

**Canada's Faux Democracy: What are we going to do about it?**

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## **Preface**

### **Canada's Faux Democracy: What are we going to do about it?**

I first published *Reform or Revolt: How Canadians Can Take Back Our Democracy*, as we were headed into the 2019 federal election. My concern was to identify why, election after election, Canadians who could bring themselves to vote, trudged off to the polls feeling decidedly unenthusiastic about their choices. It was as if we were being shunted to the sidelines of a rigged political game. Election after election, we settle for mediocre leadership cadres focused on short-term power plays that serve their re-election.

Two years later, nothing has changed.

My conclusion then and now is that Canadians are trapped in an autocratic political system—a faux democracy—that increasingly undermines our democratic values of justice, fairness, and equality of opportunity for all. We are trapped in a political system that values loyalty and sycophancy to political party leaders, over a genuine commitment to the people of Canada and strengthening of our shared citizenship and responsibilities for one another.

We have democracy in name only. Yes, everyone has the right to vote, and yes, we do not face the open challenge to voting rights and the toxic legacy of Donald Trump that is playing out in the US. But, in Canada, the exercise of political power is controlled by a tight clique surrounding the political party leaders. Democratic institutions and practices are increasingly hijacked by political parties. The federal government is controlled by a Prime Minister's Office that orchestrates the business of legislating and making judicial and administrative appointments with a view to maintaining and enhancing its partisan power, with minimal accountability. Even serious ethical breaches attract few consequences.

If this autocratic control and lack of accountability continues apace, as it has even through two years of a minority government at the federal level, our democracy is at serious risk. And the democratic decay at the top is compounded by an anachronistic electoral system that produces governments that do not reflect the popular vote, and a Parliament in which MPs are unable to function freely in holding government to account.

### **The Rise of Canada's Faux Democracy**

The rise of Canada's faux democracy represents a dangerous inflection point in our history. We can either start reigning in the faux democrats now, or face more and more unresponsive government, and more and more people turning away from democratic values and practices. Costly court challenges will not be enough. We require direct, coordinated citizen action to bring

about concrete, structural changes to the wide range of representative institutions and practices that have been hijacked by faux democrats.

What are the dangers we face?

First, faux democratic governments act in ways that disrespect the constitution and undermine the foundations of our democracy in order to serve political expedience and enlarge executive powers at the expense of our rights and freedoms. In Canada, these include the use of the Charter's notwithstanding clause and ongoing attempts to amend the constitution without citizen involvement and support. These attempts have required serious citizen mobilizations to prevent them in the past, not always successfully.

Faux democrats consolidate power through perfecting the art of identity politics. Dividing citizens into manageable identity-based groups with separate needs and demands allows faux democrats to target limited initiatives to citizens, appealing to narrow identity-related concerns in order to lock in their support at election time. But this undermines the fundamentals of liberal democracy that depend on recognizing the dignity of all individuals and the legal, civil and moral equality of all people, regardless of identity. Such universal recognition is the precondition to developing the crucial social and economic policies that improve opportunities and bring us all together. And this is what will ultimately enable us to marginalize bigotry and lies, allow reason and compassion to prevail; and achieve real progress in which we correct the mistakes of the past, not just apologize for them.

Second, faux democratic governments avoid undertaking long-term initiatives to address the major challenges we face as Canadians. Such challenges are too often considered high risk politically. And, because they may take more than a four-year term to resolve, deliver no neatly packaged success stories to present at election time. Majority governments – common under our antiquated first-past-the-post electoral system – allow faux democrats to govern using a short-term electoral calculus, in which winning the next election trumps the broader collective interests of Canadians.

As a result, we were tragically unprepared for the pandemic despite clear warnings after SARS in the early 2000s, and are now losing the race to contain accelerating climate change and extreme weather events. Then there is our appalling failure, spanning decades, to take sustained and meaningful action on reconciliation with Indigenous peoples. In the most recent Parliament, serial government ethical transgressions continue unchecked by conveniently inadequate conflict of interest and ethical rules. Sexual misconduct and misogyny appear to be tolerated in the Canadian Armed Forces (CAF) even after a blistering report over five years ago. And the much re-cycled, unfulfilled promises for childcare, pharmacare, and so many other beneficial

initiatives will soon languish once again in the wake of yet another faux democratic election campaign.

Third, faux democratic governments can gradually and insidiously undermine the rule of law. As citizens become more and more disillusioned with the lack of responsiveness of our governments, disadvantaged groups and individuals feel justified in turning to direct action that disrespects law and regulation. This is compounded by the dysfunction in our federation that has no incentives for constructive collaboration and harmonization across jurisdictions, and instead, encourages governments at all levels to pursue short-term partisan goals and simply resort to blaming other levels for the inevitable policy failures.

### **Part I: Reigning in faux democrats, and restoring the foundations of constitutional democracy**

Despite the patriation of our constitution and the introduction of a Charter of Rights and Freedoms in 1982, faux democratic leaders continue to challenge the foundational constitutional principle that democratic power, derived from the people, resides with the people. They sometimes succeed. This is because there are fundamental flaws in our constitutional architecture that facilitate the undermining of the constitution and our rights and freedoms.

These flaws date back to 1982. The absence of a referendum mechanism in the constitutional amending formula and the lack of a meaningful constitutional preamble describing modern-day Canada were compounded by the insertion of a notwithstanding clause in the Charter of Rights and Freedoms. The result has been a constitution which fails to make clear that the Canadian people—not governments—are the foundation of our constitutional democracy.

The flaws are the result of the painful process of accommodating the demands of self-interested premiers in 1982, who unlike the people of Canada, had to be dragged kicking and screaming into a world of guaranteed rights and freedoms. In particular, achieving a Charter of Rights and Freedoms was considered worth the sacrifice of including the notwithstanding clause. But this is no longer the case today, with almost 40 years of experience with the Charter under our belt, and now facing a worsening democratic crisis.

In Chapter 2, I discuss in detail the lessons from the massive citizen mobilization that eventually brought down the Meech and Charlottetown Accords, culminating in the Charlottetown referendum vote in October 1992. Meech and Charlottetown illustrate well the ease with which political leaders tried to use the constitution as an instrument to assist in achieving partisan goals.

A straight line can now be drawn from Brian Mulroney and his fellow federal and provincial leaders in 1987 attempting to appease a Quebec government with the controversial constitutional

amendments in the Meech and Charlottetown Accords, through to the current Prime Minister and his fellow federal political leaders in 2021 attempting to appease another Quebec government with equally controversial constitutional amendments in Bill 96.

These constitutional initiatives are all executive-driven with little or no input from citizens. They are designed primarily to troll for votes in Quebec, not for the greater good of Canada and the Canadian people. And these constitutional initiatives all undermine our Charter rights and freedoms and destabilize an already dysfunctional and highly decentralized federation.

In addition, the shamefully uncritical acceptance of the unilateral Quebec amendment to recognize both Quebecers and Quebec as a nation (Bill 96) is matched only by the equally shameful failure of our leaders to condemn in 2019 Quebec's Bill 21 restricting religious freedom, as well as the reprehensible pre-emptive use of the notwithstanding clause.

So, what can be done to ensure our constitution can endure as a vibrant instrument of the people, by the people, for the people, rather than be weakened by faux democratic politicians intent on expanding their partisan powers?

Proposals are put forward in Chapters 3 for empowering citizens between elections such as through citizen ballot initiatives and consultative referenda.

Chapter 4 describes how social media has changed the rules of political engagement and can, with some guidelines, play a positive role in facilitating citizen involvement and holding governments accountable to the people.

Chapter 5 includes proposals for constitutional reforms to strengthen protections against the arbitrary exercise of power that undermines the rights and freedoms guaranteed equally to all Canadians.

## **Part II: Reforms to representative institutions and practices**

To ensure accountable and responsive government acting in the long-term interest of all Canadians requires methodically implementing a wide range of reforms to strengthen our representative institutions and practices and put an end to debilitating faux democratic forces.

