Enhancing Canadian Democracy: What's Next after Electoral Reform?
A Presentation to the House of Commons Special Committee on Electoral Reform

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Introduction

Canada is one of the world's most successful liberal democracies: there is no crisis in democratic practice or outcomes in this country. As this Committee undertakes its important work, the perspective should be how to improve even more an already well-functioning system whose merits are recognized internationally.

Every International comparison puts Canada in the top rank in governance, election outcomes and human development achievement. The World Bank, for example, sponsors a worldwide governance indicators project. In 2014, Canada had a 96 per cent rating in the category of voice and accountability, 91 per cent in political stability, 95 per cent in government effectiveness, 98 per cent in regulatory quality, 93 per cent in the rule of law, and 94 per cent in control of corruption.[1] On electoral systems, the Electoral Integrity Project rated Canada in 2015 as "very high" at 75 per cent in electoral integrity overall, holding top place among those employing majoritarian electoral rule.[2] This combination of high achieving governance and political practice has certainly contributed to the most important success of all, the expansion of human development and choice. Here too, for many decades, Canada has been at the top of the list in the United Nations Human Development Index, ranked first in 1985, second in 1995, and in 2014 ranked 9th out of 183 countries, just behind the Nordic Nations.[3]

Our success is due, in large part, because we are a parliamentary democracy. The Westminster system, when it works right (and in Canada it has mostly worked right) concentrates power in the executive so that things can get done while ensuring that those holding this power are accountable for its use. When parliament is sitting, the government is accountable to the legislature on a daily basis and its record will eventually be scrutinized and judged upon by the people at election time. Parliament represents and speaks on behalf of all Canadians in making and questioning governments. David E Smith rightly describes our preeminent institution as, "The People's House of Commons."[4] He is right too, especially in a discussion of electoral systems to remind us that "representative government is about government as much as it is

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[1] R. Kenneth Carty, "Canadian Democracy: An Assessment and an Agenda," in *Auditing Canadian Democracy*, William Cross, eds., (Vancouver: UBC Press, 2010), pp223-246. Carty highlights several International indicators and, given the good rankings, asks "was it really necessary to do a democratic audit of Canada?" p223. I have followed Carty's lead and updated the results to 2015. See World Bank Group, *Worldwide Governance Indicators 1996-2014*, (2015), <http://info.worldbank.org/governance/wgi/index.aspx#home>
[2] Electoral Integrity Project, *Year in Elections 2015*. https://sites.google.com/site/electoralintegrityproject4/home>
[3] United Nations Development Programme, *Human Development Index*, <http://hdr.undp.org/en/content/human-development-index-hdi>
[4] David E. Smith, *The People's House of Commons*, (Toronto: University of Toronto Press, 2007).

about representation."[5] The electoral system should not be discussed in isolation: it is the system which produces the People's House of Commons, which in turn votes confidence in a party (or parties if a coalition) to formulate a government. Each type of electoral system – majoritarian, mixed, or proportional representation – has a different set of incentives for our parties to assess and is likely to produce different outcomes. Incentives for better or fairer representation, for example, may produce equal disincentives for the formation of effective governments. By every international standard of governance and electoral integrity, Canada already has a well-performing political system. So the key questions that must be asked are what exactly is the problem that electoral reform is trying to fix? Will the solution to one type of problem create problems in other dimensions and, if so, how do you weigh the trade-offs? And lastly can the problem which needs fixing be ameliorated in some other way or is it only electoral reform which can do the job?

Canada's History of Electoral Reform

So Canada has a governance and electoral system that works for us and is admired around the world but it has taken 300 years to build these institutions with change and adaptation occurring on a regular basis. With every generation since our founding, Canadians have identified an electoral problem that needs fixing. So it is entirely appropriate that as we begin the 21st century, this generation of Canadian leaders is initiating a serious review.

Six pillars contribute to election architecture:[6] the franchise, voter registration, electoral districting, campaign finance, election management and the electoral system. Since the first representative assembly in Nova Scotia in 1758, Canada's election history is one of constant innovation, usually inspired by the positive workings of federalism since most of the reforms were initiated in the provinces before being adopted by Ottawa. Think of Canada's first election in 1867: voting was public, staggered over several months to give the government party an advantage, with a restricted franchise of about 15 per cent of the population made up of white, male property holders.[7] Today 70 per cent of the population is entitled to vote (only those under 18 years of age and non-citizens cannot participate). About 3.5 million people lived in Canada in 1867, today the population is ten times that number and we attract a quarter of a million immigrants annually from all over the world. Confederation Canada was 80 per cent rural; we are now 80 per cent urban with one-third of our population in only the three cities of Toronto, Montreal and Vancouver.

