of official and unofficial party elites. Whether these elites gather at specifically designated executive meetings or in informal backroom settings, their discussions frequently determine party

> campaign strategies, leadership politics and the overall deployment of human and financial resources within the larger organization (Bashevkin, 1993, p. 76).

Second, political leaders need to be conscious of gender equality, and they must explicitly and vocally develop a party culture friendly to women as well as to men. The value of the leader's role in encouraging gender equality in the political arena cannot be overstated. Senator Mitchell, a former party leader in Alberta, emphasizes this role:

> I do think that leaders have to be conscious of mentoring women, asking women to run, fighting to get them better ridings, structuring if they can to get good people around them to help them win those ridings, talking about it, making the party a welcoming place for women and for women candidates. I think there's a lot that can be done in that regard.

Third, parties must thoroughly and comprehensively review their nomination processes. To suggest that change to the nomination processes hinders democracy is folly-many of these systems are already hugely flawed and undemocratic. As Dr. Bennett argues, "We should insist on a system where everybody has to be in the room, hear all the speeches and decide who is the best candidate." Political parties need to reach out to prospective candidates, and engage a more diverse demographic in their nomination processes. Many politicians lament the democratic deficit, while their own parties consistently fail to welcome and involve a broader demographic of citizens. Many people will not come to the party without an invitation--so political parties need to invite those people.

Fourth, political parties need to mentor and develop women candidates as well as male candidates, and then provide equal opportunity for access to winnable ridings. Traditionally, "few women run in their parties' competitive constituencies where the political stakes are high" (Bashevkin, 1993, p. 85). It is not helpful to nominate multitudes of women if few of them have a chance at getting elected. Dr. Boutrogianni highlights the need for political parties to support and serve their candidates irrespective of their gender, familial ties, or financial standing. Gender equality must be systemically implemented into the party structure and supported by political and party leadership.

The transparency of these processes must remain intact, because too much interference by political leadership can erode party members' confidence in the fairness of the process. Moreover, this can negatively affect the candidate. Senator Mitchell explains:

> When [the leader] appoints somebody [as a candidate], if it's in a riding where there would have been a contested nomination, [in a riding] that's winnable...than you really cause a problem for the democratic process...and you start to erode the strength of a constituency organization. If you step in and stop a nomination process that was building memberships, bringing in people who were supporting

> somebody who was going to win, and then they don't even have a chance, it can be very disruptive.

Political leaders need to respect the will of the party members, but openly and fiercely advocate for equal opportunities for all. They need to engage a diversity of candidates, mentor these candidates and support their experiential learning in a political environment. To achieve true gender equality, political leaders need to engage women and men who will also be able to serve a diversity of roles in cabinet. In Canada, for example, the Finance Minister is and always has been male. Though some people say women are simply not made for the job of Finance Minister, Paddy Torsney, a former Member of Parliament, disagrees: "You go and recruit women candidates to fill [cabinet positions]." There are no limitations to what women can do. The leader's job is to facilitate opportunities for the personal and professional growth of a diverse team, to serve all Canadians - not just those who once ran the party administration.

Conclusion

Positive change is already too slow. The phallocracy that governs Canadians is reprehensible, and yet no one seems to care a great deal. The immediate solution, then, is to shout louder until citizens, political leaders, journalists, men and women start to listen. Gender equality is not a question of minority rights. Women are not the minority. Despite the 1929 ruling of the British Privy Council, however, they are also not being treated like persons. The right to vote does not imply an equal voice in the political system, and men and women alike need to combat the patriarchal structures reinforced by religion and popular culture. It seems strange to think that Canadians believe women to be evil, but how else can such blatant disregard for the rights of seventeen million people continue? From a sociological and structural perspective, the problem is complex, and it will require measured institutional change, political leadership and a re-educated citizenry prepared to critically evaluate and reconcile common practices with shared values. From an individual perspective, however, conviction and will are enough to break from the constraints of cultural conditioning and to consider other people not for their penises, not for their vaginas, but for their character, ability and innate human value.

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Chapter 6

Understanding Aboriginal Rights and the Need for Self-Reliance

Peter Doherty

A mother and her son are travelling across the American-Canadian border from the Southern Alberta prairies. They arrive at the border toll and the guard asks for the usual information: questions pertaining to possession of firearms, illegal drugs, liquor or horticultural goods as well as citizenship. To the last question, the mother answers simply "Blackfoot". As she answers neither "Canadian" nor "American", the guard refuses the mother and her son entry to the United States. Despite many subsequent attempts to cross both the Canadian or American borders as Blackfeet, the mother and son are forced to remain between the Canadian and American borders for several days and nights.[1] The stubbornness of the mother to not comply with the legal expectations of the border forces the two into a kind of interstate limbo. This struggle forms the plot of a short story, entitled "Borders", by Thomas King, Cherokee novelist and advocate of Aboriginal rights.

The story depicts the enduring struggle of Aboriginal peoples to assert their cultural distinctiveness amid an ever-dominating mainstream society of Western Liberalism. The Blackfoot mother, like many others from Aboriginal communities across Canada, declares herself autonomous and different from any Western-conceived state, such as Canada. In so doing, King's "Borders" becomes not only a metaphor for Aboriginal self-identification, but one for self-determination and independence as well. In a word, Aboriginal peoples seek self-reliance.

Aboriginal self-reliance remains a very difficult concept that involves innumerable interpretations and is widely debated. Based on one's cultural upbringing, or worldview, self-reliance can take on many different meanings. Even in the legal world there is much disagreement. Does Aboriginal self-reliance constitute a right, a privilege, a treaty, a condition or an objective? Once established, can Aboriginal self-reliance be legally and socially justified? How might it manifest itself in Canada's political system? Is there even reason to try to justify it?

This paper will attempt to answer some of these questions putting forth the argument that political and economic self-reliance in First-Nations communities is fundamental to healing the dismal historical and present state of most Canadian Indian Reserves where poverty, destitution and desperation abound. After hundreds of years of continuous on-reserve misery, it is time that First-Nations communities and the Federal Government of Canada change their approach: self-reliance within broken First Nations communities is critical to their healing. While specific political models of application of

[1] King, Thomas. "Borders." http://faculty.law.ubc.ca/myoung/constitution/images/Thomas%20King%20Borders.pdf (accessed May 5th 2010). p.135.

self-reliance will not be discussed or favoured in this paper, a historical context of First-Nations self-reliance will be covered as well as a discussion on Aboriginal peoples' *rights*, so-called by the liberal-based Canadian legal system, for self-determination and self-government. Self-reliance itself will be broken down into its political and economic aspects, and finally, the importance of accountability to any self-reliant system in the context of Indian reserves will be elaborated and defended.

When dealing with complex ideas such as Aboriginal self-reliance, it is crucial to begin by providing a base of definitions that will be used throughout the subject matter at hand. The term "Indian" will be used to uniquely refer to those Aboriginal peoples who live in the reserve-system that came into being through the Indian Act of 1876. This particular discussion of Aboriginal self-reliance will be limited to that of Indians dwelling within reserves, hence excluding the situation of off-reserve Indians, non-status Indians and other governmental classifications which lie outside the scope of this paper. Other terms such as Aboriginals, referring to all indigenous people of Canada comprising both Métis and Inuit people, or First Nations, which is a broad term used for Aboriginal people distinguished as whole ethnic collectives, will be used strictly according to their very inclusive definitions.[2] On the other hand, the many proper and more correct names for referring to the separate Aboriginal cultures in Canada, such as the Mohawk or Haida peoples, are too specific and will hence be only used in specific examples. Therefore the use of the word "Indian" is purely in its legal sense as the term used by the Federal Government and the Department of Indian and Northern Affairs to classify those Aboriginal peoples living on reserves under the Indian Act. Having made these linguistic distinctions, it is equally important to provide for them their historical context and, most importantly, the historical context of Indian self-reliance.

For at least the 9600 years prior to European contact, the Aboriginal people of North America thrived and developed rich and complex cultural, political and economic societies.[3] Along the Western coast of North America, existed at least thirty different Aboriginal groups, each with "a unique linguistic and cultural identity".[4] Complex and thriving societies were numerous, such as the Pacific Coast Aboriginal peoples, who in their prime, counted nearly 200 000 people - an extremely high population density for a non-agrarian culture. In Southern Ontario, Iroquoian nations formed complex and far-reaching political confederacies not only in military matters, but in matters of religion, government and most significantly, trade.[5] In the words of Calvin Helin, lawyer and author of "Dances with Dependency", these highly intricate and culturally rich North American Aboriginal societies were able to flourish "without welfare... [nor] government transfer payments";[6] without any European governmental influence of any kind. Evidently, these Aboriginal societies were originally self-reliant.

Following European contact with North American Aboriginal peoples, the first relationship struck up between European colonists and North American Aboriginals was

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[2] Gibson, Gordon. *A New Look at Canadian Indian Policy*. Vancouver: Fraser Institute, 2009. p. 22.
[3] Helin, Calvin. *Dances with Dependency: Out of Poverty Through Self-Reliance*. Woodland Hills: Ravencrest Publishing, 2008. p. 65.
[4] *Ibid.* p. 69.
[5] *Ibid.* p. 73.
[6] *Ibid*. p. 66.

based on fur and provisional trade.[7] Within a few hundred years, the dynamics of power in North America changed drastically. Throughout the eighteenth century, Britain and France, the two major colonial influences in North America, were in vicious competition for the acquisition of resources and the overall conquest of North America.[8] Competition drove explorers to push outward in the search of more resources and, of course, Aboriginal societies with which to trade. With heightening colonial competitiveness, these two great colonial nations became bitter enemies battling for domination of the North American continent, today recognized as the Seven Year's War. Suddenly, Britain and France depended on the North American Aboriginal peoples, not merely as trading partners, but as strategically, well-respected military allies.[9] Hence, in the beginning, the European-North American Aboriginal relationship was one of mutual respect and benefit, evolving gradually from mercantilist to militaristic.

In 1763, with the signing of the Treaty of Paris, New France surrendered to British colonialism in North America, relinquishing its many colonies along the St. Lawrence River.[10] At first, this British victory changed little the relations between the European colonies and the neighbouring Aboriginal peoples. In fact, in the same year as the Treaty of Paris, the British government issued a Royal Proclamation to Aboriginal peoples which officially recognized Aboriginal societies as sovereign nations with very specific and protected territorial boundaries. The 1763 Proclamation read "... the several Nations or Tribes of Indians... should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by Us, are reserved to them... as their hunting grounds".[11] Clearly this was an expression and recognition of North American Aboriginal peoples as valued and appreciated North American allies, not as enemies or holders of territory to be forcibly acquired. Later in the twentieth century, the 1763 Royal Proclamation would come to play an important role for the legal justification of Aboriginal rights to self-determination.