Chapter 6 explains how insular, unrepresentative, and unaccountable political parties are the major culprits in entrenching faux democracy, and in turning politics into an elite sport for the select few. At the very least, reforms are necessary to require more oversight by Elections Canada and the Privacy Commissioner.

Political parties were intended as an institution to make it easier for people to engage in political life, to organize around certain principles, and to make meaningful choices about who should be elected to represent us. However, over time, political parties were taken over by rival cliques, who controlled membership and developed what we now know as the “game of politics.” Ordinary citizens who had little time for this game were increasingly sidelined and persuaded that as long as they exercised their right to vote at election time, the rest could be left to the expert political operatives.

Sadly, the Canadian people have no real influence over the candidates we are presented with at election time. The leaders of the political parties, themselves selected by an unrepresentative segment of the population who have signed up as supporters of a party or leadership candidate, control the nomination of candidates at the riding level. This ensures that the only persons who can be elected are those who support the leader and will submit willingly to party discipline imposed by the leader. It means implementing policies and programs that are designed primarily to ensure the re-election of the leader and the leader’s supporters.

Chapter 7 discusses overdue electoral reform and an end to our antiquated first-past-the-post (FPTP) electoral system which regularly permits the election of majority governments with less than 40 per cent of the vote and the election of a Parliament that does not reflect the popular vote. Most Canadians feel that their preferred party or candidate did not get elected and that they, therefore, have no real influence in parliament.

Chapter 8 details many reforms to parliamentary institutions and practices which are essential to holding governments accountable to both Parliament and the people and to greater oversight between elections—such as eliminating omnibus bills and implementing whistleblower legislation, greater access to information, ethics guidelines, and lobbying regulations. Successive governments have failed to implement any restraints to their autocratic powers. The time is now overdue for elected representatives to work across party lines and build new governing coalitions outside the parties to stop the democratic decay.

Despite being reduced to minority government status in the 2019 election, the pandemic allowed the Liberals to govern as if they had a majority and to continue to treat Parliament with disrespect. Huge omnibus bills that prevent adequate scrutiny and accountability have become commonplace. For example, Bill C-30, the 2021 Budget Implementation Bill, was over 700 pages in length. In August 2020, the government simply prorogued Parliament to avoid accountability for the WE Charity scandal. In June 2021, in an unprecedented attack on the authority of Parliament, the Liberal government went to court to challenge the right of the House of Commons to demand documents from the government.

There has been a particularly disturbing lack of transparency and useful information about the government's pandemic response. For example, why did the federal government fail to fulfill its longstanding responsibility to maintain adequate supplies of personal protective equipment (PPE)? The absence of mechanisms for ensuring accountability and transparency on the part of the federal government must be corrected urgently.

Now the government is preparing to trigger an unnecessary election simply because it would like to resume its autocratic governance, unfettered by even the minimal inconveniences caused by the minority government.

Despite the fact that in accordance with the Canada Elections Act a federal election should next be held on October 16, 2023, the government claims that it cannot get its legislation passed and needs a new mandate now. Yet in fact, the government has been able to pass all the legislation that it deemed necessary. So, the push for an early election is simply code for saying "we want a majority government."

The government and opposition parties will rely on the short attention span of the electorate. On election day, they hope we will remember only carefully-crafted micro messaging about narrow issues carefully curated by politicians. This will persuade us to vote for representatives of particular political parties. The focus will be on personalities and stunts, vague statements, and word salads, and of course fear. The name of the game is to polarize opinion around wedge issues wherever possible, so that the voter is convinced that one political party or another will do something terrible that must be avoided at all costs.

The danger of deliberately polarizing debate around a manufactured fear of the opposition is that it deflects our attention from a campaign devoid of any substantive policies and proposals to address the inequities and hardships faced by so many disadvantaged and alienated citizens. So, the next government is elected without any mandate for which they can be held accountable. And the many disadvantaged and alienated citizens then give up on government and are open to listening to, and following, the angry voices of extremist elements whether on the left or right.

Chapter 9 addresses the specific subject of raising adequate revenues and undertaking comprehensive tax reform. This topic merits its own chapter since, without proper financing, we can never deliver effectively on crucial initiatives to address the needs of so many disadvantaged and alienated Canadians, and guarantee access to justice, equal opportunities and the essentials of our shared citizenship. For example, if we are serious about finally moving beyond empty rhetoric, why not dedicate an immediate 1 or 2 percent of GST to Indigenous peoples to solve clearly defined issues?

### **Part III: Fixing federal dysfunction**

The inadequate capacities of our federal and provincial governments for long-term public policy planning and constructive collaboration across jurisdictional and other boundaries has sadly persisted for decades. The pandemic response by governments revealed this clearly. Why, for example, were we so slow to change the guidance on masking and travel bans? Why did we so easily forget the lessons of the 2002 to 2004 SARS epidemic and abandon the pandemic early-warning system? Why were we unable to maintain adequate vaccine manufacturing in Canada?

Should we now revisit the Emergencies Act and the possibility of a coalition government handling the next emergency more effectively? Is there not a compelling national interest to have common pandemic and emergency rules across the country? How do we better coordinate the crucial production and distribution of vaccines? Should we have clear national rules regarding the requirements of Canadians to be vaccinated, whether for travel, school, or other reasons?

More generally, Covid-19 has disproportionately impacted disadvantaged Canadians relating to both health and income. These are the millions of Canadians unable to work, or study, from home, and who are least able to withstand a sudden loss of income that would affect paying rent and other essential aspects of daily life. These are our fellow citizens who suffer most from the lack of high-quality childcare and health care, sick pay, public infrastructure, and access to quality education.

The inability to demand substantive debate and to hold our leaders accountable across jurisdictions in our federation is one of the most serious threats to the survival of a vibrant democracy and our basic democratic values today.

Action to repair our dysfunctional federal system and ensure effective and efficient collaboration across all levels of government is crucial if we are serious about national initiatives that could benefit all Canadians.

Chapter 10 discusses how to modernize our federation and reform intergovernmental institutions and practices to achieve better results for all Canadians and strengthen the foundations of our democracy and representative institutions and practices.

One suggestion to update our federal structure, among other things, is to establish a Council of Canadian Governments. An institution like this, providing a tradition of coordination across provincial, municipal, Indigenous and federal governments, would have been helpful in this pandemic. Australia had a Council of Australian Governments for almost 30 years, from 1992 to 2020. This may explain, in part, why Australia was better prepared than Canada to coordinate

action across state governments and get a grip on the spread of Covid-19 during the early weeks of the SARS-CoV-2 pandemic.

Chapter 11 considers five critical policy areas that need serious and sustained intergovernmental harmonization, and that would greatly benefit all Canadians. These are: climate change mitigation; improved income security; eliminating interprovincial barriers to trade, employment and carrying on business; coordinated training and support for workers; and improved access to healthcare.

## **Conclusion**

Despite the continuous and tiresome refrain that politics is a game and that we cannot expect significant change, I refuse to give up hope for something better. In this book, I describe the personal experiences that have informed my political views and my proposals for change. Even though I have left active politics, I am deeply concerned about the serious democratic decay in our representative institutions and practices and hope my accounts and observations may contribute to informed debate about the way forward to a true democracy.

I conclude with the hope that citizens will be persuaded that restoring and strengthening our democracy is a goal worth fighting for, issue by issue, for as long as it takes. Citizen engagement can play out in many different forums and many different ways, during and between elections. What must unify us is our shared determination to work outside political parties, in non-partisan action groups focused on our serious collective challenges, to take control of the political agenda, bring about the crucial reforms to our representative institutions and practices, and demand much more from our elected representatives.

Enjoy the read. Don't be a bystander on the sidelines of history. Speak up and take action to do something to overcome Canada's faux democracy and to build a more truly democratic nation.

Deborah Coyne  
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## **Introduction**

### **The Rise of Faux Democracy**

“None of the above.” This is the all-too-common response of Canadians when asked who they support in politics today. “Uninspiring”, “ineffective”, “out-of-touch”, and “self-absorbed” are the kind of words we use to describe our representatives. Why are we settling for such mediocrity?