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[5] Ibid, p102

[6] John Courtney has a very good summary of electoral history and law in "Elections" in *Auditing Canadian Democracy*, pp118-142. Both Courtney and Carty in their contributions to the audit project mention Canada's good ranking in international comparisons of democratic attainment. Elisabeth Gidengil and Heather Bastedo in *Canadian Democracy from the Ground Up,* take the view that "this is hardly a cause for congratulation or complacency," p3. Using data from the 2012 Samara on-line survey, they find that Canadian perceptions on the strength of our democracy are far less robust than international observers. Only one-third of respondents placed Canada at the top end of the scale. See Lawrence LeDuc and Jon H. Pammett, "Attitudes Towards Democratic Norms and Practices," in *Democracy from the Ground Up*, Elisabeth Gidengil and Heather Bastedo, eds., (Vancouver: UBC Press, 2014), p24.

[7] Courtney, *Auditing Canadian Democracy*, p24

As Canada has changed, our election architecture has adapted too. In 1758, Nova Scotia became the first colony with a representative assembly and in 1848 the first to achieve responsible government with the executive formed from and accountable to a majority of the elected members of the assembly. In 1855, New Brunswick introduced the secret ballot subsequently adopted by Canada in 1874 along with single day voting. In 1867, Canada was created and federalism established. In 1916, Manitoba became the first to give votes to women over 21, followed by Canada in 1918. Over time the franchise was expanded with property restrictions abolished in 1920, Asian Canadians given the vote in 1948, Inuit in 1953 and Status Indians living on reserves in 1960. In 1970, the voting age for Canadian citizens was lowered from 21 to 18. In 1920, the Dominion Election Act created the Office of an Independent Chief Electoral Officer and from this point forward, the federal franchise was established by federal, not provincial, law. In 1956, Manitoba created an independent boundaries commission to do away with the practice of gerrymandering, and in 1964 the national Parliament followed suit by adopting the Electoral Boundaries Readjustment Act to create independent electoral boundary commissions in every province following each decennial census. In 1963, Quebec led the way on campaign financing with expense limits for political parties and candidates, and the introduction of partial election expenses reimbursement. In response to Quebec's initiative, the federal government created the Barbeau Committee and in 1974 the Election Finances Act began the modern election finance regime, with a cap on election expenses, partial reimbursement of election expenses, limits on third-party advertising, allocation of broadcast time to parties, and a generous tax credit for political party donations. In 1977, Quebec led again with the banning of corporate and union donations to parties, a reform not adopted federally until the 2006 Federal Accountability Act. In 1968, the first televised leaders' debate was produced by a consortium of the main television networks with disputes about the criteria for inclusion a perennial issue ever since.

All of these changes were accomplished by legislation, none by referendum. Thus each of the electoral pillars has been significantly reformed except one: the single member plurality or first-past the post electoral system. This has remained as Canada's way of electing legislators in every province, territory and the national parliament since our first election in 1758.

No Perfect System

In democracy, values contend. So too with electoral systems: as Paul Thomas writes "designing and adopting an electoral system is an inherently political exercise, rather than a technical problem." [8] It is inherently political because all electoral systems create incentives and disincentives for parties, so where you are coming from on this question is largely determined by where you sit. Weighing the five principles – effectiveness and legitimacy, engagement, accessibility, integrity, and local representation – outlined in the June 7, 2016 Standing Order to guide options to be considered by the Special Committee on Electoral Reform will produce very different answers to the key question of what exact problem in the Canadian political system you are trying to fix. For example, the value of legitimacy, which places a premium on reducing distortion and promotes fairness in translating vote intentions into results, highlights representation and leans toward the options of a mixed number or proportional representation

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[8] Paul G. Thomas, "Why electoral reform is always a political headache," *Policy Options*, (June 2016), <policyoptions.irpp.org>

system. But proponents of producing governments that have the power to make decisions and not be held up by stasis would argue for a majoritarian system like first-past-the-post. The value of local representation outlined in the committee's five criteria is in my view a key requirement because citizens need a clear connection with their Member of Parliament to help them navigate the shoals and frustrations of modern government. Simplicity and accountability are also important – voters need to know who is responsible for what when they make their choice. Pippa Norris, one of the world's great experts on electoral integrity, made these points well in a public lecture at the University of Toronto on April 25, 2016. There is no single best system she said, goals have to be matched to options. She then demonstrated this by listing the virtues of simplicity, consensus government, local accountability, user friendly, diversity, efficacy and legitimacy, and checking off whether majoritarian, mixed or proportional systems best achieved them. Each of the three systems best achieved some of the desired outcomes, none of them achieved them all.[9]

Committee Consensus: Difficult but Possible

Since electoral changes affect the core mission of our political parties, it is difficult to achieve consensus. Mandatory voting might be less contentious since it has the result of simply bringing more voters to the polls whatever system is used to translate votes into seats. The possibility of on-line voting does seem to me to be more of a technical issue than a philosophical one, though the technical challenges are very real, as security must be paramount and who would argue today that the Internet is secure? Yet no one should underestimate how difficult it will be to achieve a committee consensus on the key issue of what changes, if any, should be made to our tradition of first-past-the-post.