However, the situation for Aboriginal peoples in North America changed dramatically with the declaration of the Canadian Confederation in 1867. Not a single Aboriginal nation was involved in the development of the Canadian constitution,[12] a fact that is quite telling of the future role the Canadian mainstream society expected Aboriginals to play in Canada. Striking is the total reversal of British-Canadian policy towards the North American Aboriginal peoples entrenched in section 91 (24) of the 1867 Canadian Constitution which declared that all Indians and their lands were claimed under the jurisdictional powers of the new Canadian Federal Government.[13]

Section 91(24) in the Canadian constitution marked the beginning of the steep and rapid decline of self-governance powers of Aboriginal peoples, now constitutionally termed "Indians" under Federal jurisdiction, that would characterise the Aboriginal condition throughout the next century. In one fell blow, the respect and autonomy

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[7] *Ibid.* p. 91.
[8] *Ibid.* p. 91.
[9] Gibson, A New Look at Canadian Indian Policy, p. 34.
[10] *Ibid.* p. 34.
[11] *Ibid.* p. 76.
[12] Helin, Dances with Dependency, p. 93.
[13] Gibson, A New Look at Canadian Indian Policy, p.38.

enjoyed by Aboriginal peoples during the time of British colonialism was completely revoked and replaced by a relationship of legal and political subordination to the new Canadian federal government. Truly, the decision to include section 91(24) in the 1867 Constitution represents the fatal blow to the 10 000 years history of Aboriginal self-reliance in North America.

Canada's 1867 constitution ushered in a new age of isolation and assimilation for the Aboriginal peoples of North America. Assimilation was firmly entrenched as the cornerstone to all federal policy regarding Aboriginals.[14] In the eyes of the newly established federal government of Canada, a system needed to be put in place that could "civilize" the Indians so that they would eventually mix unnoticeably into the melting pot of the growing European immigrant society of early Canada.[15] By 1876, this system took the form in the Indian Act which was highly regarded as the solution to the perceived Aboriginal "problem". It was the Indian Act that divided up the Aboriginal Peoples of North America, isolating one from another, into allotted lands dubbed "reserves".[16] Churches were planted in most reserves to allow Aboriginal people the chance to convert to the "true English religion", Christianity. In many cases, the assigned Indian lands were far too small and poor in resources to support healthy, thriving Aboriginal communities and, as a result, the Aboriginal population in Canada dwindled.[17]

The objective behind the partition of the once sprawling North American Aboriginal nations into small, isolated reserves was to facilitate control of the entire Aboriginal population, a type of "divide and conquer" strategy. Ever strengthening their grip on the lives of the Aboriginal peoples, the Canadian federal government replaced all the traditional and historic forms of Aboriginal governments with a foreign, European-based system. "Indians" were now governed by elected "band councils" presided over by a "band chief" who was to act as the intermediary between the reserve and the Canadian federal government. Band councils and Chiefs under the Indian Act were granted very little power since all on-reserve legislating of any kind had to pass through the federal Department of Indian and Northern Affairs for approval[18].

Even today, band councils and chiefs remain solely accountable to the Canadian federal government through Indian and Northern Affairs Canada (INAC), leaving the Indian reserve populations with very little political voice or influence within their own communities. As Calvin Helin describes it, "imagine a situation where ordinary Canadians voted for their Member of Parliament, but rather than be accountable to the electorate that gave them their office, these politicians were instead accountable to a Member of the British Parliament."[19]

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[14] James Frideres."A Critical Analysis of the Royal Commission on Aboriginal Peoples Self-Government Model" in *Aboriginal Self-Government in Canada*, ed. Yale D. Belanger (Saskatoon: Purich Publishing Limited, 2008) p. 123.
[15] Helin, Dances With Dependency, p. 94.
[16] *Ibid.* p. 93 – 94.
[17] *Ibid.* p. 94.
[18] Georges Erasmus and Joe Sanders. "Canadian History: An Aboriginal Perspective" in *Nation to Nation, Aboriginal Sovereignty and the Future of Canada*, ed. Diane Engelstad and John Bird (Concord: House of Anansi Press Limited, 1992) p. 8.
[19] Helin, Dances with Dependency, p. 142.

Compounded onto the isolation imposed by the reserve system and the strange new form of band-government enforced upon Indians, the Indian Act and many of its subsequent amendments, also permitted an aggressive suppression of Aboriginal culture, tradition and beliefs; a policy that some have since branded "cultural genocide".[20] Among many examples various culturally-important religious dances were outlawed by the federal government under penalty of imprisonment. This policy was taken in the case of the sacred Sun Dance practiced by the Aboriginal peoples of the prairies in 1885.[21] Similarly, a 1927 amendment to the Indian Act prohibited Indians from hiring lawyers to advance land claim disagreements while, until 1960, all Indians were barred from participation in any federal elections.[22]

Without any meaningful forum for political or legal self-expression, on-reserve Indians were incapable of preventing further assimilative federal policies forced upon their communities. The residential schools program mandated the removal of Indian children from their families and reserve communities, enrolling them into church-run schools that taught repression of and aversion to their own cultural backgrounds and traditions.[23]

At the dawn of the twentieth century, it seemed the last nail was driven into the coffin of Aboriginal cultural and political autonomy. Nevertheless, after nearly a hundred years of oppression and assimilation, there occurred a political awakening among Indian activists in the late twentieth century. "Native peoples were moving from simply being "wards of the state unable to speak for themselves... to political players", notes Yale Belanger, professor of Native American Studies at the University of Lethbridge.[24] Grouping together into collective political bodies, Indians were beginning to have their voices heard by both the Canadian government and its mainstream population.

In 1970, the Indian Chiefs of Alberta, along with Indian chiefs all across Canada, developed a paper titled "Citizens Plus" that clearly articulated the Indian perception of their denigrated political situation relative to that of the federal government.[25] "Citizens Plus" lobbied the federal government to live up to past treaty obligations in providing Indian bands with their own lands, with control over education, health care and economic developmental aid.[26] The "Citizens Plus" paper, otherwise known as the Red Paper, represented one of the first manifestations of the Aboriginal desire for self-reliance and inherent rights.

The 1970s saw the official birth and use of such political terms as "inherent rights", "self-government" and "self-determination". These terms and concepts were

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[20] Tim Schouls, John Olthuis and Diane Engelstad. "The Basic Dilemma: Sovereignty or Assimilation" in *Nation to Nation, Aboriginal Sovereignty and the Future of Canada*, ed. Diane Engelstad and John Bird (Concord: House of Anansi Press Limited, 1992) p. 13.
[21] Helin, Dances with Dependency, p. 95.
[22] *Ibid.* p. 95 – 96.
[23] *Ibid.* p. 97.
[24] Yale D. Belanger and David R. Newhouse. "Reconciling Solitudes: A Critical Analysis of the Self-Governing Ideal" in *Aboriginal Self-Government in Canada*, ed. Yale D. Belanger (Saskatoon: Purich Publishing Limited, 2008) p. 8.
[25] *Ibid.* p.5.
[26] Schouls, Olthuis and Engelstad, The Basic Dilemma: Sovereignty or Assimilation, p. 21.

being used by Indians to assert themselves in the political landscape of Canada as well as to negotiate land claims.[27] It was the Federation of Saskatchewan Indians (FSI) that first put forward an official and purely Indian articulation defining these self-determining rights in its position paper entitled "Indian Government".[28] Among many things, the two pillars of Indian self-government in the eyes of the FSI were the ability of Indian communities to govern their own internal affairs and the recognition of the inalienable inherent right of Indians to have jurisdiction over their lands.[29]

According to the FSI, the Indian right to self-government differed from the rights of the Canadian mainstream citizens in two aspects. First, the right to self-government was an inherent right since "We [Indians] have never surrendered this right and we [Indians] were never defeated militarily".[30] Though it had not been recognized by the Canadian federal government for over a century, the FSI regarded their right to self-government as having been passed down, from generation to generation, in a congenital manner. Second and most important, however, was the FSI conviction that the right to self-government existed purely by virtue of the existence of the Indian people as a cultural and ethnic group;[31] i.e. that it represented a collective right.

It is on this point concerning collective rights that the FSI discovered one of the key cultural differences in perception between Aboriginal peoples and mainstream Canadian society, and by extension, the Canadian federal government. European-based liberal political philosophy, the philosophy upon which the Canadian and most other Western states were based, is predominantly centred on the rights of the individual. Stemming largely from the work of the seventeenth century British philosopher John Locke, the liberal political philosophy asserts that all rights invariably arise from a single inalienable right: the right to self-preservation.[32] From this first integral right follows the right of property; that is, the right to appropriate objects to fulfill the first eternal right, such as the appropriation of food for nourishment, clothing for warmth or land for shelter. According to Locke, political society arises strictly out of the desire to protect one's property from the infringement of others who are in turn individuals simply trying to preserve themselves.[33] In the European-based liberal mindset, individuals are pushed to social communities out of fear of loss of property and mutual fear of each other. Dalhousie Professor of Law and Aboriginal advocate Mary Ellen Turpel writes that European liberal philosophy is thus characterized by a "highly individualistic and negative concept of social life",[34] one that is driven by fear.

One major premise of all European liberal political thinking is that all individuals are fundamentally equal and therefore are holders of equal rights.[35] If there was drastic

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[27] Belanger and Newhouse. Reconciling Solitudes: A Critical Analysis of the Self-Governing Ideal, p. 6.
[28] *Ibid.* p. 7.
[29] *Ibid.* p. 7.
[30] *Ibid.* p. 8.
[31] *Ibid.* p. 8.
[32] Locke, John. *Second Treatise of Government*. Indianapolis: Hackett Publishing Company, Inc., 1980. p. 19.
[33] *Ibid.* p. 46.
[34] Turpel, Mary Ellen. "Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences." *HeinOnline* (1989).
[35] *Ibid.* p. 8.

inequality in rights among individuals, then it would make little sense for a rational person who has many rights to enter into a social contract with a person who has fewer rights. If some human beings inherently had more rights than the rest, political society among rational individuals would, according to European-based Liberalism, cease to exist.

