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**TABLE OF CONTENTS**

Week 1 - Introduction to the Study of Canadian Democracy ..... 1

- Theorizing Politics ..... 1
- Key Concepts ..... 1
  - Theoretical Perspectives ..... 1
  - Democracy ..... 2
  - Democracy and Power ..... 3
  - Democracy in Crisis? ..... 3

Week 2 - Canada: A fragmented society? Regionalism and Nationalism ..... 4

- A society centered perspective..... 4
  - Center periphery relations ..... 4
  - The Politics of regionalism: An illustration..... 6
    - How western alienation is reshaping Canada ..... 6
    - How regional differences are managed..... 6
- Regionalism and nationalism ..... 7
  - Canadian founding moment ..... 7

Week 3 - Canada: An Egalitarian Society ..... 9

- Socio-Economic Relations ..... 9
- Classes in Canada today? ..... 9
- Poverty in Canada ..... 9
  - Growing Gap ..... 10
  - Consequences for democracy ..... 10
  - Solutions? ..... 10

Week 4 – Ideologies and Political Representation ..... 12

- Role of ideas in politics..... 12
- Decline in deference thesis ..... 12
- Political ideologies: A coherent system of principles guiding political action..... 13
- Classifying ideologies ..... 13
  - Brokerage Politics ..... 14
- The New Populism: An Ideological Shift? ..... 14
  - Consequences for ideological shift: ..... 15

Week 5 - Interest groups, social movements and lobbying ..... 16

- Social movements ..... 16

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Role in democracy .....	16
How? .....	16
Advocacy groups .....	17
Professional lobbyists: .....	17
Week 6 - Political participation: elections .....	18
Why vote? .....	18
The Electoral Process.....	18
Canadian Elections: Free and fair? .....	18
Challenges.....	18
Week 8 - The Constitution and Federalism .....	21
Canada: British tradition .....	21
Canada and the US Compared .....	21
Preamble .....	22
Constitutional debates.....	23
Week 8 - the Institutions Of Canadian Democracy: Federalism .....	24
What is federalism?.....	24
Key Components.....	24
The Pros Of Federalism .....	24
The Cons of Federalism .....	24
Federalism elsewhere in the world .....	26
Conclusion .....	26
The Charter, The Courts and Democracy .....	27
Impact of the Charter of Rights and Freedoms on Democracy?.....	27
The judiciary (courts).....	27
Judicial Independence.....	27
Charter of Rights & Freedoms .....	28
Contents .....	28
Limits .....	29
Week 10 – The Parliamentary System.....	31
Parliamentary system.....	31
House of commons .....	31
The senate .....	31
Reforms.....	32
Executive Power in Practice .....	33

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Prime ministerial powers .....	33
Executive support: the central agencies .....	35
Why does concentration of powers exist? .....	35
PM vs. US president who's got more power?.....	35
Canadian PM.....	35
US President.....	36
Consequences For Democracy.....	36
Week 11 – Diversity and Democracy .....	37
Facing our colonial legacy .....	37
Aboriginal Peoples & Canadian Democracy .....	37
What is Colonialism?.....	37
Who Are Aboriginal People?.....	38
Indian Act (1876).....	38
Consequences.....	38
Decolonization? .....	39
What has Canada done? .....	39
Various models of self-government.....	40
Nisga'a self-government.....	40
Many challenges (Flanagan vs. Ladner) .....	40

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## WEEK 1 - INTRODUCTION TO THE STUDY OF CANADIAN DEMOCRACY

### THEORIZING POLITICS

Looking at politics to make sense of it and understand what is going on

- What, why and how
- What are the ideas and possible explanations for the phenomenon were looking at?
- What is democracy and how we are going to study it?

### KEY CONCEPTS

- Politics
  - The process of deciding who gets what and how. (Harold Laswell)
  - The organized determination of one class over the other
  - About managing conflicts and allocating resources
- Power
  - The capacity to impose your views or interests on someone else through
    - Coercion (use of force)
    - Authority (rules, laws by legitimate agent)
    - Influence (to convince)

### THEORETICAL PERSPECTIVES

- How we explain/ make sense of politics
- Public choice
  - State is neutral
  - Power is dispersed, competition between *homo economicus* – or Economic human - the concept in some economic theories of humans as rational and narrowly self-interested actors who have the ability to make judgments toward their subjectively defined ends. This theory stands in contrast to the concept of *Homo reciprocans*, which states that human beings are primarily motivated by the desire to be cooperative and to improve their environment.
  - Political outcomes result from balance of interests (Pareto equilibrium)

\*\* Both views do not contain reasoning that the balance is unequal in society

- Class analysis, or political economy
  - Unequal distribution of power is product of economic relations
  - State reproduce power relations (controlled by dominant class)
  - Political outcomes reflect interests of dominant class
- State-centered, or institutional
  - Power is in institutional resources/rules

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- State as an autonomous actor
  - Political outcomes reflect interests of state

## DEMOCRACY

- It is a form of government in which all adult citizens have an equal say in the decisions that affect their lives.
- The term comes from the word Greek: δημοκρατία – (dēmokratía) "rule of the people", which was coined from δῆμος (dēmos) "people" and κράτος (Kratos) "power", in the middle of the 5th-4th century BC to denote the political systems then existing in some Greek city-states, notably Athens following a popular uprising in 508 BC
- Equality and freedom have both been identified as important characteristics of democracy since ancient times
  - These principles are reflected in all citizens being equal before the law and having equal access to legislative processes.
    - For example, in a representative democracy, every vote has equal weight, no unreasonable restrictions can apply to anyone seeking to become a representative, and the freedom of its citizens is secured by legitimized rights and liberties which are generally protected by a constitution.
- There are several varieties of democracy (some of which provide better representation and more freedom for their citizens than others) - The following are major examples of attempts at a form of government that is both practical and responsive to the needs and desires of citizens:
  - Representative Democracy,
  - Consensus Democracy,
  - Deliberative Democracy.
- Many people use the term "democracy" as shorthand for **liberal democracy**, which may include elements such as:
  - political pluralism;
  - equality before the law;
  - the right to petition elected officials for redress of grievances;
  - due process;
  - civil liberties;
  - human rights;
  - Elements of civil society outside the government.
- In other cases, "democracy" is used to mean direct democracy.
- Majority rule is often listed as a characteristic of democracy.
  - However, it is also possible for a minority to be oppressed by a "tyranny of the majority" in the absence of governmental or constitutional protections of individual or group rights. An essential part of an "ideal" representative

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democracy is competitive elections that are fair both substantively and procedurally.

### DEMOCRACY AND POWER

- Even if institutional conditions are there
  - History, politics; as well as social, cultural and economic values matter

The reality is that power is unequally distributed, people are not entirely rational; not a single logic or force is driving politics and the state acts as both an actor and a receptor

### DEMOCRACY IN CRISIS?

#### JAMES TRAVERS – THE QUIET UNRAVELING OF CANADIAN DEMOCRACY

Canada was long seen as a beacon of democracy. However, Travers thinks this is no longer the case.