This book stems from an unusual opportunity I had to review my past political activities and organize almost 30 years of writings and thoughts. Crucially, ‘political’ in my case implies not only “relating to the government and public affairs of a country” but also “of or relating to citizens.” Although I spent decades immersing myself in the minutiae of government at all levels, our constitution and our laws, my most constructive political experiences involved popular, citizen mobilization outside of the political establishment. I remain fascinated by how we can use representative institutions and practices to improve our collective future, and shape a society where preserving the dignity of our fellow citizens—especially the disenfranchised—preserves the dignity of us all.

What became regrettably evident in my review was Canadian democratic institutions have continuously let citizens down. We have allowed the established political parties to take control of the democratic process away from citizens and run it like an elite sport—a faux democracy. Year after year, the political class in power carefully calibrates (and in the process, trivializes) the conduct of governance to support its re-election, while Canadians express endless frustration over unaccountable, unresponsive government. Election after election, citizens trudge off to vote, less and less enthusiastically (if at all), confined to the sidelines of a rigged political game.

It’s my hope that my book will provide a roadmap to fundamentally reforming our hijacked political structures—to putting engaged citizens back at the centre of our democratic system; and sidelining the political parties that are polarizing politics and constraining our civic space.

Here is something I wrote in 2013, when I was still actively engaged in federal politics in an effort to improve our democracy:

“Like many Canadians, I have lost confidence in the fundamentals of our democratic system, along with the idea of an honest and efficient government. I’m frustrated by endless reports of wasted money and ineffective programs. I resent years of leaders creating short-term opportunities for consumption instead of long-term opportunities for education and employment, leaving us spectacularly unprepared for an age of restraint and environmental devastation. Sadly, especially for many young people, it’s much easier to give up on politics altogether and settle for mediocrity and low expectations.”

I believed we could do politics differently, that we could overcome pervasive spin, manipulation, and obsession with partisan political agendas. Yet today, we find ourselves further than ever from achieving this goal, with a political establishment incapable of enacting the change we so vitally need.

This book is about how citizens must take back control from autocratic, self-absorbed political parties and end our faux democracy. We must build up Canada's democratic institutions to support a sustainable, just and prosperous society capable of surmounting turbulent times ahead.

Citizen discontent with government and the established political parties is rising, although the political elite's evident distrust of citizens is even greater. The establishment spends most of their energy managing and sidelining citizen engagement between elections. Hence, the ruling party's obsession with controlling decision-making and messaging, manipulating one or another voting group, and creating wedge issues to needle the opposition—all with a view to successful re-election.

But the Samara Centre for Democracy's 2019 report called "[Don't Blame The People: The Rise of Elite-led Populism in Canada](#)," perceptively notes that "democracy is all about people and a healthy democracy requires much more than an election every four years. A healthy democracy requires regular engagement from a wide swath of citizens, or it does, indeed, become a plaything of the elite."

Today, too many Canadians—I call us "sidelined citizens"—neither buy into worn-out political rhetoric about middle-class aspirations, nor see any measurable value in tax cuts or tax benefits for children or workers. Nor do we see any government initiatives that significantly assuage our anxiety about our precarious living conditions, and our social economy's ominous future. Instead, we see inequality increasing every day and stagnant or declining economic opportunity, with any rise in incomes still significantly skewed toward the highest earners. With every increase in secure salaries, gold-plated benefits and expense accounts for politicians, and each report of [out-of-control pay for private sector CEOs and directors](#), citizens see more evidence that our democracy is far from a leveling system. As things stand, non-elites have no real say in building a society that assures equal access to opportunities.

If citizen cynicism and frustration reach a tipping point, if inequality continues to accelerate, if prosperity and progress always seem to happen to other people, if enough Canadians continue living precariously close to the edge, under- and unemployed, conditions will soon be ripe for a reaction that could destroy, rather than strengthen, our democracy.

One thing is for certain: we can no longer take the lazy route and expect to find the perfect leader—the “Enlightened One”—who will somehow make everything right. The Liberal government, like Harper’s before it, has become too comfortable with power and privilege. Loyalty to the leader is valued above all else; when loyalty is challenged, as in the 2018–19 Jody Wilson-Raybould case, the individual who resists is punished. Politics is viewed as a leader-centred sport, secretive and controlled, focused on the next election instead of Canada’s long-term interests. Long-time political pundit Susan Delacourt describes the Trudeau government as the most cliquish she has experienced.

Small wonder there’s a general sense of disappointment and cynicism towards the Liberal government. They come off as good at rhetoric and grand gestures, endlessly repeating their commitment to helping the (aspiring) middle class; but insincere—powerless or unwilling to take necessary, innovative, and transformative steps to genuinely help struggling Canadians. And when Liberals resort to vilifying the opposition in an effort to obscure their inaction, citizens are not fooled.

Most Canadians, especially millennials and generation Z, understand the need for government to underpin a strong social economy. In our intensely networked 21<sup>st</sup>-century world, we have an overload of information about the challenges we face, from unemployment and poverty to climate change, financial crises to pandemics, cyber-crime to terrorism. But we are frustrated. We lack governments and politicians capable of undertaking crucial, long-term collective action.

Why?

Two negative forces are at play, each compounding the harmful impact caused by the other.

First, our governance structure is far too top-down. Politicians at all levels are much too focused on the election cycle and short-term re-election plans. Power brokers within closed party hierarchies set policy agendas, while citizens’ political energy at the grass-roots level—even within large-scale movements such as Occupy Wall Street or Idle No More, Me Too, and Black Lives Matter—struggles to be translated into effective political power and change.

Second, our federal system discourages collaboration and harmonization across jurisdictions. Different levels of government often act at cross purposes, and blame the other levels when something goes wrong. Without adequate transparency, citizens can never accurately assess accountability.

So how do we change this?

We need an urgent rebalancing of executive and citizen power, so that political power is no longer concentrated in party leaders, and government can genuinely respond to citizens' concerns and carry out an innovative, ambitious agenda through greater collaboration and compromise. We must reform our democratic institutions and practices, and create new norms based on cooperation, finding common civic goals, and shared respect. As citizens, we have to focus our energy, skills and grass-roots experience on mobilizing outside of political parties, and demand much more of our individual candidates.

We also need to eliminate the dysfunction of our federal system. This means co-ordinating governance so that all levels of government work together—despite varied election cycles—to create national frameworks that support coherent actions and regulations in the many areas that cut across jurisdictions and deeply affect our daily lives.

Our entire system needs overhauling, from our representative institutions to intergovernmental relations. We desperately need to cultivate an environment that encourages consensus among all of our elected representatives, and across all levels of government. We want elections to be about mobilizing Canadians around inspiring, long-term plans of action, rather than familiar, all-too-fleeting personalities.

In this book, I'll discuss the steps required to end Canada's faux democracy and build a new governing coalition outside the established parties. This means taking back citizen control from autocratic, self-absorbed political parties, extensive reforms to representative institutions and practices to ensure more transparent, accountable and responsive government, changes to our electoral system and encouraging more independence among our elected representatives. I suggest that in seeking ways of strengthening our democracy, it is important to examine and understand the stories of those who have failed to gain influence in the current structures, rather than the very few who have succeeded in playing the rigged game well. It is equally vital to learn from past experiences of popular mobilization for change—experiences all too often omitted from our history books.

Canadians must get off the sidelines and take back the initiative to define Canada's future from self-serving political machines. During elections, this means choosing to support the most thoughtful, principled candidates—regardless of any political affiliation. Far better to elect, riding by riding, a Parliament of trustworthy, independent-minded representatives, than to seek the perfect leader in whom all power is vested. To do this, voters—either individually or through civil society groups—must attend all-candidate meetings, speak to candidates at the door, and require firm commitments to implementing specific democratic reforms. For instance, in exchange for our support, we should demand that candidates vote independently in their legislatures, replace the first-past-the-post electoral system, and impose legal limits on the executive power of the prime minister, as well as leaders at all levels of government.

Either we rise up and insist on serious reform, or our politics will continue to be dominated by privileged elites who consider it a mere game to be fought and won, with citizens there to be manipulated, not served. Complacency is dangerous. It's time to take action.