In essence, this was the fundamental philosophical dilemma that the FSI presented to the Canadian mainstream when, in their 1977 position paper, they maintained that self-government was a collective Indian right referring specifically to certain individuals who are culturally and ethnically associated. The liberal perception that it is simply unfair for some individuals to claim more rights than others is the perception taken by mainstream Canada and therefore also the Canadian federal government. Without a doubt, "equality in terms of status is a theme that resonates strongly [in mainstream Canadian society]".[36]

The cultural perceptions of Aboriginal peoples on human rights are quite different. In essence, they represent "different manifestations of a different human (collective) imagination".[37] However, Canadian Aboriginal scholar, Mary Ellen Turpel, warns that any discussion of the cultural worldviews of North American Aboriginal peoples or, more specifically, Indians must be followed by a very important disclaimer. The concept of a North American-wide "Indian" or "Aboriginal" culture is pure fiction.[38] In reality, across Canada there exists a total of 614 Indian reserve-communities, but due to the splitting of Aboriginal peoples that occurred with the implementation of the Indian Act in 1876, these six hundred and fourteen bands can actually be organized into fifty-two root cultures or nations.[39] Of these fifty-two basic cultures, there are approximately fifty different spoken languages. It is neither possible nor is it fair to generalize this great North American indigenous diversity into a single monolithic entity, a practice that has been consistently done by the federal government of Canada since the invention of the constitutional term "Indians" and the application of pan-indianist policy to manage all First Nations people in North America.

Having established this fact, Mary Ellen Turpel admits, however, that Aboriginal peoples, as a whole, do reject the European liberal prototype of rights and property.[40] Rather than focusing on rights, she claims Aboriginal cultures tend to focus more on responsibilities to the community. "Some First Nations base social interaction on the various teachings of the Four Directions; that life is based on four principles – roughly translated as *trust, kindness, sharing* and *strength*".[41] Communal harmony and balance is based on the owing of these responsibilities to each and everyone in the collective. Unlike in European-based liberal societies, laws in Aboriginal cultures are not rigid and

[36] Gibson, A New Look at Canadian Indian Policy, p. 98.
[37] Turpel, Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences, p. 34.
[38] *Ibid* p. 29.
[39] Helin, Dances with Dependency, p. 142.
[40] Turpel, Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences, p. 29.
[41] *Ibid*. p. 29.

recorded but they flow dynamically through the religious and social stories and customs passed down through a rich generational oral history.[42]

Just as there is no conception of rights in most Aboriginal cultures, there is little conception of private property. Again, in terms of land, Turpel stresses the commonality and common responsibility to land in Aboriginal cultures, quoting Iroquois Faithkeeper Oren Lyons: "We [Aboriginal peoples] share land in common, not only among ourselves, but with the animals and everything that lives in our [Aboriginal peoples'] land. It is our responsibility."[43] Quite definitely, Turpel concludes that "there is no equivalent of 'rights' [in Aboriginal cultures] because there is no equivalent to the ownership of private property."[44]

A very interesting question now poses itself at the forefront of this discussion: if Aboriginal cultures developed in the absence of the liberal conception of rights, what exactly did Aboriginal rights groups first mean when, in the 1970s, they began fighting for their 'rights' to self-government and self-determination? Professor Gerald Taiaiake Alfred of the University of Victoria attempts to shed light on this mystery claiming that when Aboriginal peoples, or specifically reserve Indians, are claiming inherent rights and self-determination; they are, in reality, making an assertion of their nationhood.[45] This view is echoed by Mary Ellen Turpel when, regarding the meaning behind the use of liberal "rights" terminology by Aboriginal rights groups, she writes "rights claims [are] a plea for recognition of a different way of life, a different idea of community, of politics, of spirituality..."[46] The true meaning behind the Aboriginal plea for self-determination and self-reliance is much greater and much more expansive than mere single pleas for certain jurisdictional powers or claims to land; it is a cry for assertion of cultural difference in all its manifestations.

For both Alfred and Turpel, human rights terminology is seen as an instrument for Aboriginal peoples attempting to convey something far bigger in a system that is culturally and epistemologically dominated by a single cultural worldview: European-based liberalism. Turpel names this effect the "Rights Paradigm".[47] She defines the Rights Paradigm as the aspect of the Canadian legal and political system that "decides for those it doesn't understand [Aboriginal peoples], using a framework which undermines their objectives".[48] She goes even further to claim that when the Canadian government attempts to pass judgement or authority, while only using the European-based philosophical model on different cultures (like Aboriginal peoples), it automatically represents, in and of itself, a type of cultural oppression and paternalism.[49] Even if such a judgement on the part of the Canadian government improves the condition of Aboriginal

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[42] *Ibid.* p. 29.
[43] *Ibid.* p. 30.
[44] *Ibid.* p. 29.
[45] Alfred, Gerald Taiaiake . *Heeding the Voices of Our Ancestors*. Don Mills: Oxford University Press, 1995. p. 10.
[46] Turpel, Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences, p. 33.
[47] *Ibid.* p. 9.
[48] *Ibid.* p. 10.
[49] *Ibid.* p. 26.

peoples across the country, the very manner in which the judgement was reached would undermine the objective of self-reliance for those people.

The case study of the effects of the Indian Civil Rights Act in the United States truly embodies the importance of having true self-derived and self-governed institutions in Indian communities for any healing to take place in Aboriginal communities. The Indian Civil Rights Act set up a system of tribal courts created especially for Native Americans so that they may be included under the American Bill of Rights.[50] The reasoning behind the establishment of this separate legal institution specifically designed for Native Americans was to enhance the legitimacy of the American legal system in the eyes of Natives. The thinking was this: if one is being tried and judged by a member of one's own community who shares similar values and beliefs, then one is led to believe that the chances of cultural or ethnic discrimination would be greatly reduced.

However, the opposite effect proved true. The Tribal Courts System has been widely criticized by the Native Americans across the United States for forcing a culturally alien method of social problem solving on Aboriginal societies.[51] In close-knit societies that are based on the valuing of responsibility and loyalty to the collective (as opposed to liberal constructions of individualistic rights), conflict resolution between two members emphasizes apology and accountability to the community as a whole.[52] In the very punitive European-based legal system, a transgressor is not meant to feel responsibility or accountability to anyone except him or herself. Anyone in a Native American community, which traditionally emphasizes trust, responsibility and sharing, who would act in a liberal individualist manner would spell the demise of his or her community. The purely rational and self-interested values of liberalism are the polar opposites of the self-sacrificial and communal values of Aboriginal societies. In this way, it is clear that the American Tribal Courts, though trying to reconcile American mainstream values with Native American traditional values, was in the end simply imposing upon Natives a liberal judicial structure that inevitably exacerbated social problems within tribes.[53] It also becomes clear that if a political or legal institution is to work successfully within a certain society, it must conform perfectly to the beliefs and values of that society. Therefore, there is no better source of a society's political and legal institutions than the society itself.

With the lesson provided by the American tribal courts in mind, it becomes all the more crucial that Indian reserves be allowed political self-sufficiency not just in legal matters, but in matters pertaining to education, health care and legislation. How can the federal government presume to impose any of its Canadian mainstream values on Indian communities when the two cultures possess completely different worldviews? According to Professor Michael Asch of the University of Alberta, political self-reliance represents "having the ability to set goals and to act on them without seeking permission from others".[54] Since the 1867 Constitution Act, Canada has presumed to know what is best

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[50] Turpel, Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences, p. 41.
[51] *Ibid.* p. 41.
[52] *Ibid.* p. 42.
[53] *Ibid.* p. 42.
[54] Michael Asch, "Political Self-Sufficiency" in *Nation to Nation, Aboriginal Sovereignty and the Future of Canada*, ed. Diane Engelstad and John Bird (Concord: House of Anansi Press Limited, 1992) p. 50.

for Indians: isolating them in reserves; providing residential school services for their children; and sending annual financial aid. Regardless of federal government efforts, the poor and dismal situation of Indian reserves has not only stayed the same, but has steadily worsened. It is maybe time the federal government acknowledges the true cultural differences between the mainstream and Aboriginal societies and legislates accordingly towards Aboriginal self-reliance.

Though the true underlying significance of the use of such liberal terminology as "inherent right to self-determination" by Aboriginal peoples is still poorly understood, in recent years there has been more and more legal recognition of Aboriginals' claims to these rights among the Canadian mainstream. The 1763 Royal Proclamation has continued to remain a powerful argument for Aboriginal self-determination throughout the entire twentieth century. The fact that it guaranteed jurisdictional and territorial autonomy to Indian nations prior to both the Canadian 1867 constitution and the 1876 Indian Act remains its strongest legal contention.

Much more recently, the Canadian federal government has taken monumental steps in recognizing Aboriginal rights to self-reliance in many different ways. The first major step was taken by the 1983 Special Committee on Indian Self-Government when it issued the Penner Report, which recommended the development of legislation that would allow Indian bands to determine for themselves their own internal political structure that suits them best.[55] The committee's recommendation was even considered in the House of Commons, and the very next year it had transformed into Bill C-52.[56] Unfortunately, when Parliament dissolved in 1984, so did Bill C-52.

A Royal Commission on Aboriginal Peoples (RCAP) was established 1991 with the intention of gaining a better understanding of how Aboriginal self-government should be structured at the local level and also on how it could be integrated into the Canadian federal government.[57] One of the basic assumptions of the Commission when it started its research was the recognition and re-affirmation that the Indian-Canadian political relationship was one of nation to nation.[58] This marked a return of all the members of the Royal Commission to the original Aboriginal-Canadian political conditions that existed when the 1763 Royal Proclamation was issued. The final report of the RCAP, released in 1996, brought many ideas to the forefront of Canadian politics pertaining to Indian issues. Among the most prominent was its assertion that the well-being and strength of Indians was greatly tied to the level of independence of their nations as well as the proposal that a third order of government, alongside the federal and provincial systems, be created specifically for Aboriginal peoples and their internal concerns.[59]

Already, in 1995, serious policy-making regarding the right of Aboriginal peoples to self-government had been passed in the form of the Inherent Rights Policy (IRP).[60]

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[55] Frideres, A Critical Analysis of the Royal Commission on Aboriginal Peoples Self-Government Model, p. 124.
[56] *Ibid.* p. 124.
[57] *Ibid.* p. 124.
[58] *Ibid.* p. 128.
[59] *Ibid.* p. 128 – 129.
[60] Belanger and Newhouse, Reconciling Solitudes: A Critical Analysis of the Self-Government Ideal, p. 14.

The IRP was significant in its breadth of Aboriginal rights acknowledged by the federal government; it granted recognition of Aboriginal rights "in matters internal to communities, cultures, identities, traditions, languages, resources, land and institutions".[61] Finally, one of the most significant advances in the area of Aboriginal Rights recognition was the 2007 adoption of the "United Nations Declaration on the Rights of Indigenous Peoples" by the United Nations General Assembly, a document affirming indigenous peoples' right to self-determination and self-government all over the world.