Some complaints are heard:

- Cynicism about politics and democratic process (youth are “tuning out”)
- Parliament losing its centrality, authority, and/or legitimacy
- Concentration of powers within PM
- Judicialisation of politics
- Growing inequalities, small economic elite has too much influence
- Social cohesion/fragmentation (shared values)
- Globalization

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## WEEK 2 - CANADA: A FRAGMENTED SOCIETY? REGIONALISM AND NATIONALISM

### A SOCIETY CENTERED PERSPECTIVE

- To understand what is democracy, why it is working or not and how it unfolds, one must pay attention to the context of society as much as the formal institutions
- Impacting characteristics:
  - Social forces
  - Political culture
  - Economy
  - Geography – has a great impact on how you think (i.e. culture)

### CENTER PERIPHERY RELATIONS

- Understanding regions
  - They can consist of geographic regions, economic regions, and institutional space; can also consist of cultural space and political space – which are A.K.A. an ‘imagined community’
- Regionalism
  - The promotion of a regions distinctive collective identity and interests
  - A powerful force in Canada because politics in Canada is often about managing inequalities and/or differences between regions and between center and periphery
  - Many provinces differ in political representation such as:
    - Economic diversity
      - Significant variations in the nature of provincial economies
      - Labrador – fishing mining oil is 96% of exports, not much manufacturing
      - Ontario Manufacturing (Auto/parts) finance- 19 % of exports- much more manufacturing

- Economic disparities

- Variation in wealth between provinces
- Gap is growing
- GDP/capita:

	Newfoundland and Labrador	Ontario
GDP/Capita	38,748	41,305
Unemployment Rate	13.2%	6.5%

- Culture/values

- Values differ from one place to the other
  - Ex: Gay marriage, taxation, immigration

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- Based on history, context
  - View of role of federal government varies
    - A benevolent guardian
    - An instrument of domination/subordination
  - Produces strong provincial/regional identities
  - Population
    - Example is population disparities. Ontario has population of about 12 680 000 while Nunavut has a population of about 32 630 000
    - The population growth is happening much faster in Ontario than in Nunavut
  - The democratic impact of these variations - certain votes may be worth less than another – question the fact that this is democratic or not
    - Problems with first past the post
  - Nature of provincial economies

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## THE POLITICS OF REGIONALISM: AN ILLUSTRATION

### HOW WESTERN ALIENATION IS RESHAPING CANADA

- A regional distinct political culture which expresses economic discontent, the rejection of semi-colonial status within the Canadian State, antipathy towards Quebec and French Canadian influence within the national government, the irritation of the west's partisan weakness within a succession of liberal national governments and the demand from provincial elites for greater jurisdictional autonomy
- Westerners have always felt that they are regularly out-voted in the House of Commons by MP's from central Canada.
  - Western provinces are not so much unfairly represented in the house of commons as it is based on population but it seems that central Canadian MP's seem to vote out legislation favoring the west
  - Solution is to possibly is to strengthen the capacity of the senate to protect regional interests against the voting power of central Canada
- Sense that Ottawa is easily representing the interests/values of central Canada
- This western alienation is especially strong in Alberta
- There are economic, demographic and cultural dimensions
- Product of government policies
  - Debate of Quebec as separate nation
  - National energy program which Trudeau wanted to share the resources from the west with eastern/central Canada. They would regulate and capped price of oil and redistributed money across Canada
- Reform/alliance party
- Harper was going to help west, but due to brokerage politics, Harper felt he should prioritize central Canada

### HOW REGIONAL DIFFERENCES ARE MANAGED

- Building Out
  - Federalism and decentralization
  - Decentralization is the process of dispersing decision making governance closer to the people and/or citizens.
  - People are better to decide what is best for themselves
- Building in
  - Representation in central institutions (House of Commons, Senate, Supreme Court, ...)
  - Nation building policies such as equalization transfers or the little bit on the senate above

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## REGIONALISM AND NATIONALISM

### CANADIAN FOUNDING MOMENT

- The Seven Years' War has been described as the first true world war, and everywhere it was a disaster for the French, who lost India and, on this day, the battle that cost them New France. It took another century or so, but Canada, the improbable union of English and French in a single political space, was the result.
- Since British conquest, descendants of French settlers struggle to maintain their authority and identity
- Recognized in our democratic institutions
  - Religious and civil law guarantees: Quebec act 1774
  - Language and religious rights: Constitution acts 1867, 1982
- Two solitudes
  - The two groups operate in two distinct cultural, political, economic spheres
  - Majority-minority relations ex. Institutions are more English

What is a nation?

- A group of people who feel they share a common sense of identity and who want to be self-governing
- Also known as an imagined community
- Nationalism
  - The belief in and promotion of a bounded political community based on political, geographic, ethnic, cultural, or linguistic traits for self-determination
- Tied with democracy
  - Power of nationalism – collective will
  - Janus-faced – Civic (political) Ethnic (ethnicity)

Quebec nationalism

- Party Quebecois is advocating sovereignty with an economic-political partnership with Canada
- Want control over all aspects of Quebec life
- Quiet revolution of 1960
  - Consisted of dramatic changes in values, attitudes, and behavior of French Canadian Quebecers.
  - New middle class (teachers, civil servants, professors etc) upward mobility in private sector was dominated by English, so the new Quebec middle class used Quebec nationalism to further its own aspirations in the expansion of the Quebec state. They sponsored an enormous increase in provincial government programs and agencies

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- Federal government grappled haphazardly with new demands
    - Introduced simultaneous English/French interpretation into parliament, began printing all federal government cheques in bilingual format, and appointed a French-Canadian governor general.
    - Established the royal commission on bilingualism and biculturalism, made basis of Canada equal partnership
    - Quebec got more federal funds and taxation power, removed conditions from many shared-cost programs, and permitted Quebec to make international arrangements with France
    - Official languages act in 1969 –government operates in French and English in all aspects of court work communities and equal status and privileges in government institutions
    - Failure of Meech and Charlottetown accords to make Quebec independent
  - Current
    - No longer Anglophone controlled privately
    - Quebec now has French as common language
  - 2 referendums for Quebec independence
    - 1980 60% no 40% yes
    - 1995 50.6% no 49.4% yes 96% participation

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## WEEK 3 - CANADA: AN EGALITARIAN SOCIETY

### SOCIO-ECONOMIC RELATIONS

- Key Question: Do socio-economic disparities matter for democracy? If so, how?
- Class theory
  - Society is divided into ‘socio-economic layers’
  - Class structure = political structure
    - Control over the means of production = power
    - The State as an agent of the dominant class
  - Class consciousness is power
    - Elite (bourgeois)  $\leftrightarrow$  Workers (Proletariat)
    - Revolution of the proletariat
    - Marx

### CLASSES IN CANADA TODAY?

- No longer a dialectical relationship
  - Based on occupancy
    - Powerful economic Elite (*very wealthy*) - 2.5%
    - Middle class (*professionals, business*) - 15%
    - Working class (Skilled workers, services) - 67.5%
    - Poor Canadians (below the poverty line) - 15%
      - Considered families that have to spend more than 64% of their income on food, clothing and shelter – income of \$29,465 (Ottawa)
- The gap is growing
  - Average income has grown from \$51,000 in 1976 to \$59,000 in 2009
  - But gains concentrated on top
    - 33% income gains to top 1% between 1997-2007
    - A new ‘super-rich’ class
  - Poorer Canadians are not necessarily worse off in absolute terms, but the gap between the rich and the poor is growing
  - Even if poor and middle class Canadians are working more than ever...