## Chapter 1

### The system is broken: Democracy in peril

You are sitting on the roadside in a broken-down transit bus or mired in endless traffic along one of our nation's highways. You are employed but your salary is never enough, or you are unemployed and looking, still looking. Your thoughts turn to you and your family's state of affairs. You were hoping for a tiny, 1 percent increase in the minimum wage, but a new provincial government has abruptly revoked it.

What about that national childcare program? That would really make a difference, but successive federal governments have talked about it for more than 25 years and nothing has materialized.

How about income support to survive the evermore precarious living conditions associated with having to work multiple jobs in the 'gig economy'? What about enforceable employment standards to protect against the crazy and unpredictable shifts imposed on you? Or comparable and accessible training across all provinces that would enable you to take up decent work anywhere in Canada?

Maybe, you think, if your vote had some impact, things would improve. But try as you might to select the best local candidate, the best leader and the best political party, nothing seems to change. A new government may start by fulfilling some promises, but within months the impact on citizens—*you*—does not match the rhetoric. What follows is polarizing debate and intergovernmental squabbling—federal, provincial, municipal, Indigenous—which makes progress on important initiatives glacially slow, or even cancels them, from carbon pricing to the minimum wage and a basic income experiment.

Eventually, a few long-ignored promises might re-appear, but only a few months before an election.

Meanwhile, you're a parent of a child with a disability or a family living on the edge without affordable housing, and suddenly you find yourself faced with a government's decision to reverse critical funding you had been relying on. You have neither the time nor energy to protest; you simply have to wait another four years until the next election for your vote to possibly make an impact. But by then you don't know where your life will be—your children never stop growing and getting older, and only a steady job with a living wage and access to effective social services will provide you with the dignity and security to survive.

Our reaction, as citizens, is to conclude that political action is hopeless and retreat to the sidelines. We give up, struggle along with our lives, and increasingly rely on overstretched

volunteer services, charities, or, where possible, our families, to help out. All too often we don't bother to vote. It seems to make no difference.

We most certainly don't get involved in political parties to bring about change. We're now convinced that political parties claiming to have popular support are a sham: weak on principles and lacking long-term vision and goals. Leaders and their close advisors manipulate messaging and message policies so they can claim that voters are aligned with their objectives. Then once they are elected, especially with a majority government, every initiative must pass the 'can I get re-elected on this' test, rather than aligning it with the public interest. This leads to mediocre leadership designed primarily for the benefit of the governing party, not the citizens of Canada.

Understandably, we are frustrated and cynical, alienated from the very individuals and organizations that are supposed to represent us and enable us to act collectively for the good of all. They appear blatantly out-of-touch and unresponsive, unable to manage the complex challenges facing every modern democracy.

If any of this resonates with you, then you are a member of a large and growing group of what I call "sidelined citizens"—those who have been let down by our basic democratic structures. When citizens are sidelined, political dialogue is polarized, driving out principles and long-term vision. Despite Canada's reputation for moderation, tolerance, and inclusion, we, too, are vulnerable to pernicious, divisive forces.

I come at this with over a decade's personal experience with the traditional party system, which I discuss in Chapter 6. Between 2005 and 2014, I was involved in three nomination contests to be a candidate for the Liberal Party of Canada. I also ran as a Liberal candidate in the 2006 general election. Along the way, I received advice from party insiders that I just had to play the political "game" nicely, wait my turn, accept that it's all about luck and timing in so-called "winnable" ridings—code for doing all you can to get the leader's personal support for your candidacy. In 2012–13, I joined the race for the leadership of the Liberal Party, a further education in how the system works.

In 2015, I transitioned out of the Liberal party in favour of a very refreshing stint as policy advisor to Elizabeth May and running as a Green Party candidate in the 2015 General Election. The Green Party was a very open party, with a generally thoughtful, diverse membership and an able and articulate leader, but without debilitating control from the leader's office.

I have since left partisan politics, and I see the political party system as increasingly backstopping our faux democracy, and an obstacle to much-needed and overdue change.

Most Canadians today are thoroughly disillusioned with our established political parties. Our leaders rule by distraction and diversion, and appeal to the lowest common denominator. They seem content to spout empty rhetoric and rely on appearance over action. They pander to their bases and seek to vilify the others. Meanwhile our democracy is increasingly ill-equipped to confront the enormous challenges that lie ahead. The COVID-19 pandemic is only the latest example to add to climate change, the effects of automation and technological disruption, our need for increased immigration while managing huge movements of people fleeing poverty, war, and crime.

As the gap between political elites and ordinary citizens has widened over the past couple of decades, it has stoked populist movements that give voice to widespread frustration outside of the political establishment. Broad-based, popular engagement with civil concerns is invaluable—an indication of the need for serious change, and of citizens' motivation to participate in transforming the status quo. But in the absence of a vibrant, inclusive civic space and strong democratic infrastructure, it can be co-opted by otherwise marginal far-right extremists and neo-Nazis, who use social media's echo-chamber effect of information and misinformation, a potent weapon that makes it hard for many to distinguish between what is true and false.

At times like this, our democratic institutions prove fragile, and we see wild swings from one extreme policy agenda to another. In Ontario, for example, the provincial government took a step forward in introducing a basic annual income pilot project and increasing the minimum wage, only to see the next government eliminate the annual income experiment and cancel the minimum wage increase. Canada's political debate could all too easily degenerate into the corrosive polarization that overwhelms America.

To end this cycle of cynicism and polarization, and ensure our democratic institutions are strong and responsive to the needs of citizens, all of us need to get involved. This isn't the time for passivity. It is the time for mobilizing to save our democracy and maintaining constant vigilance.

Citizen action must call for long-overdue reforms to our representative institutions and practices, re-establish responsible government, and repair what so many disillusioned voters see as a broken social contract undermining our democracy. Unfortunately, the kind of reforms we need—that enable both the clear articulation of specific long-term goals reflecting a broad consensus, and the establishment of a practical action plan for implementation, and funding—are impossible in current circumstances. So long as the established political parties have a monopoly over the levers of power, they will refuse to take any action that undermines the ruling party leader's effective control over the legislative process.

In the 2015 general election, the Liberal Party, the New Democratic Party, and the Green Party all promised a whole raft of accountability, open government, and electoral reforms affecting the

operation of Parliament and designed to diminish the power of the Prime Minister's Office. Among other things, these would have resulted in freedom for MPs to act outside their partisan bubbles. The result is less polarization and more effective government action.

But as we have seen, once the Liberal Party of Canada elected a majority of MPs, these reforms were ignored, sacrificed on the altar of getting re-elected. The government settled for a short-term agenda of half measures that can easily be erased by the next government. With notable exceptions, like Liberal cabinet ministers Jody Wilson-Raybould and Jane Philpott who were at the centre of 2019's most explosive political controversy, the majority of MPs are convinced by the leader that politics is dependent on their absolute support of Party through its leader, even when this undermines the national interest of the Canadian people. So, instead of the promised new way of doing politics, the federal Liberals have treated us to widespread sycophancy, together with the same recitation of mindless, PMO-drafted talking points that characterized the Stephen Harper era.

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Nothing better symbolizes my thesis than the 2019 SNC-Lavalin affair, which featured Jody Wilson-Raybould, a prominent Indigenous politician, who held two high-profile positions in the Liberal cabinet—Minister of Justice and Attorney General—from 2015 to January 2019. In her role as Attorney General, she had decided not to overrule a decision by the Director of Public Prosecutions to pursue charges of corruption and fraud against the Quebec engineering multinational SNC-Lavalin. Wilson-Raybould later reported that she was subjected to repeated overtures by cabinet colleagues and officials from the PMO trying to convince her to change her mind. After Treasury Board President Scott Brison resigned in January 2019, it provided the Prime Minister with an opportunity he couldn't resist. In a cabinet shuffle on January 14, he reportedly moved Wilson-Raybould first to Indigenous Services and then, after she refused the post which would require her to administer the Indian Act, to Veterans Affairs—widely seen as a demotion. The Prime Minister also replaced Brison at the Treasury Board with former Indigenous Affairs Minister Jane Philpott, a move seen as a promotion but in fact was a convenient way to neutralize both Philpott and Wilson-Raybould, who were often allied in cabinet against the PMO's preferred direction in Indigenous matters.