After a century of stale Indian policy, the Canadian government was gradually acknowledging that problems in Canada's Indian reserves were not only perpetuating, but worsening. At present, one third of all Indian reserves in Canada are in great financial difficulty.[62] Between the years 1995 to 2001, the number of Indian children on reserves who received welfare care increased by 71.5 percent.[63] For a comparison, while 1 in every 200 mainstream Canadian children is under welfare, the chance of requiring welfare for Indian children is 1 out of 17.[64] In general, reliance on welfare is five times higher on reserves than among mainstream Canadians.[65] Looking at criminal activity, recent data shows that Aboriginal people are incarcerated eight times more often than non-Aboriginal people.[66] In terms of crime demographics, male Indians are twenty-five times more likely to be incarcerated in a provincial jail than are non-Indian males.[67] Drug and alcohol abuse run rampant in Indian reserves and suicide rates among Indians are the highest in Canada.[68] The state of affairs on Indian reserves is truly a modern-day tragedy.

Despite all the attempts at fundamental and structural change of the Indian Act and its band system of the late twentieth century, the Canadian federal government's response to these problems has been very static. The approach of the Canadian federal government, or more specifically the Department of Indian and Northern Affairs, in trying to solve these perpetual problems on Indian reserves has mostly been to continue to increase financial transfers to the bands.[69] Annually, the federal government spends approximately nine billion dollars on transfers to Indian reserves.[70] This has resulted in what Aboriginal lawyer and writer Calvin Helin has dubbed the "Welfare Trap".[71] Helin compares governments' past attempts to help bands to the application of "a small band-aid to [try to cover] a massive open wound".[72]

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[61] *Ibid.* p. 14.
[62] Senator Brazeau, Patrick. 2010. Interview by Peter Doherty. Written record. May 5th. Entrance of Senate, Parliament Hill, Ottawa, ON.
[63] Helin, Dances with Dependency, p. 111.
[64] *Ibid.* p. 111.
[65] *Ibid*. p. 112.
[66] *Ibid*. p. 113.
[67] *Ibid.* p. 113.
[68] *Ibid*. p. 111 – 112.
[69] *Ibid.* p. 108.
[70] Brazeau Interview, 2010, May 5th.
[71] Helin, Dances with Dependency p. 104.
[72] *Ibid*. p. 107.

Though the financial costs flowing from tax payer's wallets are great, the human costs of the welfare trap are even greater. Dependence on welfare is proven to be very damaging, especially to men, regardless of race.[73] Helin relates a 1992 study conducted in New Brunswick that shows that men who are dependent on welfare lose self-respect and become more prone to depression, which leads to self-destructive tendencies.[74] In Aboriginal cultures, where the traditional role of men was to be the providers for their families and tribe, Indian men suffering in welfare-dependent reserves are shown to be particularly vulnerable.[75]

A study conducted and published in the United States has begun to shed light on some of the possible solutions to the plight on many Indian reserves. Like in Canada, many American Indian reserves struggle below the poverty line. However, many American Indian communities have experienced much success. The Harvard University Project entitled "Sovereignty and Nation Building: The Development Challenge in Indian Country Today" studied both the successful and struggling types of Indian communities in great detail for a twenty year period.[76] In 2005, when the study was published, the data was conclusive: stable self-reliant governance is the most important factor in improving a tribe's economic wealth and overall well-being of its members.[77] Unsurprisingly, this was precisely what Aboriginal Rights groups had been lobbying for since the 1970s.

The results of the 2005 Harvard study are readily observable in some Indian reserves in Canada as well. Under the charismatic and compassionate leadership of Chief Clarence Louie, the Osoyoo Indian band of southern British Columbia has, within twenty years, gone from bankruptcy to a successful and thriving corporation that controls nine successful companies.[78] Louie actively engages the members of the Osoyoo Indian band, mobilizing them to rise above their past and start working for the economic self-sufficiency of the entire band; what Louie calls "Community Capitalism".[79] While the Osoyoo band continues to receive annual federal transfers, it is clear that the insightful and energetic leadership of Louie, with his unique application of capitalism to Indian values, was the true catalyst for change in his community. The success of the Osoyoo tribe is a further testament of the powerful influence for good that a responsible and completely self-derived Indian government can have in Indian communities.

The idea that self-reliant and self-derived government is essential to improving the condition of on-reserve Aboriginal peoples is therefore not a new one. It was pushed for by Aboriginal rights groups, like the Federation of Saskatchewan Indians, in the 1970s. The idea was further discussed and developed by federal committees and task-groups such as the Royal Commission on Aboriginal Peoples of 1991 and the Inherent Rights Policy. Furthermore, Canadian aboriginal scholars such as Mary Ellen Turpel and Gerald Taiaiake insist that effective and lasting government of any kind for Aboriginal peoples must come from the people themselves and their cultural values. This crucial

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[73] *Ibid.* p. 110.
[74] *Ibid.* p. 110.
[75] *Ibid.* p. 110.
[76] Gibson, A New Look at Canadian and Indian Policy p. 103.
[77] Helin, Dances with Dependency, p. 142.
[78] Gibson, A New Look at Canadian and Indian Policy p. 102.
[79] *Ibid.* p. 102.

idea has been reinforced academically by a Harvard study and on the ground by the case study of the Osoyoo tribe in British Columbia.

With all this in mind, a solution to the Helin's "Welfare Trap" and the broken Indian communities all across Canada exists and has existed for a while. The capacity of Indian communities to be able to responsibly govern themselves according to their own values, i.e. political self-reliance, is of central importance to their economic and social healing. Any other foreign form of pseudo-self-government simply does not yield the same healing results as pure political self-reliance.

However, Senator Patrick Brazeau, former head of the Congress of Aboriginal Peoples, warns that Indian reserves will require some assistance of the Canadian federal government in order to attain political self-sufficiency.[80] To him, political self-sufficiency is worth little if one's economy is completely dependent. Indeed, Canadian academics Frances Abele and Michael Prince agree that "people who want to govern themselves must accept financial responsibility".[81] For Senator Brazeau, taking advantage of the help and resources the Canadian federal government and mainstream culture have to offer, such as accepting moderated federal transfers, is absolutely necessary to help kick-off the developing economies of Indian communities. Chief Clarence Louie and his idea of "communal capitalism", a mix of Aboriginal values with capitalist ones, would surely agree with that.

Before Indian communities can become economically self-sufficient however, Brazeau warns that further structural alterations to the Indian Act and band system would be required. One of the major recommendations emerging from the 1996 final report of the Royal Commission on Aboriginal Peoples was to reconstitute the six hundred and fourteen Indian bands back into their original fifty-two nations.[82] This is due to the fact that some Indian reserves count as little as fifty in population.[83] Of all the Indian communities in Canada, sixty percent have populations that are below five hundred residents, and only seven percent contain more than 2000 residents.[84] Senator Brazeau relates the story of his specific Aboriginal nation, the Algonquian nation, which was divided into nine separate bands with the implementation of the Indian Act. Expecting economic self-sufficiency from all of the nine individual Algonquian bands with their reduced and partitioned populations "just doesn't make sense".[85] Bands reuniting back into their original full Aboriginal nations provide one solution to this first economic problem.

Once the problem of small populations is overcome, Indian communities do, in fact, have a wealth of opportunities for economic expansion at their disposal. In total, the combined lands of all Indian communities span 600 000 square kilometres, a surface area that is double that of England. As with Chief Louie's "Collective Capitalism", many

[80] Brazeau Interview, 2010, May 5th.
[81] Frances Abele and Michael J. Prince. "The Future of Fiscal Federalism" in *Aboriginal Self-Government in Canada*, ed. Yale D. Belanger (Saskatoon: Purich Publishing Limited, 2008) p. 158.
[82] Belanger and Newhouse. Reconciling Solitudes: A Critical Analysis of the Self-Governing Ideal, p. 14.
[83] Brazeau Interview, 2010, May 5th.
[84] Helin, Dances with Dependency, p. 142.
[85] Brazeau Interview, 2010, May 5th.

emerging "Aboriginal Enterprises", which are privately owned but that send funds to the Aboriginal community as a whole, are arising in areas such as infrastructure, food production, transportation and, most of all, real estate.[86] With their expansive land titles and the continuation of land claim settlements occurring all over Canada, self-sustaining economic viability is not such a far-off dream for Indian reserves.

However, there does remain a major obstacle in both the political and economic advancement of Indian communities towards self-sufficiency: the problem of accountability. Fiscal unaccountability is one of the major sources of money mismanagement and lack of long-term investment in Indian communities today. As it presently stands, there is a major lack of accountability between Indian band councils and the Department of Indian and Northern Affairs Canada (INAC). Since the early 1990's, it was established by INAC and the Minister of Indian Affairs that all Indian accounts receiving federal transfers were to be considered private accounts, thus making all Aboriginal transfer spending information private and inaccessible to both Parliament and the Canadian public.[87] This privacy of accounts has led to the startling fact that Parliament, though it votes on how much money to send to Indian reserves annually, has absolutely no knowledge of how those funds are being distributed once it arrives in each Indian reserve.[88]

Here, it becomes necessary to draw a distinction between the necessity for the accountability of bands to the federal government and assimilative attacks aimed at weakening and destroying Indian self-determinacy. It has been determined that economic self-reliance in Indian band communities, which goes hand and hand with political self-reliance, is necessarily in the early stages, dependent on federal government transfers to help jumpstart development. However, the federal funding of Indian reserves is paid for by all Canadian citizens through taxation. The majority of these Canadian citizens are of the mainstream culture and hence, will never benefit from the federal funding of Indian reserves across the country. Therefore, increasing federal accountability is not a matter of restricting the self-determinacy of Indian reserves, but rather of providing the Canadian mainstream tax payers with the basic right to be informed on where and how their money is being used. If accountability of band councils to the federal government is effectively achieved, then it would not take away the self-reliance of Aboriginal communities but would, in fact, help these same communities to grow and prosper, thus, strengthening their economic and political self-reliance.

However, Brazeau is quick to remind that accountability is a "two-way street"[89] and that it is equally the fault of the Canadian federal government when it created the Indian Act for not making chiefs and band council members answerable and accountable to their own people. As was aforementioned, though chiefs and band councillors are elected by the band members, once elected what little accountability they legally must uphold is solely owed to INAC. Strictly in legal terms, band chiefs and councils have no legal obligation to the people who voted for them.[90] Without direct accountability forcing

[86] Abele and Prince. The Future of Fiscal Federalism. p. 159.
[87] Gibson, A New Look at Canadian Indian Policy. p. 71.
[88] *Ibid.* p. 71.
[89] Ibid.
[90] Helin, Dances with Dependency, p. 142.

political leaders to meet the expectations of their electorate, potential for fiscal mismanagement or corruption greatly increases.