### POVERTY IN CANADA

- A new reality: Working poor
  - Minimum wage is not enough to stay above the poverty line. 41% of poor families have at least one full time working adult
  - 1 in 8 children live in poverty<sup>1</sup>

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<sup>1</sup> Same as in 1989

- Certain groups are more likely to be poor
  - 41% of Aboriginal children under 14 live below poverty line
  - 49% of children from recent immigrant families
  - 34% of children in families from visible minority groups
  - Deregulation, weakening unions, global competition. Shift in nature of economy, creates high and lower class.

### GROWING GAP

The rich are getting richer and poor are getting poorer; is there a problem?

- Trickle-down theory doesn't work
  - Says that as money is at the top, there will be spending down towards the lower classes such as creation of infrastructure and new jobs, however this is not the case for current times
  - Rawls' principle of justice: Would be acceptable if the lower class would also benefit such as providing jobs, however this is not the case today
  - Growing concern for middle class as well as it is shrinking

### CONSEQUENCES FOR DEMOCRACY

- Economic power is political power
  - The capacity to influence decision making comes with money. 75% of all political donations in Canada come from the top 20% earners. [Education and social networks are close to power] – Rich donate and interests are fulfilled
  - Socio-economic exclusion = political exclusion
    - Lower education → less networks
    - Lower participation rate
- Myles: Market economy and democracy sustain each other
  - Markets foster inequalities, and democracy equalizes things
    - Too much inequality ruins legitimacy for democratic institutions
    - Trust and solidarity is greater in societies with people at same class

### SOLUTIONS?

- Redistribute wealth using the welfare state
  - Higher taxation for higher income
  - Universal healthcare
  - Employment insurance
  - Social assistance
  - Pensions
- Relatively recent: most programs were developed after WW2

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- Under stress today
    - Costs – middle class tax revolt
    - Effectiveness
    - Global pressures

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## **WEEK 4 – IDEOLOGIES AND POLITICAL REPRESENTATION**

### **ROLE OF IDEAS IN POLITICS**

- Political culture: the politically relevant values, beliefs, attitudes, identities and orientations in society
- The dominant views that shape democratic practices
  - Often unwritten rules
  - Shape preferences of citizens
  - Structure democratic debate
  - Ex. France a culture of protest
- Canadian political culture
  - **Popular sovereignty:** People have the final say and power over political decisions
  - **Political equity:** Every citizen has the right to vote and is only allowed to vote once
  - **Political freedom:** freedom of conscience and religion, belief, opinion, assembly and association
  - **Majority rule:** in disputes the larger number takes precedence over the smaller number
  - **Minority rights:** That all minorities enjoy the same rights as the majority
  - Lipset **continental divide:**
    - Canadians are counter revolutionary
    - Canadians are more acceptable to authority
    - Canadians are collectivists and care more about the group than individual
  - Hartz and Horowitz, **fragment theory:**
    - A theory (proposed by Louis Hartz) which argues that colonial societies such as Canada originated as fragments of the larger European society and that these societies have remained marked throughout their history by the conditions of their origin.
  - English Canadians are liberal with a conservative fragment. More elitist, collectivist and tolerance to particularism
  - French Canadians are feudal-communitarian with belief in religious hierarchy and conservative values

### **DECLINE IN DEFERENCE THESIS**

- Economic, demographic shifts bring changes in values, with direct impact on politics and democracy (Neil Nevitte)
- Rise of the middle class, diversity, urbanization, education, wealth and Quebec's nationalism, Canadians have become more individualistic, more cynical about politics,

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less deferential to authority, less trustworthy to public institutions and maybe more American

### **POLITICAL IDEOLOGIES: A COHERENT SYSTEM OF PRINCIPLES GUIDING POLITICAL ACTION**

- A cousin of political culture
  - Explicitly about power and agency (they change things)
  - Are carried by individuals, groups/political parties; not whole societies
- Differences between ideologies often rooted in basic assumptions about:
  - Human nature: Are humans naturally peaceful? Irrational, rational, competitive or cooperative
  - Individual and society: which comes first
  - Equality/Freedom, what is the role of the state in promoting them
  - Economy

### **CLASSIFYING IDEOLOGIES**

**Left:** advocates radical change challenging authority and establishment

**Right:** Supporters of existing order: Monarchs, Hierarchical conception of society

The ideological spectrum in Canada is not very polarized – mainly because of the liberals (or Canadian ideologies really) who keep things near the center of the spectrum rather than left vs right (much like in the States with the Republicans and Democrats)

Conservatives:

- Minimal state
- Free market
- more tolerant of inequalities
- protest social institutions

Liberals

- Individual freedoms
- Free market
- Certain role of state (equality of status, redistribution)
- Charter values

Social Democrats

- Economic equality is central to democracy
- Key role of state in limiting market inequalities
- Collectivist action, cooperation over individual gains

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**Political parties** are organized groups that nominate candidates and contest elections in order to influence the personnel and policy of government

- Role in democracy
  - Articulate ideology into concrete political program
  - Generally seek to form government
  - Formulate broad public policies
  - Recruit decision makers
  - Political socialization

### BROKERAGE POLITICS

The interests to whom parties give most attention are presumably those of greatest concern to the voters, reflecting their personal identities.

- Political culture
  - not polarize
  - People are willing to compromise and deference to authority
  - Minimize the use of ideologies by concentrating on regional and ethnic problems
- Socio-economic explanation
  - Dominant parties controlled by elite
  - Working class historically unable to mobilize along party line
  - Protects elite, conservatives may focus on religion or regional issues rather than class interests
- Regional linguistic divided
  - Brokerage is important among divided societies
  - Parties should not worry artificial class conflicts and ideological differences in a country that is already seriously divided- they should bring people together rather than drive them apart
- Nature of our electoral system
  - Winner takes all
  - Incentive to vote for larger parties
  - Parties are opportunistic and pragmatic rather than offering the electorate a choice principled, distinctive programs
  - Parties do not generate innovative policy approaches but are content instead to respond to public opinion polls and advocacy group demands.

