

Submission to House of Commons Electoral Reform Committee

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Making Our Representative Democracy More Representative

1. In thinking about electoral reform, the first principle – the priority value – should be enhancing the capacity of elections to produce a House of Commons that represents the political preferences of the people.
2. Of course, there are other values and concerns that deserve consideration in improving the federal electoral system, but they are subordinate in importance to enhancing the elected chamber of Parliament's capacity to represent the political choices of Canadians. A reform that addressed those other concerns would be a failure if it left us with a House of Commons as politically unrepresentative of the electorate as does, the first-past-the-post, simple plurality system.

The Unrepresentative Outcome of First-Past-the Post Elections

3. As long as federal elections were contested by just two political parties, the first-past-the-post system produced parliaments in which there was a pretty good match between the distribution of seats in the House of Commons and the popular vote for political parties. The majority governments that these parliaments supported on all but one occasion were led by leaders whose party members won a majority of seats in the House and whose candidates won over 50% of the popular vote.
4. But that situation changed in the 1921 election that was contested by three parties – the Conservatives, Liberals and Progressives. The Mackenzie King Liberals won the most seats (but not a majority), the Progressives came second, and Arthur Meighen's Conservatives finished in third place. From that 1921 election until today, Canada has had a multi-party political system at the federal level, with three or more political parties competing for seats in parliamentary elections. Elections held since then have rarely resulted in governments with both a majority of seats and a majority of the popular vote. In fact, only 3 of the 30 elections held since 1921 have had that result – Mackenzie King's Liberals in 1940, Diefenbaker's Progressive Conservatives in 1958 and Mulroney's PCs in 1984. A much more frequent outcome has been one-party majority governments supported by much less than a majority of the electorate.
5. In my book, *Two Cheers for Minority Government*, I set out the score-card on the governmental consequences of federal elections from 1921 to 2006 when the book was published. We have had 3 federal elections since then. Let me add in those results and give you the overall picture for the 30 elections from 1921 to 2016:

14 False Majority Governments; 13 Minority Governments; 3 True Majority Governments.

6. By “false majority” governments, I mean governments led by parties with 50% or more of the seats in the House of Commons but supported by less than 50% of the popular vote. I would not call these majority governments “false” if their leaders did not claim that they had a mandate from the people. That, these majority governments do not have. Indeed, since 1988, 43% of the popular vote is the highest a majority government has garnered. In fact, 40% of the popular vote has become virtually the gold standard for majority governments. The last two – Harper’s and Justin Trudeau’s did not even win that level of popular support.

7. As a parliamentary democracy Canada surely can do better than being, most often, governed by politicians who were not the first choice of 60% of the people but that have the power to control parliament. Electoral reform should above all be directed towards correcting that situation.

The Frequency and Effectiveness of Minority Parliaments

8. A more proportionate electoral system is almost bound to produce “minority” or “hung” parliaments – that is parliaments in which no political party has a majority of seats in the House of Commons. In conversations with friends and neighbours about electoral reform, when I ask why they would not want an electoral system that results in an elected chamber that comes close to reflecting the will of the people, the answer I often get is that they want a clear, decisive result on election day. These folks fear that governments accountable to “hung” parliaments, lacking a majority, will be indecisive and ineffectual.

9. So it is important to look at the record of governments accountable to hung parliaments, both abroad and here in Canada. When I did this myself, I was interested to find that in nearly all of the world’s roughly (some countries are hybrids) 48 parliamentary democracies, “minority parliaments” are the norm, one-party majority governments are the exception. The reason for this is clear: the great majority of parliamentary democracies use some form of proportional representation, and since no single party is very popular, elections rarely give any party a majority in the elected chamber.

10. That most of the world’s parliamentary democracies use some form of proportional representation and that their elections normally give no party a majority of seats are important facts. Many of my friends who are frightened of pr, suffer from the “I and I” syndrome: they fear that a proportional electoral system will plunge Canada into the difficult politics of Italy and Israel. They do not realize that dozens of parliamentary democracies, including Denmark, Finland, Germany, the Netherlands, New Zealand, Norway, Sweden, and most of the Commonwealth countries use pr electoral systems and seldom have one party majority governments.

11. Most of the world's parliamentary democracies usually have minority parliaments and most of these countries have reasonably effective governments. Whether they are governed by one-party minority governments or multi-party coalitions, these countries get things done. Their record of dealing with fiscal crises, global warming, and contentious social and foreign policy issues is at least as good as Canada's and the UK's where, because of first-past-the-post, one-party majority governments are much more frequent.