On February 7, *The Globe and Mail* published a story, citing unnamed sources, reporting that Wilson-Raybould's "lack of cooperation" as Justice Minister and Attorney General was the main reason she was removed from the portfolio. Five days later Wilson-Raybould resigned from her cabinet post and at the end of the month appeared before the Commons justice committee and stated that she felt intense political pressure and veiled threats relating to the SNC-Lavalin file. A few days later, Philpott resigned from her Treasury Board post saying, "Sadly, I have lost confidence in how the government has dealt with this matter and in how it responded to the

issues raised... I must abide by my core values, my ethical responsibilities and constitutional obligations....”

It was a dramatic moment, but all the more so for those who recalled the day Justin Trudeau was sworn in as prime minister, standing in front of his cabinet made up of 15 women and 15 men. When he was asked why a gender balance mattered, he held up his hands and said, “Because it’s 2015.” Three years later, the self-proclaimed feminist appeared to have been too clever by half.

With the prime minister’s minions in overdrive trying to protect him and limit his direct involvement in the controversy, Wilson-Raybould produced another bombshell. In December 2018, when various government representatives were pressuring her, she voice-recorded a call from then-clerk of the Privy Council Michael Wernick that dashed all denials that the Prime Minister had been aggressively involved in protecting the interests of SNC Lavalin. In part, Wernick said: “I think he is gonna find a way to get it done one way or another... he is in that kinda mood and I wanted you to be aware of that... he is in a pretty firm frame of mind about this so... I am a bit worried... It is not a good idea for the prime minister and his Attorney General to be at loggerheads.”

My take on all this is that Jody Wilson-Raybould is among our rare principled politicians. She correctly identified and resisted attempts by the Prime Minister and his advisors to pressure the Attorney General to undermine prosecutorial independence. Jane Philpott, likewise, stood up “for principle, truth, and justice,” resigning to protest the cabinet’s decision to support the government’s handling of the SNC-Lavalin affair. Finally, on April 2, 2019, the Prime Minister ejected both women from the Liberal caucus—a decision that was his alone, because the Liberal caucus had failed to adopt for itself the power to decide its own membership. In fact, the caucus had failed to even hold a vote on whether to adopt that power, despite being required to do so in the *Parliament of Canada Act*.

Wilson-Raybould and Philpott were both cabinet ministers when they stared down the Prime Minister and his acolytes. Pity the poor backbencher. Author and political scientist Alex Marland, the author of a book about how party discipline has intensified in Canada, *Whipped, Party Discipline in Canada* (2020), has written “Backbenchers are unfairly derided by pundits as trained seals who mindlessly follow their masters’ orders. In reality, they are interesting people who get involved in party politics hoping to make a difference. But too often independent thinking does give way to a team mentality. The transformation begins the moment they sign a “values contract” when they want to be nominated as party candidates. The contract is signed during the candidate vetting process to screen out people who might attract negative attention during a campaign and those unwilling to commit to the party’s core values, such as the principles articulated in the party constitution. The team ethos is reinforced through a daily

barrage of digital messages, including hashtags that emphasize the team leader (such as #TeamTrudeau).”

Two camps have emerged in the political sphere:

- The *politics as usual/politics as a game* camp sees political parties as the personal instrument of the leader for the purpose of winning the next election and staying in power.
- The *principled citizen* camp refuses to accept that politics is a game and believes in a vibrant citizen-powered democracy. Its members are those who believe we can do better and do not have to settle for mediocrity.

The *politics as usual* gang set out to undermine the public’s positive perception of both Jody Wilson-Raybould and Jane Philpott as principled heroes. They made a great effort to portray both women as self-interested politicians out only for their own personal glorification. The *as usual* gang, best symbolized by the team within the PMO, are acolytes and yes-men who argue that politics can only effectively function as a rigorous team sport with fealty to the all-powerful leader. Indeed, Democratic Institutions Minister Karina Gould suggested on CTV that the expulsion of the two women, and preserving caucus unity, was more important than addressing the constitutional breach of judicial independence that is at the core of the controversy. Astute *Maclean’s* columnist Paul Wells, called this [phony](#) but surely it is well-beyond phony. “And since the lot of them never stop calling themselves #TeamTrudeau on Twitter,” Wells wrote, “I guess we can, without fear of contradiction, say the Prime Minister of Canada has been the phony-in-chief.”

Despite initial enthrallment with his celebrity status, good looks, and promise of “sunny ways,” the Liberal leader has demonstrated all too clearly the superficial, self-interested side of Liberal party culture: the arrogance and the suffocatingly centralized party leadership that rules in a bubble.

Citizens are increasingly recognizing this and seeking alternatives. We’re prepared to pass harsh judgment on the faulty moral compass that guides the Liberal government and demand more than carefully-crafted spin from our elected representatives. While we may have concerns, we won’t be scared into voting Liberal because the alternatives are said to be worse.

It is important to understand that this crisis of frustration with government is not without precedent. The popular movement that flourished in opposition to the Meech Lake Accord of the late ‘80s and the Charlottetown Accord of the early ‘90s *[more on this in Chapter 2]* demonstrated how diverse groups of “critical, engaged and involved citizens”—which the

Samara Centre for Democracy considers always good for democracy—can come together to protect and promote the rights and freedoms of all Canadians. [According to Samara](#), constructive, broad-based citizen action is vital if we are to find solutions to the “very real problems [in our democracy today] including centralized control, degraded legislatures, unhealthy political parties and low voter turnout.”

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Just before the 2019 election, I was chatting with a customer service representative at our local post office when she asked me in dismay why the Ontario government cancelled the further increase of the minimum wage in Ontario to \$15.00. She couldn't understand why the new government was so mean, and how something announced by a previous government could be so easily overturned. Among other things, I said that the policy reversal could have been averted if a majority government had not been elected. I explained how a minority government would have provided serious checks on the exercise of power, and likely could have prevented the change.

Excited, she then asked how she could vote for a minority government at the next election. Which led to a further discussion about how a minority government could not be engineered under our first-past-the-post system. We could only try to elect candidates committed to electoral reform. Some form of proportional representation would more accurately reflect the will of citizens and pave the way for coalition governments, which would in turn encourage greater compromise and collaboration, such that new governments would be unable to polarize a sensible policy like raising the minimum wage.

The 2019 federal election encouragingly resulted in a minority Parliament. But unfortunately, the subsequent focus on the pandemic and the reeling economy meant no progress could be made by any opposition parties to insist on reforms to increase accountability and scrutiny of the Liberal government. Indeed, within weeks of the election, the Liberal government abolished the Democratic Institutions portfolio.

And while Jody Wilson-Raybould succeeded in her bid to be re-elected this time as an independent MP, she announced that she will not seek re-election in 2021. According to Wilson-Raybould, “federal politics... is increasingly a disgraceful triumph of harmful partisanship over substantive action.”

Going forward into the next election, we all must exercise our right to vote, especially the over 30 percent who consistently fail to cast their ballots. One person, one vote, is (supposedly) the bedrock of democracies and only by voting can we expect to see positive change. Yet at the same time, we require serious electoral reforms to make our votes count, and to get this, we still have to use the deeply flawed first-past-the-post (FPTP) voting system at least one more time. And,

unfortunately, FPTP too often results in flukes, as in 2015, when we got a surprise majority government with the support of only a minority of the population who turned out to vote.

In part, votes had shifted to the Liberals in 2015 because the Liberal leader had a clearly-voiced commitment to pursue electoral reform. But after a Special Committee on Electoral Reform met for most of 2016 and produced a report in December recommending electoral reform and a consultative referendum, the Liberal leader abruptly abandoned the campaign promise. With the media repeating the obvious, but dangerous, conclusion—that Canadians can no longer believe any election promises, an invitation to further cynicism and voter disengagement—this episode proved beyond a doubt that Canada suffers from an autocratic political system in which a prime minister has more executive power than the President of the United States.