### **THE NEW POPULISM: AN IDEOLOGICAL SHIFT?**

- Long populist tradition (western Canada, Quebec, Ontario)
- Everyday experiences as basis for good policy
- A middle class ideology and movement

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- Examples:
    - The Tea Party,
    - Current Conservative Party
    - Toronto
    - ‘No tax’ pledges, referendum on HST in BC

CONSEQUENCES FOR IDEOLOGICAL SHIFT:

- Democratic movement but...:
  - Less concern for the inclusion of minorities
  - No less autocratic
  - Feeds off cynicism
  - Challenge classic left-right divide
    - The ‘populist right’ vs. the ‘elitist left’?
  - Challenge the party system
    - Old parties are redefining themselves or slowly disappearing
      - Ex. Liberal Party of Canada
- What does it mean for brokerage politics?
  - The ‘fall’ of the Liberal Party of Canada and Bloc Quebecois
  - Greater ideological polarization – Conservatives and NDP
  - End of some traditional regional dynamics
    - Suburban Ontario shifts from liberal to conservatives
    - NDP replaces the Bloc in Quebec
    - West remains firmly aligned with Conservatives
  - Parties more segmented
    - Do not attempt to represent everyone
    - More ideological, focused on a few issues
    - Left-right populism as key driver of politics
- Is the Conservative Party the new dominant party of brokerage politics?
  - Tom Flanagan: The emerging Conservative coalition
    - Plays to its ideological base
    - Resonates with populism (anti-taxes, anti-government, anti-crime)
    - Brokers new regional coalitions (without Quebec)
    - The vote of ‘new Canadians’
    - age of divides on the left
- Yes, but
  - Is it more than a circumstantial alliance? Dangers of populism...
  - Can a party dominate Canadian politics without Quebec for long?
  - Is the left going to remain divided for long?

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## **WEEK 5 - INTEREST GROUPS, SOCIAL MOVEMENTS AND LOBBYING**

Civil Society: organized citizenry

- Voluntary, civic, community, organizations
- People who organize and make organizations
  - Not market or state
- Democracy is not possible without civil society

### **SOCIAL MOVEMENTS**

Network of people sharing interest identity and political purpose

- Not necessarily organized or structured
- The goal is to seek to change society
- Tend to reject traditional political channels
- Point is to mobilize people and spread awareness

Interest groups (advocacy groups): Any groups that seek to influence government policy without contesting in elections

### **ROLE IN DEMOCRACY**

- Mobilize citizens and concern citizens, spread awareness. It is a voice for change of the status quo
- Articulating of interests in policy terms
  - Formulating policy alternatives
  - Through reports, media campaign, diffusion of information
  - Legitimization of government policies,
  - Complements electoral system because it creates a link between government and society

### **How?**

- Direct action such as protest and strike which demonstrates the power of the people
- Lobbying which is not visible to public, shows the power of institutions, influences those with decision making authority and they contact certain people in power to try and influence them
- Policy networks. A group trying to influence policy using the power of knowledge. Must have expertise in specific area and it influences the government directly
- Media campaigns- a form of advertising to sway peoples views

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## ADVOCACY GROUPS

- Professional or semi-professional organizations seeking to influence the political process without running for office or exercising direct control of state
- Example are business groups who lobby on their own behalf for grants, subsidies, tariff changes, loan guarantees, tax write offs, government contract or policy changes.
- Non business groups such as ethno groups such as the Canadian ethno culture council who have people speak to politicians on their concerns
- Other groups such as issue-oriented groups lack staff and funding to meet directly with authorities, so they attempt to draw public attention through media by protest. One example would be the bread not circuses group which intended to oppose to Toronto's bid to host the Olympic games

## PROFESSIONAL LOBBYISTS:

- More than 1000 registered professional lobbyists in Canada
- Focus on decision makers
- Mostly directed at bureaucracy
- Know key people in government
- Keep trust relationship information sharing
- Very close relationship to politicians
- It is problematic because it creates biases
- Lobbyists usually look for interest of advocacy group and not common good
- The most influential lobbies are this with most resources and those with "friends" in governments
- Problem of accountability because it is done behind closed doors

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## **WEEK 6 - POLITICAL PARTICIPATION: ELECTIONS**

What are 'free and fair' elections?

### **WHY VOTE?**

- Legitimize government
- Vote is the core of democracy
  - Most basic citizenship right
  - Elect our representative
  - Choose who will exercise power
  - Choose a set of priorities – election platform
- Vote is a source of legitimacy for government because the party with the most votes form the government and gives them the electoral mandate to use the state power in the name of the people
- Voting is also a key accountability mechanism.
  - A time to assess government - Don't like party? Vote against it

### **THE ELECTORAL PROCESS**

- More than just voting
- A free electoral process is one where fundamental human rights and freedoms are respected
- A fair electoral process is one where the 'playing field' is reasonably level and accessible to all electors, parties, and candidates

### **CANADIAN ELECTIONS: FREE AND FAIR?**

- Freedom of expression, association of assembly
  - Has control over campaign advertisement (limits on interest groups).
- Everyone has the right to vote and run for office
  - Women (1918); Asian Canadians (1947); Aboriginal People (1960); Mentally Disabled (1988); Homeless (2000); Inmates (2002)
- Elections are held at maximum every five years
- Independent Chief Electoral Officers
  - Oversees activities such as spending, electoral campaign, ...
  - Ensures all citizens can vote and watches over (access to ballots and secrecy)
  - Reports on the process and results (transparency)

### **CHALLENGES**

- Do candidates have an equal chance of having their views heard?
  - Money can buy votes

- 
- A candidate who received at least 1 percent of votes is eligible to be reimbursed for 60 percent of their election expenses
  - National parties who receive at least 2% of national vote receive 1.75 per vote
  - National parties eligible to receive 50% rebate on expenses
  - Conservatives spend most, advertise which is very important and receive most back
  - Lobbying groups also help conservatives spent most, got most votes had 16 983 629 in contributions and won. As parties receives less money, they get less votes
  - Rich stay rich poor stay poor
  - Do all votes have the same weight?
    - Distribution of seats should be proportional to population
    - Constituencies differences
    - Seat Distribution: Current Proposal
      - Maintain minimum seats requirements
      - 3 Growing provinces would receive proportional seat allocation
        - Ontario: 18 (124)
        - BC: 7 (43)
        - Alberta: 5 (33)
    - First past the post
      - Electorate divided into geographic ridings or constituencies
      - Candidate with most vote in constituency or riding is elected
      - Winner takes all, no matter proportion of votes
      - 1<sup>st</sup> 40 25 35 2<sup>nd</sup> 33 34 33 3<sup>rd</sup> 37 27 37 4<sup>th</sup> 36 30 34
      - Red orange blue
      - Red 37 % 3 seats orange 29% 1 seat
      - Blue 35% no seats
    - Alternatives
      - Proportional
        - % of voters corresponds with % of seats
          - Pure proportionality (no ridings or constituencies) vote for political party. Top people on political list first ones to be voted in (ex. Israel)
          - May not work in Canada- regional discrepancies are too important
      - Mixed member proportional (% of constituencies or ridings with % of list for half of vote) then still have ridings but for each riding, proportion of votes lost from specific riding are added national list, additional seats are added there after ridings (ex. Germany)
    - Pros and cons