12. Similarly in Canada, the record of governments accountable to minority parliaments is mostly good. Indeed, some of the most productive governments in Canadian history have been minority governments. I think particularly of Mackenzie King's first and third, Diefenbaker's first, both of Pearson's, Pierre Trudeau's, and at the provincial level, Bill Davis's six years of minority government in Ontario.

13. The greatest weakness of minority parliaments is their tendency to be relatively short-lived. This is essentially a problem of political culture. So long as one-party majority government is a real possibility – as it surely is under first-past-the-post – minority government will be unsatisfactory for Conservatives and Liberals, the only two parties that have ever formed majority governments at the federal level in Canadian history. Winning majority government is the gold standard for these parties and the measure of success for their leaders. Most minority governments are relatively short lived, not because of a failure to maintain the confidence of parliament, but because the party in power smells a chance of calling an election and winning a majority. That explains the short lives of those productive Diefenbaker, Pearson and Trudeau minority governments and Harper's first minority government. An electoral system that makes one-party majority government most unlikely would, I believe, change the political culture and lessen the impulse to call snap elections.

The Benefits of Minority Parliaments

14. Minority parliaments are not only capable of supporting strong and effective governments, but they also improve the quality of parliamentary life. When no party has a majority in the House, the mathematics of survival, require parties to reach out and adopt positions that can accommodate the views of other parties. This makes for a more inclusive kind of policy-making. In democracies in which no political party is very popular – and that covers pretty well all of the world's democratic countries today, including Canada – a policy-making and legislative process that must embrace more than the views of the least unpopular minority party makes government more democratic. That is the key finding of political scientist Kaare Strom's classic study of *Minority Government and Majority Rule*.

15. When no party has a majority in the House of Commons, parliamentary life is likely to be much more meaningful between elections, the outcome of debates less pre-determined, and House committees less vulnerable to governing party control. The Prime Minister's office which, as research published by the International Political Science has

shown, has made Canada the world's most centralized parliamentary democracy, will not go away when no party has a majority. However, in a minority parliament there is likely to be a diminution of its officials' capacity to interfere with parliamentary activities.

Minority Governments vs Coalition Governments

15. These benefits of minority parliaments are more likely to be realized under minority governments than under coalition governments. Minority governments, in order to survive, are continuously forced to find opposition party support in the House. This makes for a lively, deliberative House of Commons, where legislation and policy are seriously debated. With coalition governments that have a majority of seats, much of the policy debate takes place before parliament meets in the party leaders' negotiations on the terms on which the two (or more) parties will govern together. Once in place, a majority coalition government has little room for manoeuvre, and debates in the House may become quite sterile. In the UK, during the five years of the Conservative/LibDem coalition government, my impression was that the liveliest and most interesting parliamentary debates occurred in the House of Lords.

16. At the federal level in Canada, minority governments are certainly the norm. The only coalition government we have had was Robert Borden's, formed during World War I when the Liberals split and most of their English-speaking MPs joined the Conservatives to form a Unionist Government. On several occasions since then, second or third parties have spurned invitations to form a coalition with a majority or plurality party. As you all know, in December, 2008, the Liberals and NDP agreed to combine to defeat the Harper Conservative government on a confidence vote and then form a minority coalition government, and govern with Bloc Québécois support. And you all know the outcome of that plan. In the brouhaha that arose on that occasion, Conservative party leaders claimed that it was unconstitutional for political parties to form a coalition government if they had not disclosed this as their plan during the election campaign. That claim did not establish what would amount to a new constitutional convention. Nonetheless, I think it is clear that sharing cabinet positions with other parties in a government coalition (majority or minority) is not likely to be the first choice of most parties in a hung parliament.

18. Minority governments can take the form of a formal legislative alliance between a governing party and an opposition party that agrees not to support a non-confidence vote if the government proceeds with an agreed upon legislative program, including budget policy. The leading example was the Peterson/Rae agreement in Ontario from 1985 to 1987. Though the agreement somewhat muted NDP debate in the Assembly, the Conservatives, who were the plurality party, ensured lively proceedings in the Assembly.

19. Minority governments have survived most often by finding a fairly reliable legislative partner. That was certainly the case with Liberal minority governments supported by the NDP. Conservative minority governments have had to be more ad hoc and pragmatic in finding opposition support in the House. A textbook example of how

this can be done was the first year of Stephen Harper's first minority government when the Conservatives found support on different policy issues from the Liberals, NDP and the Bloc. The Harper Conservatives managed to implement four of the key planks in their election platform, while taking positions on other issues that could attract the support of at least one opposition party. A textbook example of how not to manage House relations was Joe Clark's short-lived Conservative minority government.