But there is a precedent for such a crucial committee assignment. In 1980, at the height of the debate over Patriation of the Constitution, with the parties and provinces deeply divided, a Special Joint Senate-House Committee on the Constitution was formed. In amending the Constitution, creating the Charter of Rights and Freedoms, and patriating in the Constitution from the United Kingdom, the stakes were much higher than in reforming our electoral system. Yet the committee sat for 56 days, heard from 294 groups, and 914 individuals. Prime Minister Pierre Elliot Trudeau had an even tighter deadline in mind than today's schedule on electoral reform, but he twice acceded to the Committee's wish to have more time for its deliberations. On this highest of political priorities, flexibility in timing became more important than ambitious deadlines. And though the parties were divided over the wisdom of the Constitutional exercise, once the Committee work began, every party made substantial contributions to the eventual Charter. Conservative members put forward 22 amendments (of which 7 were accepted by the government majority). The NDP put forward more than 40 amendments, of which more than half were accepted. The Government sought real consensus, in part to bolster the legitimacy of the constitutional project as a whole, and the opposition members of the Committee responded by

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[9] Pippa Norris. "Would Electoral Reform Strengthen Electoral Integrity?" *2016 Cadario Lecture.* School of Public Policy and Governance, University of Toronto, (April 25, 2016). Norris reviewed findings from her 2015 *Election Integrity Report* that assessed 180 national elections in 139 countries from 2012-2015. In her discussion of Canada's current debate, she asked "What exactly is the problem you are trying to fix by electoral reform?" Joseph Heath, a distinguished scholar, who attended the all-day session with Norris, featured her question in a subsequent discussion and blog post on, "Trump and electoral reform: connecting the dots." Heath concludes that proportional representation "is a solution looking for a problem."(.June 23,2016.),<induecourse.ca.>

hard creative work. Pierre Trudeau was certainly the driver of the process that brought Canada the Charter, and the federal-provincial negotiations were certainly intense, but what is often forgotten in the story is that the Charter itself is the result of a multi-partisan parliamentary consensus. What was achieved once can be done again.

Flexibility in timing and a real willingness to seek consensus are two lessons from our great constitution debate that apply equally well to today's debate over electoral reform. It is better to take the time to get the content and process right than be transfixed by an artificial deadline. Consensus does not require unanimity but it does require the agreement of several parties. A new system should be introduced only with process legitimacy since it is bound to displease some by its content. Legitimacy does not require a referendum – we elect parliaments to decide – but it does require as much parliamentary consensus as possible. If this cannot be achieved, then take the time to keep working on the subject rather than pushing through to meet deadlines or exert the weight of the government majority. It will be a lost opportunity but since our electoral system works well in any case, it is far from a disaster.

A Broader Democratic Reform Agenda

There are many ways to improve democracy in Canada: Electoral reform is only one of them. Many have worked on such a broad agenda. At Massey College, there is a two-year program to focus on the Senate, electoral reform, party financing and policy development, new tools like citizen juries, the role of Elections Canada, and enhancing democracy abroad. The Queen's Centre for the Study of Democracy has brought out reports on accountability, the public service, parties and Parliament, and a new way to organize election debates.[10] The authors of the *Canadian Democratic Audit* recommended reforms and the recent work of the Samara Foundation is impressive.[11] While obviously focusing on electoral reform since that is the issue at hand, we must acknowledge that it is only one piece in the puzzle and suggested changes in the electoral system should occur with this broader agenda in mind. Further, electoral reform impacts other aspects of our political system especially parliament. I agree with former Conservative MP Brent Rathgeber that "how a legislature functions is much more relevant to responsible government than how it is chosen."[12] If the decision is to become more proportional, the likelihood is great that minority governments will become even more likely. But how then do we go about to reform Parliament so that a House of minorities could work? This is not impossible as many legislatures do so, but it means that in implementing such a change, part of the package must include ideas both on how to enhance the role of parliament and to ensure that the executive can still govern. Committee work aimed at consensus becomes even more

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[10] Thomas S. Axworthy, et al. "Everything Old is New Again: Observations on parliamentary reform," Center for the Study of Democracy, (2008). Axworthy and Julie Burch, "Closing the Implementation Gap: Improving capacity, accountability, performance and human resource quality in the Canadian and Ontario public service," Queen's Centre for the Study of Democracy, (2010). Michelle Rogers, "Reforming Federal Election Debates in Canada," Center for the Study of Democracy, (2010).