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- In the **First Past the Post system**, it is simple and produces strong majority and a more stable government but there are wasted votes, there is an overrepresentation of the ‘winner’ and small parties get marginalized
  - In the **Proportional system**, every vote counts; all parties are represented and there is more diversity, but it can make for less stable governments to form such as coalition governments (like in Italy), it can also exacerbate regional faultiness such as in Belgium.
- Are people actually voting?
    - Not all Canadians vote
      - 58.8% registered voters in 2007
      - 61.1% in 2011

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## **WEEK 8 - THE CONSTITUTION AND FEDERALISM**

### **CANADA: BRITISH TRADITION**

- A functional compromise amongst elites and not in representation of the people
- Was not foundational with rupture in colonial past
- Essentially is a series of British Laws
- No reference to Canadian citizens, or prime minister, only how state will work
- “Peace, order, and good government”
- Main intention was continuing about British ties and democracy is not central feature
- Formal written rules
  - Magna Carta, royal proclamation, Québec Act
  - Amendments
  - constitution act 1967
  - Judicial decisions interpreting the constitutional documents
- Conventions – practices that emerge over time and become accepted rules
- Unwritten rules but are considered to be politically binding and cannot be enforced by the court
  - Prime – minister is not in the constitution, saying that the leader of the party who received the most seats is the head of the government
  - Some key elements of the democratic system are unwritten
    - Powers of Prime Minister
    - Governor general deference to the prime minister
    - What happens when the government loses a vote of confidence within parliament (has to resign)
- CND Constitution – 1982 repatriation. Main document was in fact an act of the British Parliament, so we had to ask permission to the Queen and Brit Parliament to amend the CND Constitution.
- Also adapted the Charter of Rights and Freedoms – becomes the Constitution of the people.

### **CANADA AND THE US COMPARED**

In the USA – Constitution starts w/we the people. Core of what American democracy is. Presidents swear an oath into the Constitution – Canadians swear an oath to the Queen

### **US**

- A contract creating a People (Lockean conception)
- 1 cote text adapted in 1781 and 27 amendments (Bill of Rights).
- Very straightforward and easy to read. One document.
- Foundational moment, in rupture with past. (Colonial past)

- 
- Constitution comes out of a revolution -4th of July.
  - Powerful democratic symbol:
    - For the *peopleum* (Out of many, one)
    - Our philosophy and exist, pursuit of freedom and happiness.
  - Lockean concept – idea of democracy being a contract btwn the people.

### Canada

- An organic conception (Bentham, British Tradition)
- Constitution is a functional compromise amongst elites.
- Layer of things that we do that creates who we are
- No rupture with colonial past.
- Essentially series of British laws (as amended) until 1982
- What made it the Constitution was that the capacity to change the Constitution originally was in the hands of the Brit Parliament.
- Not contract btwn people – more of ‘how can we make this work’
- “Peace, order and good government”
- Advantage – sets out what the government is about.
  - Democracy is not central feature.
- No reference to citizens or democracy!

### PREAMBLE

- USA: 1787 Constitution Preamble
  - “We the People of the United States, in Order to forma more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America”
  - All for the people – says what they are going to do and try to do.
  - No real move for change. Idealism.
- Canada: Constitution Act, 1867 Preamble
- “Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom, with a Constitution similar in Principle to that of the United Kingdom
- And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire
- the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared
- And whereas it is expedient that Provision be

- 
- And whereas on the Establishment of t made for the eventual Admission into the Union of other Parts of British North America.
  - No mention of Democracy.
  - More of a functional agreement.
  - We leave room for change and improvement.
  - We strive for something better, improve.

### CONSTITUTIONAL DEBATES

- Need to update the constitution from its past laws and amendments to be acceptable in present times
  - Some examples include changing the role of the state to be acceptable the growth of the welfare state
  - Also the amending formula to establish Canada as an independent country
  - Human rights revolution which is solved with the charter
  - Settle disputes with Quebec
  - Constitution act ratified in 1982 by all provinces except Quebec
- Constitution act of 1867
  - A political compromise amongst elites
    - Purpose was to establish as a nation but to maintain close ties with Britain
    - Also to establish a military and commercial reasons
  - Established a federal union
    - Responsibility of provinces and federal government
    - Established an executive, parliament and legislative power

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## **WEEK 8 - THE INSTITUTIONS OF CANADIAN DEMOCRACY: FEDERALISM**

### The Canadian Federation

- Where does it come from?
- How does it work?
- Comparing federations
- What does federalism mean for Canadian democracy?

### **WHAT IS FEDERALISM?**

#### Many definitions

- A covenant of different political units
- A system of self-rule & shared rule
- Independence (autonomy) & interdependence (cooperation) between co-equals
- An effective division of powers between different orders of governments with their own identity but whose partnership creates a new identity

#### Federal vs. Unitary Systems

### KEY COMPONENTS

A division of state power: at least 2 different orders of government

- The federal & provincial government with their own elected representatives
- Principle of non-subordination
- A division of state power
- A division of powers written in the constitution
- The judiciary as arbitrator to settle disputes between the different orders of government

### THE PROS OF FEDERALISM

- A safe guard for democracy
  - A way to avoid tyranny by locating power in more than one place
  - Ensuring power close to people (Tocqueville)
- Managing territorial diversity
  - Regionalism & nationalism

### THE CONS OF FEDERALISM

- Effectiveness - Difficult to coordinate
- Accountability - Who is responsible for what?

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- Transparency - Decisions are often taken in intergovernmental forums
  - An “entrenched federal society” - Does federalism attenuate or exacerbate difference?

### The Canadian Federation

Canada at Confederation:

Competing views for a new country

### Why federalism in Canada?

- John A. Macdonald: federalism as *an institutional arrangement* (a single nation divided in subunits for efficiency)
- Georges-Etienne Cartier: federalism as a fundamental principle, *a defining value of the polity* (two founding nations, French & English)

### The Canadian Federation

Some key components: Fiscal Federalism

- Taxation agreements
- Equalization agreements
  - The debate between have & have-not provinces
  - Fair or unfair? Link to citizens’ equality in a democracy?
  - It creates tension
- Intergovernmental relations
  - Federal-provincial but also among provinces & territories

Division of powers

A never ending tug of war

- According to the Constitution:
  - Provincial: 16 areas of jurisdiction
  - Federal: 29 areas of jurisdiction AND
  - Residual powers
    - Reservation & disallowance
    - Declaratory power
    - However some of these have become obsolete
- Judicial control over constitution
- Policy areas don’t always match divisions of powers
  - Environment, communications, health care
  - Need for coordinate (ex.: SUFA)

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### Coordination within the federation

- Intergovernmental relations
  - First Ministers' Meetings
  - Ministers' Conferences (ex: CMEC)
  - Council of the Federation
  - Pan-Canadian agreements
  - **Are they democratic?**

### Orders & levels of government

2 co-equal orders of government in Constitution

Territories are not equal as the provinces in the constitution, don't have equal power because population is so low & dispersed that they don't have enough people to sustain health system, education system, etc.