As it stands in the Indian Act, all federal transfer payments are made to the band councils of each Indian reserve who are free to distribute the federal funds to their communities without having to consult the federal government or even their communities themselves.[91] The absolute control of band chiefs over incoming federal funds, as well the fact that the spending of these funds is totally private, is legally incontestable from all sides. Despite the best intentions of many band chiefs and councils, the fiscal privacy and immunity bestowed on band councils by the Indian Act opens the door wide for potential fiscal mismanagement or even corruption. In a particularly controversial flare, an acknowledgement of corruption within some band councils in Canada was, in fact, made by the 1996 Royal Commission on Aboriginal Peoples.[92]

According to Senator Brazeau, corruption among chiefs and band councils does exist due to the present form of the Indian Act which does not protect against it.[93] He goes even further and blames the existence of corruption in some band councils as having actively discouraged the development of economic self-sufficiency in some Indian reserve communities. It certainly may be tempting to some band councils to preserve the status quo in their poor communities so that the influx of federal transfers is maintained and never reduced.[94] This is a profoundly disturbing possibility, especially considering that Canadian citizens' taxes could maybe be used, in some cases, to not only encourage band corruption, but also actively perpetuate the terrible state of perhaps thousands of reserve-Indians living in constant poverty and submission because of this corruption.

Undoubtedly, a major obstacle in the way of attaining economic self-sufficiency in Indian reserves is the potential for corruption caused by the fact that Chiefs and band councils have no legal accountability to neither their band communities nor even to Parliament and nor by extension, to Canadian tax-payers. With the possibility of corruption, the federal government's financial transfers to Indian reserves do not even provide a temporary fix to many Indian problems, but rather, aggravate the situation further. Therefore, it is essential that if political self-reliance is desired in Indian reserve-communities, there must be economic self-sufficiency to back it up, which, in turn, is only possible under the present system if band chiefs and councils are legally more accountable.

It is clear that accountability and transparency in the use of federal funds is truly the cornerstone for any kind of future progress towards political and economic self-reliance. It has been shown that the accountability of the band councils to both the Canadian federal government and their own reserve communities does not restrain or limit Aboriginal self-determinacy, but with the reduction of the threat of possible corruption, would actually reinforce band economic and political self-reliance. Equally, it has been established that Indian communities, differing greatly in culture from

[91] Helin, Dances with Dependency, p. 153.
[92] Helin, Dances with Dependency. p. 149.
[93] Brazeau. Interview. 2010 May. 5th.
[94] Brazeau. Interview. 2010 May 5th.

Canada's mainstream European-based liberal culture, are healthiest in societies that directly reflect, in every social and political area, the values and customs of their respective cultures. Politically and economically self-reliant Indian communities, whose government originates from the Aboriginal communities' respective values and customs, are therefore the best equipped to provide for their people while maintaining cultural distinctness. Finally it has been shown that since the late twentieth century, Aboriginal peoples, when they speak of liberal concepts such as inherent rights and the right to self-determination, are, in fact, trying to assert their cultural distinctness in a dominant mainstream society that is limited to a single European-liberal worldview.

The Aboriginal struggle for self-reliance and determination is very complex, connected to many different concepts and perceptions. Keeping in mind that each of the 52 original Aboriginal nations in Canada are culturally distinct and require separate cultural understandings, the struggle for self-reliance increases even more in complexity. However, for the actual living, breathing Aboriginal people all across Canada, their cause is very simple: acknowledge that we existed, that we exist now and that we want to continue existing.

When studying the politics and philosophical ideas involved in Aboriginal self-reliance, one can easily lose touch with the very real human emotionality that is ever-present in this issue. This humanity is precisely what echoes in Thomas King's short story "Borders". Throughout the short story, the mother is not only asserting her cultural difference as a Blackfoot woman to the guards of the Canadian and American border, but underneath it all, she is subtly yet persistently teaching her son about Blackfoot culture and values. Here, King reveals another form of cultural assertion: teaching. In the story, true healing for the past pains of the mother comes from the act of teaching. For the mother, who is symbolic of the older Aboriginal generation, her son represents the next generation in the long history of the Blackfoot people. If Aboriginal communities do not pass on their values and beliefs to their young, then their struggle for recognition and self-reliance will lose focus and disappear forever. Using the mother as a teacher-figure, it is clear that Thomas King writes in the hope that the Aboriginal cultures will be preserved and will one day be truly recognized and respected as independent and self-reliant nations.

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Chapter 7

Rising with the Occasion: How the Institutionalization of Citizen Engagement Can Save Democracy in Canada

Jonathan Yantzi

Introduction

The essence of Canadian society is a set of shared values, fundamental elements of a democracy that represent the core of the Charter of Rights and Freedoms. No matter Canadians' differences, the freedom guaranteed by the Charter is universal in Canada. It serves as a constitutional guarantee of Canadian values: freedom of conscience, freedom of religion, freedom of thought, freedom of belief, freedom of expression, freedom of the press, freedom of peaceful assembly and freedom of association among them. Still, even if Canada finds its identity in the overarching influence of its values, the idea of their *true* ubiquity remains a utopian ideal to which Canadians must continue to aspire. This ongoing quest for a perfect democracy is described by the Greek philosopher Aristotle, who once wrote, "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost." (Aristotle *IV*). Canada's representative democracy, based on a generations-old parliamentary system, is an intricate, evolving model of governance that pragmatically accords political control amongst a large number of actors, citizens included. Nevertheless, Canadians' shared values rightly demand more of Canadian democracy's structural makeup. . It is not enough to say that Canadian governance models and institutions serve Canadians well - they do, and have for many years. Rather, there exists an inherent need for the way that government serves its citizenry to continuously improve, and for the profundity of citizen engagement in the work of government to deepen.

Despite the explicit link between the importance of citizen engagement in the deliberative processes of government and Canadian democratic values, the idea of citizen engagement incites significant controversy and debate; there is no single, perfected formula that balances participatory politics within the framework of a representative democracy. Even still, it behooves Canada to create meaningful platforms for dialogue between government and constituents. The institutionalization of citizen engagement in such a way that reflects a measured, carefully considered improvement to the status quo is required. After all, a strong democracy respects shared values, ensures both the quality and legitimacy of government's decisions, promotes the effective implementation of these decisions and includes all citizens in deliberative processes in meaningful ways. This is nothing new; these criteria for a democracy have always existed. Moreover, Western society is undergoing a veritable paradigm shift in the way its politics work. The age of deliberative democracy has arrived. Recently elected United States President Barack Obama writes:

> "[We are forced] into a conversation, a 'deliberative democracy' in which all citizens are required to engage in a

> process of testing their ideas against an external reality, persuading others of their point of view, and building shifting alliances of consent. [...] [We are compelled] to entertain the possibility that we are not always right and to sometimes change our minds; it challenges us to examine our motives and our interests constantly, and suggests that both our individual and collective judgments are at once legitimate and highly fallible" (Obama, 2006, p. 111).

Inevitably, the 'conversation' to which Obama refers will take place. What remains to be seen is the way in which it will take place; whether an expression of dreams and ideas will clash, erupting into a useless cacophony of cries for a better world, or whether they will meld into a powerful, harmonized vision of how Canada will face the many challenges of the future and thrive.

Defining the Democratic Deficit

Perhaps the idea that citizens desire and require richer opportunities to be engaged seems far-fetched, given the widespread decline in both voter turnout rates and levels of participation in political parties seen in many western electoral democracies, including Canada. For example, in the last federal election of 14 October 2008, a mere 58.8 percent of registered Canadian electors voted - a substantial decrease from the previous federal election in 2006 (Maynard, 2009, p. 31). All the same, it is important to distinguish "democratic malaise with respect to the formal political institutions of representative democracy" and Canadians' desire to participate in public policy decisions (Warren, 2008, p. 1). Canadians' appetite for a greater role in deliberative processes has grown stronger as the voter-turnout rate has declined. According to research conducted by the Canadian Policy Research Network, "Canadians still rank political rights near the top of their list of quality of life indicators" (Abelson and Gauvin, 2004, p. 18). Canadians want to participate in political life in fresh, diverse ways. Democratic participation needs to be about more than simply casting a vote at election time.

Furthermore, it is fallacious to conclude that a reverse in voter turnout rates would signal a drastically more engaged citizenry. The Honourable Grant Mitchell agrees, suggesting, "the idea of citizen engagement generally may not be all that related to voter turnout. [...] People [often forget that they] live politics." Politics implies so much more in the daily lives of citizens than the fervor that surrounds election campaigns, but many citizens perceive politics as a world apart, reserved for governments in capital cities. Indeed, "People today call what they do to rebuild their communities 'civic' or 'public' work, not 'politics,' evidence of their perceptions that politics means 'government' and not them" (Mathews, 1999, p. 5). An engaged citizenry embraces and is given opportunity to participate directly in politics that go beyond what governments do themselves. Humans are political beings by nature. Canadians' sense of politics needs to include not only the seemingly faraway activities of government, but also the decisions that affect their everyday lives. After all, the activities of government and the everyday lives of citizens are inextricably connected - and not just at election time.

Measured change to policy development and implementation processes, rather than wholesale reform, can present new ways for citizens to participate directly in

politics. To reiterate, the current system is not broken, but it does leave room for improvement. The democratic deficit - the disconnect between Canadians' desire to be involved and their actual penchant for participation in political institutions - is probably just as much symptomatic of the way in which these institutions relate to the public as it is a loss of confidence in institutional performance (Mathews, 1999, p. 3). This suggests the importance of meaningful rather than token engagement. There is not necessarily an impetus to alter the work Canadian politicians, policy makers and political institutions do, but rather the way in which they collaborate with citizens to accomplish this work. Citizens require "a public sphere not colonized by the state and political parties and not subjected to the logs of commercialization and commodification prevalent in contemporary Western societies -- a public sphere in which [they can] freely engage in deliberation and public debate" (Byran, Tsagarousianou, and Tambini, 1998, p. 4). This would not represent a substantial change to already widely accepted policy consultation practices, but a mere alteration in the way that these consultations are conducted. There is a need for a renewed sprit of meaningful, collaborative engagement amongst all Canadians, not just amongst politicians, the civil society, lobbyists, the media, and the economic elite.

'All Canadians' connotes perhaps the most multicultural, ever-changing population in the world. This presents an opportunity to integrate a diversity of political and cultural experiences into Canadian democracy. The Honourable Sharon Carstairs highlights the challenge of reaching out to new Canadians who do not come from democratic cultures, where participation in politics is repressed, rather than encouraged. Unfortunately, she points out, these new Canadians are often asked for their vote, but not necessarily for their engagement in policy development or other kinds of participatory politics. The Senator cites the two-week demonstration by Tamil protesters, which recently culminated with thousands of people descending on Parliament Hill Tuesday, April 21, 2010 as the perfect example of this disconnect.