The time is overdue to elect a government able and willing to implement transformative reforms to our democratic institutions and practices, including electoral reform. To this end, citizens need to work outside established political parties. We need to devise ways to wrest control from the parties at all stages of the political process, from the selection of candidates to the legislative process. Only by electing more independent and principled MPs, who are encouraged to collaborate across partisan divides, can we take back our democracy and defeat the forces that for too long have treated politics as their private sport and enforced the rules for their own benefit.

One day, a person associated with a thoughtful non-profit, non-partisan organization dedicated to “increasing civic engagement and a more positive public life,” thanked me for my service to Canada over the years. She asked me what I thought I had been able to contribute to public policy or public life during those years of active involvement in politics. Without bitterness, but with some regret, I replied, “nothing.”

I spent most of my adult life refining my thinking about Canada—its values and institutions—and how we can ensure good governance and productive citizenship. But while those goals may have resonated with many fine people along the way, I can honestly conclude that my partisan activity had no meaningful impact whatsoever.

Still, there was one time in my political life I can truly say was a rewarding and effective experience: my involvement in the constitutional debates over the Meech Lake and Charlottetown Accords, from 1987 to 1992. Citizens took matters into their hands and battled around the rigid, insular political elites that were steering the country in the wrong direction. The debates were full of principle and a sense of purpose, providing valuable insights into the hopes and dreams of Canadians across the country. This experience forms the bedrock of much of my thinking on creating political change today.

## **PART I**

### **REIGNING IN FAUX DEMOCRATS AND RESTORING THE FOUNDATIONS OF CONSTITUTIONAL DEMOCRACY**

- Chapter 2      Why Meech and Charlottetown matter:  
                    Lessons in citizen mobilization
  
- Chapter 3      Citizen initiatives and referenda:  
                    Stepping up.
  
- Chapter 4      Changing the rules:  
                    Political engagement and social media today
  
- Chapter 5      Constitutional reforms to strengthen protections  
                    against the arbitrary exercise of power.

## Chapter 2

### **Why Meech and Charlottetown matter today: Lessons in citizen mobilization**

How does the Charlottetown referendum, and the five years of debate that preceded it, relate to today? The 1992 referendum saw most of Canada's population vote against an agreement supported by the political establishment, including every official party. It was a powerful grass-roots message to Canada's "elite political class" and certainly a preview of how things would develop in this country over the course of subsequent decades. Citizens coordinated a widespread, organized revolt against the lack of transparency and accountability that still plagues political conduct in Canada, both within governments and between different levels of government.

All in all, it was arguably among the two or three most successful citizen mobilizations in Canadian history. Still, according to many in our political, academic and media establishments, it might as well be written out of our history books. This misrepresentation must be changed.

With the 30<sup>th</sup> anniversary of the Charlottetown Referendum on the horizon, the time is overdue to review the experience and how consultative referenda could play a role in strengthening our increasingly fragile democracies.

This is all the more important because the shameful unanimous acceptance by all our federal leaders of Quebec's Bill 96 in May 2021 indicates that our faux democrats have learned no lessons from Meech and Charlottetown, and another citizen mobilization may be required in the near future. To have so quickly and thoughtlessly accepted the Quebec government's brash attempt to unilaterally amend the Canadian constitution to bolster the province's constitutional status as a nation, together with its pre-emptive use of the notwithstanding clause, should shock all Canadians.

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More than 30 years ago, Canada faced a constitutional crisis that was resolved by citizen engagement, organised in exactly the kind of movement we need to see today.

It started in 1987 with the Meech Lake Accord, when then-prime minister Brian Mulroney introduced controversial amendments to Canada's Constitution. The amendments were negotiated with all the premiers to respond to Quebec's five demands for constitutional change put forward because the Quebec government claimed, incorrectly, that Quebec was excluded from the Canadian constitution. Despite Quebec initially demanding the recognition of Quebec's distinctiveness in the constitutional preamble as one of its five core demands, what eventually emerged in the Meech Lake Accord was a distinct society clause that undermined the Charter of

Rights and Freedoms, and other provisions that gravely weakened an already excessively decentralized federation. Meech was presented to Canadians as a take-it-or-leave-it proposition.

Here, we must pause to remember that Quebec was not in fact excluded from the Constitution of 1982. The Constitution of 1982 is the fundamental law of the land throughout Canada, including Quebec, notwithstanding then-Premier René Lévesque's refusal to sign the final document. Seventy-two of seventy-five Quebec MPs in Parliament voted in favour of the Act, and Quebecers have never since hesitated to rely on the Constitution and its Charter of Rights and Freedoms, in the courts and beyond. If not legally necessary, it nonetheless remains politically desirable that the National Assembly of Quebec formally endorse the 1982 constitutional changes.

In April 1987, I was a young law professor at the University of Toronto reading through the proposed changes to the Constitution. I couldn't believe how eleven men could have the audacity to sit *in camera* and then present to the people of Canada changes that would result in a substantial devolution of powers to the provinces, and a substantial reduction in the impact and powers of the federal government. Essentially, Brian Mulroney had conceded each of Quebec's demands for more powers and, wherever possible, extended these concessions to all the provinces to ensure their support, undermining the Charter in the process. At the very least, there was something wrong with a process that could alter the fundamental law of the land—our basic individual rights and freedoms and basic framework for our representative institutions and practices—without serious consultation and direct input from the people of Canada.

Unfortunately, the flawed constitutional amending formula adopted as part of the historic patriation process in 1982, and the failure to amend the preamble of the constitution to include an inspiring 'we the people' provision, leaving only a dry outdated reference to "supremacy of God and the rule of law," made the first ministers' controversial action possible in 1987.

The final 1982 amending formula expressly rejected the initial proposal for a referendum mechanism to ensure popular assent for constitutional change that Prime Minister Pierre Trudeau and sovereigntist premier René Lévesque of Quebec both supported. But in the final compromise with the recalcitrant provinces outside Quebec who opposed the Charter of Rights and Freedoms, the federal government reluctantly agreed not only to an amending formula that requires only legislative votes in the federal and provincial legislatures, but also to the controversial notwithstanding clause, which allows governments to override certain rights and freedoms from time to time. The determination of nine provinces to hold out for a package that did not include a referendum mechanism meant the final package was rejected by René Lévesque, and the myth of Quebec's exclusion arose.

A day or so later, I sat with other constitutional law professors to settle on the materials for the coming school year when one of my colleagues mentioned in passing that we should add the

Meech Lake Accord. I strongly objected, saying that it should never become law. To me, the Meech Lake Accord represented a complete reversal of the country's constitutional evolution. It seemed obvious that it had the potential to create enormous rifts in, if not tear apart, the fabric of the Canada I loved.

In my view, Mulroney and the provincial premiers had made an enormous miscalculation in thinking that passing the constitutional resolutions through the legislatures with minimal debate was going to be easy. After patriation of the Constitution in 1982 and the introduction of the Charter, Canadians felt a sense of ownership in what was now seen as *our* constitution and would surely take offense at the idea that matters that would ultimately define Canada might be conducted behind closed doors. My instinct proved accurate almost immediately, as Canadians began to voice their distaste for such hasty reforms.

Even back then, I realized that our parliamentary system, dominated by established political parties, was not the way to fight Meech. Individual MPs and provincial legislators were expected to toe the party line once the leader made a decision, leaving no room for independence. This is true to this day, as I'll demonstrate in future chapters.

To effectively mobilize citizens to oppose the Accord required organizing outside the established political parties. That's why I abandoned the idea of trying for a nomination to be the Liberal Party of Canada candidate in the Beaches riding during the 1988 election campaign, and instead turned to organizing popular opposition. The Liberal leader, John Turner, strongly supported Meech from the beginning, and although a few Liberal MPs and candidates were critical of the Accord, they had no chance of exerting any influence in a House of Commons with a strong conservative majority. The best approach, I decided, was to spend my time organizing citizens outside the party structure, in hopes of convincing those who supported the Accord that they were wrong.