Stabilizing Minority Parliaments

20. The downside to minority parliaments is the danger of too many votes in the House of Commons becoming confidence votes creating an atmosphere in which government reels from crisis to crisis. This kind of atmosphere can certainly stiffen party discipline. Under a proportional electoral system, parties may be less inclined to defeat the government and force an election in which the likely outcome is another "hung" parliament. In other words, a proportional electoral system might change the political culture, especially for larger parties that can no longer realistically believe that by forcing an election they can win a majority. Minority governments can reduce confidence crises by having more free votes and carefully rationing the issues on which the government's position must prevail.

21. Some parliaments – Germany, Spain and Sweden are examples – permit only constructive non-confidence votes. A constructive non-confidence vote is one that names an alternative prime minister. When a constructive non-confidence vote passes, it both defeats the incumbent government and indicates how a new, viable minority government can be formed without calling an election. This practice underlines the principle that in a parliamentary democracy the people elect a parliament (more precisely the confidence chamber of parliament) not a government. In Canada, regulating confidence votes is a matter that falls into the informal part of our constitutional system under the control of the House of Commons. I urge your committee in its research and travel to look carefully at how parliaments function under a system that requires confidence votes to be constructive.

22. The fixed-date legislation that Parliament put in place in 2007 should be a stabilizing factor for minority parliaments, and would work well with the adoption of constructive non-confidence votes. But, as I have pointed out, it is not confidence votes that are likely to defeat minority governments but prime ministers tempted to call a snap election when they think there is a good opportunity of winning a parliamentary majority. That was the story in 2008 when Prime Minister Harper, who had championed the fixed-date-election law in order to level the political playing field and remove the incumbent government's control of the timing of elections, advised the Governor General to dissolve the 39th Parliament and call an election two years before the date scheduled by legislation. Mr. Harper got the election but not a majority of seats. Under a proportional electoral system, minority government prime ministers are less likely to be seduced by the prospect of a snap election giving them a majority. And opposition parties may be more prepared to show the Governor General how they could form a government with majority support in the existing House of Commons, so that the GG might not accede to a prime minister's request for a snap election.

Newly Elected Parliaments Must Be Summoned Soon After an Election

23. Canada is virtually alone among parliamentary democracies in not having a rule requiring that after an election only a short time can elapse before the newly elected parliament meets. After an election, if no party has won a majority of seats, there must be time for party leaders to work out who has the best chance of forming a government with majority support, for a new prime minister (if there is one) to be sworn in, and for the prime minister to form a cabinet and prepare a throne speech, before the Governor General summons the new parliament. In Canada, other than the constitutional requirement that there be a sitting of Parliament every twelve months, there is no rule or established practice about the maximum time allowed before a new Parliament hold its first meeting. This produces unnecessary uncertainty and worry about implementing the results of the election. When no party has a majority in the new House of Commons, it delays the test of whether a new government has the confidence of the House and therefore has the right to govern.

24. Australia has a rule that the Commonwealth Parliament must meet 30 days after an election. New Zealand has what amounts to an eight week rule. That should be the outside limit. Most European parliaments have shorter periods. The rule should take the form of an amendment to section 38 of the *Constitution Act, 1867*. Such an amendment can be made by an Act of Parliament. Please, please Electoral Reform Committee members make this part of your work. Surely if your work results in new electoral system, you do not want an incumbent prime minister to control the timing of when the results of your reform can be implemented.

MMP vs STV

25. Although I have done no original research on alternative voting systems, I have studied the work of political science colleagues who have done important research in that field. My reading of this literature convinces me that my priority – and I hope yours - in electoral reform, is elections that come close to producing politically representative parliaments. That priority can be served only by an MMP system or an STV system. I rule out a Ranked Ballot on its own because evidence and logic show that it will not eliminate the risk of some parties being significantly over represented and others being seriously under represented in the House of Commons.

26. I lean towards STV with its multi-member constituencies, in which candidates could be preferentially ranked. Although I also think the Finnish system, with multi-member voting districts but in which voters cast just one vote for the candidate they most prefer, should be considered. A further advantage of the multi-member constituency type of reform is that it would not require a formal constitutional amendment. That is less clear in the case of the MMP system that tops up first-past-the-post constituency MPs with MPs from party lists.