### FEDERALISM ELSEWHERE IN THE WORLD

- 40% (+- 25 countries) of the world population lives in a federation
- Variation among countries
- Division of powers
  - Central state may have more or less power
- Number of Federal units
  - Belgium: 2    Russia: 89
- Territorial or ethnic boundaries

### CONCLUSION

- Federalism is central to Canadian politics
  - Formal & informal institutions are all affected by our federal system
- Federalism & democracy: the good, the bad & the ugly
  - Government closer to people: & more adjustable to local needs
  - Healthy division of power
  - Allows for expression of regionalism
  - *but*
    - reinforcement of differences,
    - ongoing conflicts
    - transparency issues

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## THE CHARTER, THE COURTS AND DEMOCRACY

### IMPACT OF THE CHARTER OF RIGHTS AND FREEDOMS ON DEMOCRACY?

Why is the protection of Rights & Freedoms relevant for democracy?

- Democracy is fragile → G20 Toronto
- Respect for basic freedom → freedom of expression, freedom of assembly, protest, etc
- Guaranty regarding equality
- Protection for minority

Who is to guarantee basic rights are respected?

Who is to decide what is 'just' in a democracy?

- Assisted suicide, abortion, gay marriage
- Should it be the people (majority)?
- Or do we need an independent body to decide?

We need an arbitrator that will not be guided by an ideology, or by the next elections, that is why the courts decide.

### THE JUDICIARY (COURTS)

Guardian of constitution (rule of law)

- Interpret constitution & laws adopted by parliament
- Adjudication: "render formal, impartial & authoritative judgments in case of conflicts" (Dyck)

Judicial review: power of the courts to declare a legislation invalid if inconsistent with the Constitution. Invalid a legislation passed by parliament if it goes against the Constitution.

The Supreme Court: a powerful institution

- Ultimate appeal court in Canada
- Decisions
- Composition of the court: 9 judges, 3 from Quebec → because Quebec has a different legal system, trained in civil law
- Regional balance, gender, training

### JUDICIAL INDEPENDENCE

A key dimension of democracy—why?

- Judges must adjudicate without fear or favor with respect to private or public interests & especially without incentive to give preference to the government of this day (Dyck)

- How?
  - Security of tenure (judges retire at 75)
  - Financial independence
    - Salary established by independent commission so they are not bribed, payed by others
    - Supreme Court: \$323,000
  - Appointment of Supreme Court judges
    - By “governor in council” (PM)
    - Follows recommendation of judicial advisory committee
    - Parliamentary hearings for Supreme Court nominees

### CHARTER OF RIGHTS & FREEDOMS

- History (Dyck Ch.19)
- A “guide” for conducting politics, defining policies
- Based on liberal democratic values; “Canadian values”?
- Applies to laws, regulations, & actions of federal & provincial government
- But not to private relations between citizens

### CONTENTS

- **Section 2** - *Everyone has the following fundamental freedoms:*
  - *a) freedom of conscience and religion;*
  - *b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;*
  - *c) freedom of peaceful assembly; and*
  - *d) freedom of association.*
  - Examples: Religion: Kirpan issue → **Supreme Court is shaping politics**
- Section 3-5 – Democratic Rights
  - Everyone has the right to vote in elections, this even means prisoners..
- Sections 7-14 – Legal Rights
  - Abortion, health care, limits on arbitrary detention and fair and free trial.
  - Right to life was used in abortion debate – to say fetus has a right to life but it was struck down. Fetus does not have charter rights.
  - Touches really deep values.
- Section 15 – Equality rights.
  - Interesting – it is a list for possible list of grounds for discrimination.
  - It is pretty clear as to what grounds are discrimination grounds. The word “in particular” – means that there may be other grounds of discrimination that are similar but that are not mentioned but are still part of fundamental values.
  - Good example of this – gay rights and same sex marriage.

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## LIMITS

- Section 1 reasonable limits clause
- *The Canadian Charter guarantees the rights and freedoms set out in it subject only to such **reasonable limits** prescribed by law as can be demonstrably justified in a free and democratic society.*
  - Rights are not absolute in a democracy
  - Rights are guaranteed but only in limits
  - Cigarette companies had freedom of expression violated but its advertising to minors is unreasonable
  - Ex: *Sharpe* (2001): child pornography- freedom of expression
- **Section 33(1) - Notwithstanding Clause** - *Parliament or the legislature of a province may declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.*
  - Allows government to go against the majority
  - Must be explicit and limited to 5 years
  - Controversial: political costs
  - Bill 101 with Quebec
- **Implications:**
  - Can be seen as good or bad depending how you look at it.
  - A lot of political debates end up in courts. Especially since the Charter.
  - Greater Role of courts in political debates in Canada
  - Charter has become a political tool for interest groups
  - Enhance Democracy: necessary tool to protect minorities and make independent judgement on moral issues.
  - Limit Democracy: “activist court” taking over Parliament
    - Fundamental societal choices in hands of unelected judges
    - The “Court Party” has too much influence.
  - Increase role of judiciary at the expense of elected politicians, safe injection site
  - Transfers power of people through elected representatives to unelected and appointed judiciary
  - Third, legalized politics enhances individual and corporate rights against the collective welfare of the community, as in the tobacco advertising and health care decisions.
  - Charter has biases towards liberals so that the socially disadvantaged and labour unions were better off without
- Why is the protection of rights and freedoms relevant for democracy?
  - Democracy is fragile
  - Based on equality which is what the rights give,

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- Also protects minorities which is important for Canadian democracy considering regional problems and constituencies
  - Who is to decide what is just in democracy?
    - Should it be people (majority)
    - An independent body, the judiciary or the elected representatives of the legislature
    - We need an arbitrator for conflicted subjects, ideology, next election

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## **WEEK 10 – THE PARLIAMENTARY SYSTEM**

### **PARLIAMENTARY SYSTEM**

- A parliamentary system is a system of government in which the ministers of the executive branch are drawn from the legislature and are accountable to that body
  - Power flows from parliament to the executive
  - Can also be known as who does what in our system of government
  - Canadian parliament consists of the Westminster model
    - Parliament (legislature) is the law making section
    - Executive is the governing body responsible for running the state and executing the law
  - However there is no strict separation between the executive and legislative branches
  - The house of commons being the direct link between the people and the government through the elected legislature