Recognizing that Mulroney was hell-bent on ramming the accord through the relevant parliamentary committees as quickly as possible, I spent the summer in my small office on the top floor of Falconer Hall, one of the two old U of T Law School buildings, contacting people across the country to build the foundations of a national organization. In those pre-Internet days, doing so required a lot of energy: phone calls, writing submissions for various people who wanted to appear before federal and provincial committees, and late-night photocopying sessions with volunteers preparing material that had to be sent via courier the next morning.

It astounds me to think what we could have accomplished then if we'd had access to today's instant communications and social media networks. I believe opposition to the accord would have coalesced so quickly that it would have forced the first ministers to back down and spare

Canada three terrible years of divisive and damaging debate that increasingly alienated citizens from self-absorbed political elites.

We organized from the grass roots, using little more than landline telephones and word of mouth, without the convenience of texting, email and social media. Individuals were encouraged to get any civil society group—or any other private or public association they were involved with—to oppose the accord. This expanded our civil society base to include women’s groups, indigenous groups, municipal councils, schools, the March of Dimes... the list was endless. What mattered was to build a consensus and develop a list of key concerns that all opponents could sign onto, so as to ensure our opposition was united and coherent, nationally based and not anti-Quebec.

Public debate intensified, spurred on by purposeful, intricate popular organizing. Protest happened through every possible outlet, inside and outside the provincial and federal legislatures. Proponents of the Accord labelled us “dissidents”, claiming we were “anti-Quebec” and out to weaken Canada—very much a prelude to the fearmongering and deliberate polarization of political messaging practiced so assiduously by the established political parties today.

The proposed constitutional amendments were controversial because they seriously undermined the role of the federal government and eroded the Charter of Rights and Freedoms’ vision of equal citizenship and a Canada-wide civic identity. For most Canadians, the decentralizing concessions demanded by the Quebec government (supported, unsurprisingly, by all the other premiers) were too high a price to pay for a largely symbolic vote of approval for the 1982 Constitution in the Quebec National Assembly. Despite Lévesque’s regrettable refusal to sign the final document, the 1982 Constitution had become the fundamental law of the land everywhere in Canada.

The political leaders of all the major political parties closed ranks to support the executive agreement reached by the heads of federal and provincial governments, without any consultation or engagement with citizens. Legislative committees were established in all the jurisdictions to examine the Accord, but most signatory governments had little trouble obtaining majorities to pass the necessary ratification resolutions through their respective legislatures—undeterred by growing public concern.

The Quebec government led the way by approving the Accord on June 23, 1987, and triggering the three-year time frame set out in the Constitution for obtaining all requisite ratifications (in this case, from all provincial legislatures, the House of Commons and the Senate). In so doing, they were following the amending formula introduced as part of the *Constitution Act, 1982* that only requires approval of federal and provincial legislatures, and excludes the possibility of directly consulting citizens.

It was an exciting time of citizen mobilization. The multi-partisan coalition of opponents that I helped build endured through the three-year life of the Meech Lake Accord and beyond, to the Charlottetown referendum vote in October 1992. Our goal was always to criticize constructively and, wherever possible, present alternatives such as recognizing Quebec’s distinctiveness in the constitutional preamble so that the Charter would not be undermined.

We wanted to unite Canadians from all walks of life around common principles of equality, freedom and democratic participation. By connecting diverse citizen initiatives under a national roof, we cultivated a vibrant civic space for debate and action to address urgent collective concerns. This architecture—maintained through careful and tireless communication and organization—facilitated a proliferation of meetings and events across the country. (All my papers and records related to this period are deposited with Library and Archives Canada).

In Parliament, the Senate stalled its ratification process and held lengthy committee hearings that provided an invaluable outlet for the growing opposition. The Senate’s eventual rejection of the Accord was overridden by the House of Commons. Over the course of the ensuing three years, three new provincial premiers were elected who did not accept the Accord as it stood. New Brunswick ultimately passed a futile companion accord to address some criticisms.

In 1989, Newfoundland and Labrador elected a new premier, Clyde Wells. He had vocally articulated his principled opposition to the Accord, which had been approved by the House of Assembly under his predecessor. Premier Wells indicated that he was prepared to rescind the NL House of Assembly’s prior approval.

With very little hesitation, I accepted an offer to work with the premier as his constitutional advisor. Within two weeks I had moved from Toronto to St. John’s. Finally, an opportunity had emerged to realize the goals of our national movement to stop the Accord, provided the NL House of Assembly revoked its approval.

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Premier Wells confronted Mulroney face-to-face at a First Ministers’ Conference in November 1989. The debate was broadcast live on television and replayed many times on newscasts. Unsurprisingly, Wells came across as a hero. Look no further than the polls for evidence. A majority of Canadians outside Quebec favoured the accord in 1987; by 1990, as Wells’ personal popularity soared, a majority opposed it. In particular, many Canadians became uncomfortable about giving Quebec “distinct society” status, which sounded like one province would be elevated above all the others. Wells had emerged as a national voice representing the opponents of Meech.

The basic details of Meech are well-known. Today, the debate may seem to some like a lot of wrangling over dry and convoluted constitutional minutiae; at the time, though, Meech was a wild rollercoaster ride for the entire nation.

Mulroney refused to back down, wrongly assuming Canadians could be persuaded to see the Meech Lake Accord in a positive light. Convinced that a deal with the holdout provincial premiers was all that was required, Mulroney initiated what turned into a marathon 70-hour negotiating session in a boardroom in Ottawa's Conference Centre, at the very last moment before the June 23 deadline for approval. On June 9, 1990, Mulroney announced that a tentative agreement had been reached. The lone holdout was Clyde Wells, who agreed to present the compromise to his province's legislature. A few days later, Mulroney gave an interview to *The Globe and Mail*. The story published on Tuesday, June 12 made it clear that the Prime Minister had deliberately timed the first ministers' conference to ensure a crisis atmosphere, maximize pressure on the hold-out provinces, and leave so little time that Newfoundland would be unable to hold a referendum.

Though Mulroney's revelation hardly surprised those familiar with his take-no-prisoners partisanship, his bluntness on this occasion was extraordinary. He described gathering his advisors at 24 Sussex a month before the June conference to map out a federal strategy. "Right here, I told them when it would be," Mulroney said. "I told them a month ago when we were going to [meet]. It's like an election campaign. You count backward. [I said,] 'that's the day we're going to roll the dice.'"

At this point, all but two provincial legislatures had approved the accord, so the success or failure of Meech rested on Manitoba and Newfoundland and Labrador's responses to Mulroney's compromise. Manitoba premier Gary Filmon was in favour but faced a procedural hurdle. If he could not get all members of the Manitoba legislature to unanimously approve the compromise, public hearings would have to be held—a process that would stretch beyond the ten-day deadline. On June 12, the province's lone Indigenous representative, Elijah Harper, strongly backed by Indigenous groups across Canada, refused to give his consent.

The resolve of the Indigenous leaders was inspiring and appropriate. Few were better placed to lead the opposition than the first peoples of Canada who, as so many pointed out, were more important, distinctive, and fundamental than any other group. They collectively dispelled naive notions that they could be bought off with minimal concessions thrown together by Mulroney and the pro-Meech forces. I can't think of a better illustration of the vital need for any constitutional reform in this country to be transparent and open at every stage, taking into account the interests of all Canadians.

For the remaining days of the debate, I coordinated responses to over 12,000 letters, calls, and faxes received from across Canada during the ten-day period. Without exaggeration, 95 percent supported Wells—a tangible demonstration of how out-of-touch the other first ministers were with Canadians’ feelings about Meech.

At the Newfoundland and Labrador House of Assembly, the cabinet debated whether to hold a referendum or a free vote. A referendum proved impossible under the tight time constraint, so a debate was set to begin on June 20, giving the members of the House of Assembly time to return to consult their constituents in their respective districts. In the end, with backing from his caucus, Wells tabled a motion to adjourn, and the House voted in favour. A vote on the Meech Lake accord was thus deferred for good. But there was no doubt by those knowledgeable about the dynamics in the House of Assembly and the province, the vote would have been negative. Meanwhile, the people finally prevailed with one final wave of Elijah Harper’s feather, as he thwarted the unanimous vote in the Manitoba legislature.