> "Politicians were scared to go out and dialogue with Tamils because they were afraid they would be associated with the [Liberation Tigers of Tamil Eelam], which is a terrorist organization. Well, those people sitting out there and standing out there with their kids in the pouring rain are Canadians. They aren't members of the LTTE. They were citizens engaged in protecting their families back in Sri Lanka. Yet we had politicians who were afraid to engage them. [...] We want the Tamils to vote, but we don't want to engage them. We don't want their ideas; we don't want their active participation. We want their submissive participation."

Submissive participation is not in keeping with values that Canadians purport to share, values plainly expressed in the Charter of Rights and Freedoms. The democratic deficit is not about declining voter turnout rates, nor is it about the changing role that political parties play in the everyday lives of citizens; these merely represent the smoke of an ever-raging fire. Instead, democracy is threatened by "an erosion of the activities and capacities of citizenship" (Macedo, 2005, p. 1). A revitalized role for all citizens in

Canada's politics, and the integration of these participatory politics within the framework of representative democracy, is a key part of the solution to the democratic deficit.

Degrees of Democracy

The idea, then, is that democracy should mean more for citizens than simply voting in an election. To some extent, Canadian democracy already involves citizens in ways other than voting. Protests on Parliament Hill are an example of this involvement, but many instances of this engagement merely represent a one-way political statement; there is a distinct lack of dialogue. Like any other democratic country, Canada's democracy is not perfect. No nation is a pure democracy. Instead, each country "is more or less democratic by degrees. The way you can tell them apart is by asking how well a system sizes up when measured by specific criteria: inclusion, effective participation, and enlightened understanding" (Gastil, 2008, p. 5). Suffice to say that good democracy includes and involves an educated population in its decision making processes. By extension, a skeletal representative democracy is a system with a low degree of democracy.

The limitations of representative government - namely, the concentration of power in parliament, and the idea that voters participate only in opinion formation and not decision making itself - often result in a questionable legitimacy of decision making processes. This is why parliamentarians are mandated to consult with their constituents, why parliamentary committees hear testimony from witnesses and why thousands of people can organize a protest on the front lawn of Parliament Hill. Still, certain problems "are inevitable in representative government because it is a system in which a small number of people - politicians and high-level bureaucrats - have a great deal of power that can be exercised to serve powerful interests, including their own interests" (Carson and Martin, 1999, p. 1). Many politicians serve the electorate with the aim of contributing to peace, order and good government for all, but the ignorant selfishness of a minority stain the reputation and, ultimately, the effectiveness of representatives. While political leadership - the ability to lead selflessly and make difficult decisions in the exclusive interest of the public - plays an understated role in the effectiveness of a representative democracy, elites must nevertheless "be held accountable by the people as a whole" (Macedo, 2005, p. 12). An improved opportunity for politicians and constituents to interact would ensure a greater level of accountability and legitimacy, compensating for some of the most concerning drawbacks of representative democracy.

The core idea behind democracy must not be lost in a system with elected representatives. The word 'democracy' derives from the Greek words meaning 'people' and 'rule.' The role of citizens should be fundamental in any democratic decision making process. Even after having elected representatives, democracy "requires that all citizens have an equal chance to raise issues for discussion" (Gastil, 2008, p. 6). There is to be no tyranny in a democracy, neither by an overwhelming majority nor an elite minority. The idea that citizens must have the chance to express and debate their positions in an attempt to persuade one another and public officials is one of the greatest elements of democracy; it suggests that each citizen may have meaningful knowledge, experience and perspectives to lend to any given policy decision. Criticism and consideration of policy is in the end always helpful in assuring the quality and viability of

a decision. Further, the meaningful opportunity for citizens to debate policy helps with its smooth implementation. Not only do citizens often possess unique expertise that may help public officials with policy implementation, but also the opportunity to dialogue about policy - whether a citizen is or is not in favour of the eventual decision - often leads citizens to respect a decision, even if he or she disagrees with the outcome. Senator Grant Mitchell's experience is that, "Most people [...] are very happy to have had the chance to be heard by their [representatives]. One of the reasons that a parliamentary system is successful is because it gives the chance for expression of dissent. [...] [The opportunity for this expression] is not insignificant at all." Democracy is just as much about the dialogue that occurs between citizens and politicians between elections as it is about the elections themselves. Meaningful dialogue must become more accessible to all citizens, given its undeniable importance to the creation and implementation of good policy.

The opportunity for citizens to express themselves and debate policy should not, however, supplant the role of government as guardian of the public interest. Parliamentarians still need to lead and be responsible for the governance of the country, "on the condition that citizens are given an active role in informing decisions and accountability is improved" (Abelson and Gauvin, 2004, p. *v*). In the end though, democracy depends on more than the effort of citizens to participate in political activity. For these efforts to be worthwhile, they must be given well-designed contexts in which they might participate and offer worthwhile injunctions into policy making processes, complementing the work of parliamentarians. Only in these contexts will "civic participation [...] lead from a vicious circle of alienation and exclusion to a virtuous circle of trust and inclusion" (Macedo, 2005, p. 14). Canada's representative system is democratic, but only to a certain degree. The measured integration and institutionalization of a more intentional citizen engagement into decision making processes would mean a more democratic system, better reflecting the shared values of Canadians.

The Language of Values

More than designating the type of governance system Canadians' deserve, values play a large role in making policy decisions. All decisions involve evaluating values, "and thus relying solely on fact-based expert opinions in decision-making is limiting and paints a narrow picture of reality. Ignoring public values is short-sighted and ultimately results in dissatisfied constituents" (Sheedy, 2005, p. 10). Citizens are more likely to perceive a decision as legitimate if their values are taken into account. Shared values - namely those found in the Canadian Charter of Rights and Freedoms - should form the basis for the policy direction of Canada. Beyond that, helpful debate amongst citizens will involve the comparison and evaluation of different value systems. Discussion regarding values should be embraced, rather than avoided; values can only be considered nebulous by those who also consider policy options to be black-and-white.Too often politicians, political parties and governments shy away from discussing values. Shared values, they sometimes say, are too obvious to warrant serious discussion and consideration as part of policy shaping debates. In truth, these values must be repeated, must be emphasized and must guide every decision that is made by Parliament. There are also values that not all Canadians share, and they too need to be considered. Democracy

works better when all people, politicians and ordinary citizens alike, "[recognize] that [everyone possesses] values that are worthy of respect" (Obama, 2006, p. 70). Reasons for doing so extend beyond Obama's assertion that this is the *right* thing to do. Simply ascertaining the priorities and preferences of a diverse public can "reduce conflict and build trust" (Callahan, 2007, p. 157). The application of values as part of policy deliberations result in viable solutions that reflect desired outcomes.

It is important to distinguish values from ideology. According to Obama, "Values are faithfully applied to the facts before us, while ideology overrides whatever facts call theory into question" (Obama, 2006, p. 72). Values are meant to be communicated and understood. Their application should not result in a downward spiral to a petty, partisan exchange, but rather aid in the articulation of a vision or idea, framing different perspectives. A discussion about different values implies that participants should exercise empathy. By contrast, ideologies compete. Dialogue amongst citizens should be enriched by the comparison and contrast of values, rather than the compartmentalization and partisanship that has become the custom in Parliament. Deliberative discussion amongst members of a diverse citizenry "seeks to induce reflection on interests, but it [...also forces] participants to justify their interests through appeals either to the common interest or to reasons that others in the general public are free to accept or reject" (James, 2004, p. 55). Citizens should not necessarily be mandated to collectively arrive upon a perfect solution, but instead to engage in rich discussion that has potential to lend government a greater understanding of how it might better serve the public interest. The aim is not to replicate parliament so the electorate can try out a 'make believe' version of question period for themselves; citizen engagement is supposed to be about complementing the work of parliamentarians. At its core, "[c]itizen participation is based on the democratic values of freedom, equality and individual rights, yet such values are contradictory to government bureaucracies that are traditionally based on hierarchical authority, expertise, and impersonality" (Callahan, 2007, p. 161). Values are distinctly personal, and something that all citizens share; their function is at the very core of any meaningful citizen engagement.

Elevating the Quality and the Legitimacy of Decisions

Meaningful citizen engagement also requires that citizens develop a capacity to purposefully participate in political decision making processes. Other methods of ascertaining public opinion, such as polls, as well as direct democracy techniques, such as referenda, are blunt instruments in that they often require that citizens make a blind evaluation. Informed decision-making occurs when citizens are given the forums and tools to "process complex information so they can come to a deeper understanding of a situation and thus become capable of making a well-founded choice" (Sheedy, 2008, p. 6). Herein lies a key aspect of citizen engagement's importance: despite taking more time, costing more money and involving a greater effort from both public officials and citizens, it offers a significantly more accurate interpretation of what the public truly desires. This is a good illustration of the relationship between a decision's quality and legitimacy, and of why periodic elections do not go far enough in ensuring the accountability of a government. It is difficult to consider a decision based on false premises - an example of such a premise being an erroneous understanding of the public's opinion - as a decision of either good quality or of sound legitimacy.

Legitimacy cannot be achieved silently; it must be expressly attributed rather than assumed. The need to engage more people in different ways is punctuated by the fact that, "the half of the electorate that votes in national elections and the far smaller percentage that votes in [provincial] and local races are unrepresentative of the people as a whole" (Macedo, 2005, p. 13). While it may be true that a government can be elected by whatever portion of the population decides to vote, that government cannot purport to make legitimate decisions on behalf of the entire electorate until it finds a way to veraciously interpret what *all* Canadians want. Even if voting rates are deplorable, government is still expected to make decisions on behalf of the entire public, not just those who have already been somewhat engaged by exercising their right to vote. The fact that citizens have an opportunity to vote is immaterial; when only half of the population votes, government legitimacy ebbs. This leads to a weaker sense of legitimacy amongst all citizens, including those who did vote, prompting a reluctance or unwillingness "to [...] cooperate in the joint production with government"(ibid). Simply put, until citizens sense that government is unequivocally interested in what they have to say, they will also sense little reason to express themselves politically. If Canada is to enjoy a deliberative process that produces decisions of a greater quality and legitimacy, government needs to invest in new ways to engage the electorate. It needs to prove that it is listening - even if it thinks it already is. Given the continued pitiful nature of the voter-turnout rate, the institutionalization of new, effective ways to assess public opinion is required. This problem of an ebbing legitimacy is not going to fix itself.