### **HOUSE OF COMMONS**

- Consists of 308 members of parliament elected by the population through their constituencies
- Legitimate exercise of the popular sovereignty as they are elected
- Functions
  - Represent their constituencies taking into consideration of their geographical areas
  - Pass laws representing the population
  - To hold the executive accountable under responsible government
  - They are also responsible for forming the government
  - Also involved in political recruitment for their respective parties
  - Question period- debates in criticizing existing spending programs, or by means of private member bills.
  - Their power to legitimate bills and anything that passes through them as they are the elected body

### **THE SENATE**

- 105 appointed senators, by governor general on advice by the prime minister
- Used to represent “aristocracy”
- Like house of commons, meant to represent specific regions of Canada to prevent regional problems
- Can veto work of the house of commons
- Can initiate their own bills that would have to pass through the house of commons

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- Prime minister gives advisory over appointing senators and therefore can bring the senate in his favour
  - Responsible government
    - The executive (PM, Cabinet) Must enjoy the support (The confidence) of a majority of elected members of the legislature
    - Considered to be a constitutional convention at the heart of the Canadian democratic system
    - The legitimacy of the executive is reliant on parliament
    - Confidence is established through a vote in the house of commons
      - Not all votes are a matter of confidence but of interpretation
    - If the executive no longer has the confidence of the legislature, it must resign
    - The governor general can the decide to ask another party to form a government or dissolve the legislature and call an election
    - However, party discipline can cause problems
      - In Canadian politics, there are strong party discipline – the willingness of the members of a party to vote along the lines of their part
      - If there is a majority government within the house of commons, there will always be confidence in the executive.
    - Consequences
      - Mp's have minimal leeway in which way they prefer to vote
      - Results of votes and therefore of legislative process are predictable, but not assured
      - As a result, under majority government, it is in fact the executive that controls the legislature
      - Prime minister controls what happens
      - Also has mp's place constituent priorities unimportant compared to party lines

### REFORMS

- Remedies have been designed to target excessive partisanship, cabinet domination, and the lack of influence of the private member
- 1960's, the provision for time tabling the business hours of the house, and funding parliamentary parties for research purposes
  - Led to considerable improvement in m[‘s services, especially in their own constituency offices and staf
- Question period began to become televised
  - Led to improvements of how process was ran, but now is viewed as making it silly.

- 1991, Mulroney government introduced further changes. They were aimed at accomplishing as much parliamentary work in less time, giving mp's more time in their constituencies, and making committee system more effective.

Executive – The governor general advised by the prime minister and the cabinet advised by the bureaucracy (The Prime minister and the cabinet sit in the house of commons and are responsible to it)

### **EXECUTIVE POWER IN PRACTICE**

**Three main sources of crown powers:** Constitution act of 1867, the letters of patent and the royal prerogative

Canada is known as a constitutional monarchy which means that it's a democracy headed by a queen or king

- The governor general is the queen's representative and has the powers of the queen to enact on Canada. The governor general plays both a ceremonial role and an advisory role
  - Governor council act = cabinet operating in the name of the crown.
  - For Canada the governor general is unelected and appointed. It is questionable to have someone with the power of the governor general to be unelected and unaccountable as there has been one point in the past where the governor general has denied the request of the prime minister to dissolve parliament. However by convention, the governor general usually listen to the prime minister
  - Until 1926, the governor general was responsible for maintain British rule and as long as Canada was a British cabinet, the governor general exercised authority on behalf of the British government

### **PRIME MINISTERIAL POWERS**

Is the prime minster too powerful? 10 principal powers

1. The Prime minister is the cabinet makes and selection of ministers. The prime minister selects the ministers, advisors to the prime minister and they are representative of all regional issues. The cabinet exercises the power given to the queen and governor general unless either of them intervenes. Thus the prime minister has power to dissolve, summon and proroguing government. One example was when liberals and another party were to make a coalition government to defeat Stephen Harper; however Harper dissolved parliament to disallow this. The ministers of the cabinet owe allegiance to the prime minister as that person has the authority to promote or demote them allowing the prime minister to see through his way in all subjects the cabinet covers
2. The prime minister is the chair of the cabinet meetings, and his responsibility is to determine agenda, priorities or a call for consensus. A former cabinet secretary wrote, for

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example, that for any reason the prime minister deems sufficient, the order of business may be altered, and an agenda already settled may be set aside in favor of other subjects of greater importance and urgency. Rather than by voting, decisions are reached when the prime minister summarizes the discussion and calls it a consensus. Ministers who disagree are forced to resign or kept quiet.

3. The prime minister is also the party leader who influences the party and controls its decisions, organization and strategy. Election campaigns focus more on leaders so parties are more cohesive and party discipline is rigid. Also the Prime minister is chosen by the party so can find a lot of support. The power is further enhanced by his or her authority to approve members of parliament candidate nominations, leaving them submissive to them.
4. The prime minister is also the chief policy maker. The prime minister has the first word on government policy, such as deciding how seriously to take the party's election platform and in issuing mandate letters to new ministers, as well as they also have the final say. Prime ministers can pursue a number of personal priorities, as well as play a critical role in defining other problems, without say of the cabinet. For example, Trudeau announced a major restraint program on finances without addressing his minister of finance. Stephen Harper included a motion to recognize Quebec as a nation.
5. The prime minister is also the leading player in the House of Commons. The prime minister delegates the direction of business; however they are still expected to be there every day for their oral question period, in which they answer to the opposition to explain their actions. Also due to party discipline, the prime minister usually has his motions voted in. Also the prime minister must endure a confidence vote whether the executive has parliament's confidence, however under majority governments and Canadian party discipline, it is out of the legislature's control to vote against the executive.
6. The prime minister is also the chief personnel manager where he has the power of appointment. Besides ministers, this includes appointing of senators, supreme court judges, deputy ministers, heads of wide range of government agencies, certain diplomats, lieutenant governors, and judges. The appointment can serve to keep those hopeful for appointment docile and supportive, as well as to impose the pm's ideological position on much of the government.
7. The prime minister is also the controller of government organizations. Subject to parliamentary approval, the prime minister can decide to start new departments and set out their mandates. It is also common to abolish departments of predecessors.
8. The prime minister is also an advisor to the governor general such as when to call the next election. This is how they can see their way through ministers, government backbenchers, or parliamentary oppositions because these members do not want to risk their seats.
9. The prime minister is also the chief diplomat and Canada representative internationally.
10. The Prime minister is also the public persuader. The prime minister can appeal directly to the people to help them see to the issue his way. Television has become a way to reach

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out to the public and politicians, and survival in the battlegrounds of media relations threatens to become the key determinant of prime ministerial success.