[11] See, *Auditing Canadian Democracy.* William Cross, eds. (Vancouver: UBC Press, 2010); and Alison Loat and Michael MacMillan, *Tragedy in the Commons*, (Toronto: Random House Canada, 2014).

[12] Brent Rathgeber, *Irresponsible Government*, (Toronto: Dundurn, 2014), p.214. Rathgeber takes as his main theme the centrality of responsible government and how Parliament is no longer fulfilling this function. This is also the concern in *Democratizing the Constitution* by Peter Aucoin, Mark Jarvis and Lori Turnbull, (Toronto: Emond Montgomery Publications, 2011)

important and for that reason, members should serve on committees the length of Parliament so that members can become experts. Chairs of committees should be as important as ministers and paid accordingly. Prorogation and three line whips on non-confidence should not be abused. Reform of the House of Commons is urgent in itself, but in the context of electoral reform it becomes absolutely crucial.

We have, of course, a bicameral parliament: I have argued that Canadian democracy is not in crisis but one part of our system was – the Senate. The government should be applauded for giving this issue high priority and moving to transform the Senate into an independent, representative, merit-based institution that can improve legislation and check abuses while always adhering to the ultimate democratic primacy of the House. This reform is in its infancy and many implementation issues remain, but we now have the chance if future prime ministers abide by current appointment norms to make the Senate a vital part of our democracy.

Outside of Parliament, the democratic agenda is even larger: civic literacy is the bedrock of democracy and history is the bedrock of civic literacy. Knowledge is a precondition to engagement yet too many provinces still do not have a mandatory Canadian history course in high school.[13] Hundreds of thousands of immigrants work hard to learn about Canada – we should make their task more enjoyable by translating the Historica Heritage Minutes series into multiple languages and provide them as a gift for all who want to become citizens. Canadians too are ill informed about the crucial role our Indigenous people played in the development of our country. We need a multimedia series on the history of our Indigenous peoples. The not-for-profit sector does critical work in health, education and culture. What is less recognized is that this sector is a training ground in engagement and advocacy for thousands of volunteers. We need a robust Third Sector. Parliament should review the advocacy rules for not-for-profits and remove at once the chill that Canada Revenue inflicted. Indeed the Third Sector is so important in my view that it should enjoy the same privileged tax credit as our political parties. Let a thousand ideas bloom.

While the Third Sector is an incubator or garden for innovative ideas, it is our parties that transform those ideas into bouquets. Parties are the connector belt between citizens and Parliament. But our parties have under-developed professional policy infrastructure to help them prepare platforms and contribute to public policy debates. As a condition of receiving such a generous tax credit, our parties should establish party policy foundations. We need well thought out ideas more than attack ads. We need too, an independent election debate commission which would end partisan games about who should be included in the debate while experimenting with debates under different formats. We should be informed about cabinet timber as well as leader quality so themed debates with different spokespersons each week of the campaign culminating in a final set of leader exchanges would demonstrate the breadth of talent in the parties. Finally, democracy should be about contemplation as much as it is about competition. We should make Election Day a civic holiday and develop forums of education and participation to go along with the act of voting. Deliberation days would help us all be better citizens. Democracy is ever evolving. Electoral reform is certainly important but there is so much more to do.

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[13] Historica, *The Canadian History Report Card*, 2015 <https// www.historicacanada.ca>

Conclusion

1. There is no crisis in democratic practice or outcomes in Canada: We have an internationally recognized standard of high democratic attainment. So in assessing our electoral system, the question that must be asked is what problem are we trying to fix by electoral reform?

2. But even superior systems can be improved, as the electoral history of Canada demonstrates. We have 300 years of constant adaptation and innovation largely inspired by the provinces.

3. There is no perfect electoral system: Each has advantages or disadvantages depending on one's value system. The electoral system is deeply interconnected with the operation of other parts of our political system, such as our parties and Parliament, and these implications must be examined in any significant change.

4. Committee consensus is crucial though difficult. Parliament can decide on reform without a referendum but to give the launch of the reform legitimacy, there must be party consensus though not necessarily unanimity.

5. Electoral reform is just one piece in a broad possible democratic agenda. Reform of the House of Commons should be high on the agenda in any case, but if the electoral system is changed to move towards more proportionate representation, it will be urgent to make parliament function well as a House of minorities.