The notion that citizens are politically naive or ill-equipped to contribute to the quality evaluation of policy is also ill-conceived. Elected representatives, after all, were not always elected representatives. There is no innate characteristic possessed exclusively by parliamentarians that the rest of the citizenry does not share. There are a myriad of issues on which "political and bureaucratic elites are likely to be ignorant and on which citizens are especially expert. Citizens as subjects feel first and most deeply the effects of many kinds of policy decisions in areas such as education, the environment, and social policy" (Macedo, 2005, p. 12). The local knowledge and experiences of citizens can also contribute to the quality of decisions, which can lead to better outcomes when policy is finally implemented. The diversity of Canadians, culturally and professionally, is yet another asset that informs the deliberative process. The complexity and vastness of the policy questions facing Canadians is such that no single professional sector or cultural experience can provide all the answers. Government gains greater ability to make decisions reflective of the needs and wants of Canadians when it "draws on the vast and diverse experiential knowledge of the public" (Sheedy, 2008, p. 10). Just as a low voter-turnout does not mean that the electorate does not wish to be engaged, it is also does not represent an electorate incapable of making helpful, sophisticated contributions to policy discussions. Canadians are not stupid; it is nonsensical to suggest that government would not benefit from their experience and expertise.

Ultimately, it is the public's trust and confidence in their government that must improve. To do this, government needs to find new mechanisms to involve citizens in upholding that trust. Accountability is enhanced by a greater participation of citizens in deliberative processes. Citizen engagement increases the demand for the political power to be accountable even as they arrive at their decision, rather then after their decision is made and the potentially poor policy is foisted upon the public. If the goal is to increase

the public's trust and confidence, then the means to do so is a more profound role for citizens in the deliberative process, because the result will be policy decisions of a significantly greater quality and legitimacy.

Educating and Enabling Citizens

For citizens to exercise their ability to contribute meaningfully to the deliberative process, they must have the necessary confidence, tools, and comprehension of key issues. There is a distinction between possessing a capacity to contribute meaningfully, and having the knowledge necessary to share this capacity. Presenting citizens with an opportunity to become engaged needs to begin with their education. This is a major point of emphasis for Senator Sharon Carstairs, who affirms that, "when [...] framing citizen engagement, [...] the education component [cannot be ignored]. It is [...] extremely important." While Canadian school systems have already integrated social sciences and civics courses into their curriculums, they do not go nearly far enough in explicitly linking the academic understanding of what government is to how it affects the daily lives of citizens. As people become more educated about the role government plays in society, they are more inclined to seek a greater involvement knowing how profoundly government's decisions can affect their lives (Thomas, 1995, p. 5). Not only is civic education necessary for citizen engagement to be meaningful, but this education is also necessary if effective citizen engagement is to take place at all.

There is a reluctance to adopt citizen engagement on a widespread basis because of a growing assumption that the average citizen "cannot grasp complex scientific and social problems" (Sheedy, 2008, p. 12). As has been already mentioned, Canadians *can* grapple with complex issues. Furthermore, those Canadians who do not initially display this ability are not incapable of doing so; they must merely be accorded the tools and patience required to allow them an opportunity to offer their own educated perspective. Canvassing a segment of the population ill-equipped to evaluate complex policy options defeats the entire purpose of seeking their informed opinion. The solution is not to abandon the attempt to discern these people's perspective, but to educate the population so that they can better understand an issue, develop a perspective and confidently express their opinion. Canadians do not believe in according democratic rights only to those who already possess the ability to apply these rights. Canadians, according to the Charter of Rights and Freedoms, support democratic rights for all citizens. In practical terms, a poorly educated citizenry does not have an opportunity to competently exercise their democratic rights. Rather than deterring participatory politics, the fact that many citizens do not immediately grasp the complexities of modern policy underscores the need for revitalized citizen engagement.

Citizen engagement also furthers the educational development of all citizens in that it promotes the enlightened understanding of issues, or an ability to empathize with different perspectives. Empathy is a skill that cannot be taught theoretically; it must be experienced. The active listening, creative thinking and problem solving skills acquired by those who participate in deliberative processes are highly useful for citizens both in a personal and community context (Sheedy, 2008, p. 10). For citizens, these skills, not to mention the ability to carefully study and reflect on issues in relation with their values and the values of their fellow citizens, will be essential in enabling them to engage in

deliberative processes to their fullest extent. Only then "will the public become well informed enough to speak, act, and vote in accordance with their enlightened self-interest, let alone for the greater public good" (Gastil, 2008, p. 7). Government needs to provide not only a context in which citizens can more fully engage in participatory politics, but also facilitate and provide tools so that all Canadians can benefit from and contribute to a greater kind of citizen engagement.

Effective Implementation of Policy

As was alluded to earlier, citizen engagement also benefits Canadian policy makers by promoting the effective implementation of policy. Policy is best implemented when it is embraced, rather than resisted, by the public. Citizen engagement links to effective policy implementation in that, "[t]he broadening of participatory opportunities [...] [assures] that the actions of government are embedded in society, rather that imposed on society" (Thomas, 1995, p. 7). Involving the public in decision making, irrespective of the eventual decision that is made, increases the acceptance of the decision. This is in part because people are simply in search of an opportunity to express their views, but also because participatory politics incite a certain 'ownership' amongst citizens of the decision and its implementation (Thomas, 1995, p. 48). Michael Kergin, a former Canadian Ambassador to the United States of America, believes that this sense of ownership can play a remarkable role in the engagement of citizens, as exemplified by Barack Obama's successful campaign for president. Kergin describes Obama supporters' feeling that they "had a stake in the campaign" as being essential to his ability to "mobilize an army of volunteers." The same sense of ownership that resulted in the remarkable surge of approval and faith in the White House since Obama's historical election in November 2008 could be replicated and applied to policy development processes in Canada, with the same high approval ratings as a result. Citizens are waiting for a reason and an opportunity to be engaged; Barack Obama provided that opportunity in his election campaign. Obama used his unique communication skills to share his message of hope, but the simplicity and sincerity of the message could be easily communicated in Canada. The overwhelming support of Canadians is not unattainable if government goes to the trouble of genuinely, patiently asking for their engagement in the political process rather than merely chasing after their vote.

Even still, the desirability of public engagement increases when the need for public acceptability is greater. Controversial issues should be subject to greater citizen engagement, because their successful implementation will be virtually impossible if they have not been properly deliberated by parliamentarians and by the public. Rather than seeking support for any given solution to a policy problem, government should first seek to gain public support for the goal they wish to achieve in solving the problem, and then, because they are involved in decision making processes that investigate possible solutions, citizens will be more apt to support the eventual decision (Thomas, 1995, p. 76). Moreover, by according citizens appropriate public spaces to arrive at reasoned collective decisions, "rather than relying on typical debate-based adversarial processes," they are much more likely to "come to more public minded – less privately driven – responses to public policy problems" (Sheedy, 2008, p. 10). Whatever time and expense is taken to facilitate this opportunity will be far less than what might have been required to resolve conflicts arising from public backlash in reaction to hastily made government

decisions. Participatory politics have a very practical application in ensuring the effective implementation of policy.

The Need for Inclusivity

Meaningful participatory politics also require that all members of the population have an equal opportunity to be engaged. Naturally, education plays a key role in ensuring this widespread accessibility of citizen engagement. Systems of random selection have also proved to be effective. In the case of the Ontario Citizens' Assembly on Electoral Reform, random selection was useful in creating a "highly representative microcosm of contemporary Ontario" (MacLeod, 2007). The idea of a 'highly representative' body is essential, given the inherent weakness of a representative democracy established on majority-based principles that, "Can fail to address and incorporate the needs and concerns of minorities" (Sheedy, 2008, 10). Canada's population is becoming more diverse at a much quicker rate than the membership of its political institutions. The appointed Senate may be the most diverse legislative body in the entire country, and even it is far from proportionally representing women and cultural and linguistic minorities in Canada, for example. Citizen engagement institutions should provide mechanisms for the participation and representation of women and minorities, in the spirit of including all Canadians.

Despite its growing use, random selection should not be the only tool used to ensure the adequate representation of minorities. While it can increase the perceived fairness in a decision making process, Canadians are better served when it is "integrated with deliberation and consensus building" that compliments the work of elected and appointed government officials (Carson and Martin, 1999, p. 4). Nonetheless, the inclusion of randomly selected citizens allows for the contributions of individuals not necessarily representing a predetermined group of people or point of view. Special interest groups and lobbyists are important to democracy in that they advocate for diverse perspectives and positions, but these positions are often politically driven and are not always in the interest of society as a whole. The goal of institutionalizing citizen engagement is not to establish it as an elite sport reserved for a few, but rather to promote an opportunity that should be available to all citizens. Participatory politics should offer a better, representative outlook of the will of the collective Canadian public.

A Renewed Institutionalization of Citizen Engagement

The idea of 'participatory politics' is not new. Variations have been tried, and some have failed. Many consider involving the public in complex policy deliberations to be dangerous, a strategy abundant in its limitations, largely impractical and enormously expensive - yet so many remain enchanted and fascinated by its appeal. Quite simply, "[C]itizen participation captivates our attention and imagination. There is something seductive about the idea that people ought to be directly involved in the decisions that affect their lives" (Roberts, 2004, p. 341). The successful use of citizen engagement within the framework of a representative democracy will require a certain discretionary balance: some issues may require a greater or lesser degree of public involvement than others. The medium of engagement may also vary from issue to issue and from citizen to citizen. New media technology, for example, enables citizens to "access information from an infinite, free virtual library" while "interactive media will institutionalize a right

to reply" (Byran, Tsagarousianou, and Tambini, 1998, p. 5). There has never been a greater time for government to make a concerted, renewed effort to engage its citizens in a meaningful policy dialogue.

Unfortunately, many public officials feel threatened by citizen engagement, viewing it as an infringement upon their administrative and legislative responsibility (Callahan, 2007, p. 166). This is a narrow-minded perspective. In reality, citizen engagement sparks a chain reaction that results in a greater level of support for public officials. Research shows that, "the more knowledgeable and informed citizens are about government operations, the more involved they are in the deliberation and decision-making process, the more supportive they become of government, and the more trusting they become of public officials" (ibid). Politicians who embrace citizen engagement will benefit personally and professionally from the contributions of their constituents. Everybody wins.

Citizens also respond more favourably after being exposed to participatory politics, provided the engagement is a meaningful, face-to-face interaction. They also tend to increase their efforts "to be informed on public policy issues and their activity in public affairs" (Abelson and Gauvin, 1998, p. 19). Many detractors of citizen engagement who are concerned about the low numbers of people that can be engaged in any kind of meaningful, face-to-face dialogue fail to recognize that initiating citizen engagement is like planting a seed; genuine enthusiasm and interest is contagious. Institutionalizing citizen engagement in such a way that it becomes common practice for diverse citizens to deliberate policy decisions simultaneously introduces a pervasive culture of legitimacy, empathy and inclusivity within the democratic process. Providing engagement has a purpose and a focus, it will be worthwhile, and its positive effects will benefit all citizens.