### **EXECUTIVE SUPPORT: THE CENTRAL AGENCIES**

- PMO (Prime Minister Office)—partisan (officially not considered a central agency)
- PCO (Privy Council Office)—non-partisan (center office of democracy)
- Clerk of Privy Council and Secretariat of Cabinet are the most powerful servant deputy ministers to PM
- TBS (Treasury Board Secretariat)—micro financial management
- Different from Treasury Board Cabinet (president: Tony Clement)
- TBS is overarching agency that works with TB
- Department of finance—macroeconomic policy
- Majority vs. Minority Government
- Does PM's power change in minority or majority government?
- Majority= virtual guarantee that government policies should pass without great difficulty
- PM becomes a friendly dictator
- Minority= power to make orders-in-council, but must exercise compromise to secure votes in HoC

### **WHY DOES CONCENTRATION OF POWERS EXIST?**

- Convention
- Shift in style of Cabinet: departmental to institutionalized to PM centered
- Complexity of government & issue management
- Media

Pre 1960: Departmentalized Cabinet: Individual Ministers responsible for their ministry, could make unilateral decisions, strong regional representation (Ernest Lapointe appointed by Mackenzie King)

Post 1960: Institutionalized Cabinet: rational decision making, ministers wanted more control in bureaucracy, issue becoming more complex, Pierre E. Trudeau

Today: Prime ministerial Cabinet: affects the way cabinet works

### **PM VS. US PRESIDENT WHO'S GOT MORE POWER?**

#### CANADIAN PM

- Government can declare war
- Controls legislation & behavior of caucus in HoC
- Only government can introduce bills

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- PM can make appointments
  - PM can make unilateral decisions on international acts
  - PM can request HoC dissolution

### US PRESIDENT

- President can declare war but Congress controls the purse
- Can veto legislation, which can be overturned by 2/3 majority of Congress
- Bills can come from Congress or President
- President's appointments must be ratified by Congress
- President must have treaties ratified by Senate
- President can remain in deadlock for years with Congress

### CONSEQUENCES FOR DEMOCRACY

#### **Pros**

- Concentration of power makes the government more accountable
  - Can only blame prime minister
  - In U.S there is a lot of confusion of who to blame
- Allows for efficiency
  - Policies get passed much quicker
  - Prime minister dictates, little arguing

#### **Cons**

- Has a lot of power, if governor general does not step in, who can? If governor general steps in, it may cause public disapproval due to lack of democracy.
- Prime minister can do things against electorate despite popular vote.

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## **WEEK 11 – DIVERSITY AND DEMOCRACY**

### **FACING OUR COLONIAL LEGACY**

#### **The crisis in Attawapiskat, Northern Ontario**

- Many years in neglect= situation in crisis
- Just one example, many hidden, many not reported
- Population: 1,800
- Houses: 300; Tents: 5; Sheds: 17
- People living in trailers: 90
- Total federal transfer to the community: \$13M in 2010
- Federal housing allocation for 2010: \$581,407
- Cost of building a new house: \$250,000
- Amount needed to meet housing needs: \$84 million

In 2010 → two houses

Even if they give money but if there's no jobs in community then = nothing, no improvement

### **ABORIGINAL PEOPLES & CANADIAN DEMOCRACY**

In order to move on we have to acknowledge that it still has an impact, we can't deny it

#### **WHAT IS COLONIALISM?**

- Process of exploitation, domination & subjection of a people by another people (Edward Said)
- Control over land & people

In Canada:

- Exclusion from political process
  - No aboriginal representatives in 1867
- Control over land
  - Crown assumes sovereignty
  - Reserves → become dependent on subsidies by government
- Control over people
  - Indian Act governance regime
  - Residential schools

Until 1961: Aboriginals were not considered citizens because they were not considered civilized, they were considered inferior being.

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## WHO ARE ABORIGINAL PEOPLE?

- Indigenous peoples, “Indians”, “eskimos” (means raw meat eater), etc.
- Original inhabitant of north America—PREVIOUSLY SELF-GOVERNING
  - First Nations (North American Indians)
  - Inuit
  - Métis
- 3.8% of population (1.3 million)
- Diverse population
  - 40-60 culturally & politically distinct nations  
-Example: Mohawks, Anishnawbe/Algonquin, Cree
  - 50% in urban areas

### INDIAN ACT (1876)

Objectives: protection, civilization, assimilation

” “Our Indian legislation rests on the principle, that the aborigines are to be kept in a condition of tutelage **and treated as wards or children of the State (...)** to prepare him for a higher civilization”

### CONSEQUENCES

#### CULTURAL

- Loss of language (residential schools), history, traditions, sense of pride
- Prejudice (built on lack of understanding), racism, alienation

#### SOCIAL & ECONOMIC

- Poverty, violence, drug abuse
- Dependency on government
- High costs, underfunding
- Education, health, housing crises
- Third World living conditions

UN Human Rights committee (2005): “Aboriginal conditions is biggest human rights challenge for Canada”

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## POLITICAL CONSEQUENCES

- ‘Second class citizens’
- Illegitimacy of democratic institutions
  - excluded from politics
  - improvement with women not with them
  - Many boycott elections (election officers don’t bother to go anymore because if they vote they’re going to legitimate country), reject federal/provincial laws
- Land conflicts
  - Example; Oka (1990), Ipperwash, Caledonia

## **DECOLONIZATION?**

How can we move beyond the colonial legacy?

- Citizens based individual equality
  - Remove Indian Act, treat everyone the same (remove all the treaties & protection but, remove recognition of land, remove history to forget it all)
  - Focus on economic development (let them go to school, pay taxes, have jobs)
  - A form of assimilation?

Some people don’t want things to change → complex pros & cons

- Recognition of Aboriginal pressure
  - Aboriginal peoples have unique rights (rights that other Canadians don’t have because of history because of colonization)
  - Promote culture distinctiveness
  - Self-government

## **WHAT HAS CANADA DONE?**

1. Apologies for past abuses (Harper 2008)
2. Recognition of Aboriginal rights
  - a. Section 35 Constitution Act 1982
  - b. Aboriginal & Treaties rights are “recognized & affirmed”
  - c. Right to pursue traditional activities (hunting, fishing, trapping)
3. Setting land disputes
  - a. Old treaties should be honored
  - b. Negotiation of new treaties (Land claim settlements)
4. Self-government
  - a. To recognize Aboriginal peoples as autonomous political communities

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- b. Government authority to make their own laws
  - c. Jurisdiction on people & territories
  - d. State power, share lands

#### **VARIOUS MODELS OF SELF-GOVERNMENT**

- Decentralization → give money but they will have their own school boards, curriculum, etc.
- Negotiation of agreement within Canadian Constitution
- Recognition of Aboriginal sovereignty treaty federalism (example: Nunavut)

#### NISGA'A SELF-GOVERNMENT

- Exclusively for Nisga'a people
- An elected legislature, an executive
- Jurisdiction over local matters, culture land, citizenship, education, etc.

#### MANY CHALLENGES (FLANAGAN VS. LADNER)

- 80% of First Nations are still under the Indian Act
- Many communities are too small
- In urban settings?
- Fiscal dependency, costs

Should Canada recognize the pre-existing and continuing sovereignty of Aboriginal peoples on the land? (Ladner)

Is this enough to address social, economic challenges?