For this reason, it is important to note the distinction between conventional and collaborative participation. Conventional participation is characterized by one-way forms of conversation that restrict the information sharing that takes place. It does not allow for reflection and response to divergent points of view. Examples of conventional participation include " the practice of public meetings and public hearings [...] serving on citizen advisory committees or task forces, attending the meetings of governing bodies, or writing letters to elected officials and editors of newspapers expressing interest or opposition to a government policy or a program" (Callahan, 2007, p. 158-160). Conventional participation often centres on specific solutions to present-day problems, which narrows the scope of the discussion topic and the opportunity for innovative contributions. It pits one citizen against another, inevitably "resulting in an adversarial and conflict-ridden relationship" contrary to the core aims of citizen engagement (Callahan, 2007, p. 161). Formalistic consultation is often token in nature, and accomplishes little in the way of engaging citizens or seeking to understand and develop their perspectives.

By contrast, collaborative participation treats all participants - "citizens, interest groups, the business community, nonprofit organizations, faith-based institutions, public administrators, [and] elected officials" - as equal partners in a team founded on the open sharing of useful information and meaningful dialogued exchange (Callahan, 2007, p. 163). It is discussion-based rather than presentation-based, and is designed to allow for

the deliberation rather than the immediate approval of a solution. Participants have an equal opportunity to influence the decision making process as well as the outcome, fostering a collaborative community of learning and problem solving that respects the needs of a diverse team. The differences between conventional and collaborative participation are significant where the environment and culture they establish in a decision making process are concerned. While government and society are currently inclined toward conventional participation, the emergence of collaborative participation as a primary tool for engineering deliberative processes is paramount to creating a new, meaningful kind of participatory politics.

Measured Change

Collaborative participation should become an institutionalized element of the policy deliberation process in Canada. Fortunately, instituting this type of participatory politics in Canada does not require the kind of drastic reform so feared by many. As has been argued once already, the current system has served Canadians well in the past. The Honourable Tommy Banks points to the longevity of representative democracy throughout history, acknowledging his "enormous, almost religious, faith in the rightness of [Canada's] particular form of government. Not least because it is nearly nine hundred years old. It has evolved over that time and taken into account a whole lot of things." It is this evolution that has been essential to the survival and success of Canada's representative democracy. Senator Mitchell concurs, although he concedes that, "It's not a perfect system; it can always be improved." To institute citizen engagement would not demean or detract from the current system, but rather ensure that citizens have an accepted, meaningful role in policy development. The latest evolution of Canada's representative democracy necessary to realize its improvement is the institutionalization of a collaborative brand of participatory politics.

Citizen engagement must become a fundamental aspect of the policy development process. The kind of citizen engagement used needs to be carefully considered so that the legitimacy and quality of decisions are not adversely affected, and the results of the citizen engagement are valuable to the process as a whole. These challenges, however, will begin to resolve themselves to a certain extent: "greater trust can be built in the political process if members of the public do not perceive [citizen engagement] to occur only when it is convenient and instrumental to a larger political agenda" (Sheedy, 2008, p. 12). If citizen engagement is pursued only with the short term goal of appeasing public appetite for such a process, the positive effects of its institution will be lost. Canadians are not seeking anything radical in the way of change, and they do not wish a new kind of direct democracy on specific policy issues (Abelson and Gauvin, 2004, p. *vii*). Canadians require a space to contribute to decision making, a fundamental way of voicing their opinions and giving advice to their representatives between elections in a way that does not undermine their expertise or their values.

This is not an extravagant measure to take. The Honourable Elaine McCoy, with her years of experience in Alberta provincial politics and now federally as a member of Canada's Senate, explains how simple the institutionalization of collaborative participatory politics as part of Canada's representative democracy could be:

> "To institutionalize [new citizen engagement techniques] would be easy. It would be very easy. [...] A practice in which a government fanned out across [a jurisdiction] could become an accepted practice. [...] It's a focus group, but it's different. [...] It's how you manage the workshop. [...] This would just be another focus group, only with different tools."

There is nothing drastic or harmful about an improvement to an evolving representative democracy that seeks to better engage citizens in political processes. Measured change is about an appreciation for the system that already exists, and the consideration that even the best systems stand to benefit from the addition of new, complimentary practices.

Conclusion

Democracy intrinsically requires constant modifications in response to an ever-changing society, enabling government to better assess and respond to the needs and wants of its citizens. Presently, Canadians are growing appreciably more discontent with existing democratic structures and institutions. A renewed participatory politics that allows Canadians to rediscover the collective spirit that has grown their country from its foundations can propel Canada forward, eventually eviscerating the democratic malaise symptomatic of their deep-rooted apprehension of government and politics. A greater legitimacy and quality of decisions, a deeper education of the population, a more effective implementation of policy and the inclusion of minorities can all be realized by the institutionalization of "citizen engagement, a [...] deepening of representative democracy [...] that aims to reinvigorate and renew people's faith in the democratic process" (Sheedy, 2008, p. 9). Canada's representative democracy will still remain imperfect, but it will be a great deal more reflective of the shared values of all Canadians.

Great countries are distinguished not by their easily achieved triumphs, but rather by a certain steadfastness in the expression of their core values when faced by the obstacles imposed by conflict and change. The future will mean new challenges for democracy and for Canada, as the world evolves and the effects of globalization lessen each individual country's control over its own destiny. Courage, creativity and conviction are required in the face of adversity, as Abraham Lincoln reminded the United States Congress in December of 1862:

> "The dogmas of the quiet past, are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew, and act anew, we must disenthrall ourselves, and then we shall save our country."

Perhaps the current limitations of Canada's representative democracy mark the mere beginnings of a storm, but Lincoln notably spoke of rising with, and not to, the occasion. Canadians must 'disenthrall' themselves, engage collaboratively in the task of bettering their country for all, and then Canada finally will be saved.

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Contributors

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Born and raised in St. Catharines, Ontario, the Niagara Region has been, and always will be, home for Peter and his family. Yet due to an insatiable desire to travel and discover the world, Peter enrolled into International Studies and Modern Languages at the University of Ottawa with a minor in Economics while taking Arabic as a third language. He hopes to complete his degree in 2012 and from there he is considering International Law as a career direction. Sometime before then, he wishes to visit Jordan and other parts of the Middle East where he might be immersed in Arabic culture while honing his language skills. Music has played a very important part in Peter's life having studied the violin from a very early age. Peter played briefly with the University of Ottawa Orchestra while prior to that, held the position of Concert Master in the Niagara Youth Orchestra during its Eastern European tour in 2008. Peter also has a great interest in folk music, specifically that of Ireland and the British Isles; a trait that follows him in whatever city or country he finds himself. In 2009, Peter was accepted into the Senate Page Program and through it, has found endless opportunity to nourish his unyielding curiosity.

Maria Habanikova

Maria moved to Toronto, Canada from Slovakia in June 2004, graduated from Georges Vanier Secondary School in June 2007 as the class valedictorian, and is now in her fourth year at the University of Ottawa studying International Studies and Modern Languages in French Immersion, with concentration in Spanish and Russian. Her passion for languages, travelling, and learning about foreign affairs lead her all the way to Lyon in May 2008 for 3 weeks to improve her French, and to Prague this summer for 'European Summer School: Central Europe in the EU – After the Lisbon Treaty' organized by the Europeum Institute. Maria has been an active member of the International Affairs Association for three years, attended several Model UN conferences in Canada and the US, coordinated and organized a conference for high school students in February 2010, and is now the President of the University of Ottawa's UN Association. She has been a Senate Page since September 2009.

Marie-Michelle Jobin

Marie-Michelle Jobin currently resides in Ottawa but has lived in many cities throughout Ontario, Quebec and British Columbia. She is entering her third year of an Honours Bachelor in International Economics and Development Degree from the University of Ottawa. In 2010, she was selected to take part in an international exchange program where she will be studying economics at the University of Vienna, in Austria, for an academic year. Marie-Michelle is passionate about her program of study, especially the fields of developmental and environmental economics. She is also trilingual and is looking forward to adding to her list the mastering of the German language. Her two-year experience as a Page at the Senate of Canada has given her valuable insight on the uniqueness of the Canadian parliamentary political system and the critical role it plays. She chose to write about the economic impact of green technologies because it combined many aspects of her in-classroom learning and real-time issues.

Amanda Simard

Amanda is a proud francophone from Embrun, Ontario. She is currently pursuing her Juris Doctor (J.D.) at the University of Ottawa's Faculty of Law - Common Law Section. Amanda has received numerous awards and honours, including the prestigious Millennium Excellence Scholarship awarded for leadership, innovation, community involvement and academic excellence. Fascinated by the Canadian parliamentary system and by the constitutional monarchy, which Canada has inherited, Amanda is particularly interested in the future of our national identity and our Canadian values. She devotes herself with great importance to the issue of official languages, mainly the role they played in our history and their important place in our future.

Marc-André Roy

Marc-André Roy is from Tracadie-Sheila, on the Acadian Peninsula in New Brunswick. He graduated summa cum laude with a bachelor's degree in Political Science and a minor in History from the University of Ottawa and is currently in his first year of McGill University's Bachelor of Civil Law/ Bachelor of Laws program. Marc-André was a Senate Page from 2006 to 2008 and was Chief Page in 2008–2009. He then worked for the Office of the Senate Ethics Officer for one year before leaving the Senate to pursue his education in Montreal. This is the second time Marc-André Roy will be published in Pages of Reflection: his essay "Le récit de deux Chambres: une analyse comparative de la réforme de la Chambre haute au Royaume-Uni et au Canada" was published in Volume 2. Marc-André is also the author of two young adult novels: Le mystérieux réveil de Ramsès II (2001) and Les catacombes de Karnak (2006).

Jonathan Yantzi

Jonathan was born and raised in Burlington, Ontario. Since graduating at the top of his high school class in 2008, Jonathan has been studying political science in French immersion at the University of Ottawa, where he is also on the Dean's Honour List. He is a recipient of the University of Ottawa's Canada's University Scholarship, the Jean Chrétien Scholarship, and the Dean's Merit Scholarship, and he has been recognized as a Canadian Millennium Scholarship Foundation National Excellence laureate. Jonathan's leadership and involvement with the Ontario Students' Assembly on Electoral Reform, the Centre of Excellence for Youth Engagement, the Burlington International Youth Leadership Conference, and as a student trustee of the Halton District School Board have developed his deep commitment to citizen engagement and equality rights. A musician and actor, Jonathan has played roles in the Halton Child Abuse Council's "The Diary" and Centre Stage Young Company's "Concrete Daisy", and performed as the tenor soloist at St. John's United Church in Oakville, Ontario. More recently, he has sung at several ceremonies of the Senate of Canada, including the annual Ceremony of Remembrance, the Centennial Anniversary of the Canadian Navy, and the Former Parliamentarians Memorial Service. Proudly Canadian, Jonathan is serving as the Chief Page for the 2010-2011 term.