In the midst of all the political manipulation, some in the media became extraordinarily engaged in actively supporting Meech. Those of us organizing in opposition to the Accord had to learn to grow a thick skin, stand by our principles and not be provoked by unfounded attacks and other efforts to stigmatize us. This was never easy. A few days before the Accord expired, then leading *Globe and Mail* commentator Jeffrey Simpson penned a direct personal attack on me and my counterpart in Manitoba, entitled “Wherever the Meech flame flickers, there they’ll be with a snuffer”, and arguing that if we were wrong about the need to defeat the Accord, “Canada as we know it is finished.”

A year later, the *Montreal Gazette’s* brilliant cartoonist, Aislin (Terry Mosher), captured everything that was wrong with Meech in one simple image. It depicts Wells asking Mulroney, “But if Meech was as important to Canada as you’ve always said it was, why didn’t you let Canadians vote on the matter?” Mulroney replies: “Because, Clyde, it was far too important.”

When Meech died, all of us who had opposed the Accord hoped our experience would ensure that any future constitutional amendments would be grounded in open, principled debate and direct consultation with the people of Canada, to prevent such a debacle from ever recurring. We were to be disappointed. Despite key advisors’ advice to the contrary, Mulroney forged ahead with a new round of constitutional talks that would become known as the Charlottetown Accord.

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The new initiative led by Joe Clark did involve public consultation, but this was carefully managed to sideline opposition, constrain popular engagement and ensure majority legislative support in all provinces and territories. The new package of even more extensive reforms was

quickly dubbed “Meech plus”. This time, the Charlottetown Accord appeared to garner not only the support of all premiers, but of Indigenous leaders as well.

Fortunately, Mulroney opted to call a consultative national referendum, seeking what he hoped would be such unambiguous support for the constitutional amendments across Canada that expeditious ratifications by all legislatures would follow easily. The political elite, media, and both the cultural and business communities supported the Charlottetown Accord. Liberals either endorsed it or retreated to the sidelines. Even Clyde Wells was on board, judging that sufficient progress had been made toward Senate reform and addressing Indigenous concerns.

As if he’d learned nothing from the failure of Meech, Mulroney set a low tone by calling opponents of the accord “enemies of Canada”.

Rather than encourage informed, polite dialogue, Mulroney persisted with the ill-advised strategy he had practiced during the Meech period. He deliberately polarized the constitutional debates by demonizing his opposition, something we sadly see happening more and more today. He labeled his opponents “dissidents,” accusing us of being anti-Quebec and destroying Canada. Throughout the referendum period, he continually argued that the country and its economy would collapse because of our irresponsible actions.

Finding economists and historians to publicly counter Mulroney’s bogus claims became a daily chore for our ‘No’ Committee. When the Blue Jays won their first MLB World Series championship in the final few days of the referendum campaign, Mulroney rushed out to congratulate the team. He then declared it a great day for Canada, just as it would be when we all voted, as we should, in favour of the Charlottetown Accord. Our ‘No’ Committee immediately responded with congratulations to the Blue Jays, of course, specifying that the World Series results had nothing to do with our constitutional future, and that all Canadians would be building a stronger Canada by voting No to the Accord.

More personally, shortly before voting day, I came home to find a menacing death threat on my message machine warning me to stop opposing the Accord. The local police could do nothing to trace the call. They simply warned me to keep my doors locked and watch out for anything suspicious—small comfort for a single mother living alone with a small child.

In these pre-Me Too era days, it was impossible for most women to fight back against offensive misogynistic rhetoric and innuendo, especially when initiated by men in positions of power like Canada’s prime minister. As the [excerpts from interviews that Mulroney gave to his authorized biographer](#) show, among other things Mulroney used offensive, misogynistic comments about my personal life to motivate his sycophants. (Peter C Newman, *The Secret Mulroney Tapes: Unguarded Confessions of a Prime Minister*, Random House Canada, 2005, pp.139-40).

I will never know whether the threat I received was from someone inspired by Mulroney's rhetoric. The double standards facing women and their personal lives, and the objectification of women by men in even the highest office, revealed with such clarity in Mulroney's comments about me, are disturbingly common. And despite the admirable advances recently inspired by the Me Too movement, there is still much to be done.

For most Canadians during the Charlottetown referendum, it seemed the public was once again under-consulted, and bullied to fall into line with an even more complicated set of constitutional reforms in an apparent replay of Meech. By then working in Ottawa, I helped to co-found 'Canada for All Canadians', one of the registered "no" committees during the campaign leading up to the 1992 national referendum. I simultaneously co-wrote, with law professor Robert Howse, a little book called *No Deal: Why Canadians Should Reject the Mulroney Constitution* in which we outlined Charlottetown's deficiencies. "There is absolutely no reason to think that this Accord will bring constitutional peace," we wrote. "What does history suggest about pacts and armistices made under threats and intimidation? They lack all moral authority and soon dissolve into chaos and conflict."

Canada For All Canadians gained a reputation as the only credible, pan-Canadian "no" committee. As a result, the media took us seriously. Other "no" groups tended to represent narrower interests. For example, I kept a cautious distance when contacted by Preston Manning—then leading the newly-created Reform Party—since his opposition had a strong anti-Quebec flavour that ran counter to our movement's inclusive approach.

In order for the federal and provincial governments to entrench the Charlottetown Accord in the Constitution, in accordance with the amendment provisions stipulated in the *Constitution Act, 1982*, it was generally accepted that the support of a majority of voters in seven provinces comprising 50 percent of the national population would be required, if not provincial unanimity. The question on the ballot was: "Do you agree that the Constitution of Canada should be renewed on the basis of the agreement reached on August 28, 1992"?

The referendum legislation of 1992, which is still on the books, was flawed and rudimentary. For example, as there were no financial controls on spending, any Yes or No committee could spend \$.564 per elector. This meant the deep-pocketed, federal-government-sponsored Yes committee massively outspent their grass-roots No opponents.

Yet this huge imbalance in financial resources had little impact on voters, who were reasonably well informed by the time of the vote. The referendum debate had been effectively five years in the making, and prior broad-based organizing meant we were well prepared to mobilize against another establishment attempt to constrain popular dissent.

On October 26, 1992, [with an impressive overall voter turnout of 72%](#), the Accord was unambiguously rejected in Quebec, and by a majority of voters in most other provinces (as well as voters living on First Nations reserves). How extraordinary to see citizens voting against an agreement endorsed by the prime minister, all the premiers, and most establishment political groups and media outlets. Despite a massive imbalance in financing, the ‘Yes’ and ‘No’ sides were equitably represented in public debates. There was a sense of citizens openly venting their concerns, and a genuine opportunity to accept or reject the complex legal document in question. I emphasized to all my fellow travelers on the ‘No’ side that, while I most certainly intended to defeat the Accord, we had to be prepared to accept any outcome, so long as it emerged from a fair and open debate.

The Charlottetown Accord was withdrawn.

So ended an incredibly, and unnecessarily, divisive period in our nation's history. Appropriately, Mulroney's approval rating dropped to 11 percent in a 1992 Gallup poll, making him among the most unpopular prime ministers in the half-century since the introduction of opinion polling in Canada. He retired just two months before the 1993 federal election, replaced by his defence minister, Kim Campbell. With little time to rebuild the party, Campbell suffered the worst defeat by a governing federal party in history. In 1993, the Progressive Conservatives went from 151 seats to two, thus losing official party status.

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## **Going Forward**

The Charlottetown Referendum should have established a clear convention that any significant constitutional reform requires a public, consultative referendum; and paved the way for future, broad-based debates.

Regrettably, instead, the political establishment closed ranks and concluded that any further constitutional reform was impossible. Since 1992, a knee-jerk distrust of referenda (and indeed all constitutional change) has emerged among Canadian establishment figures who supported the Meech and Charlottetown Accords. Bruised by what they considered an unsatisfactory outcome, they condemn the referendum as an overly simplistic mechanism. They claim this instance of direct democracy prevented Canadians from understanding the complexity and value of the Charlottetown Accord—that those who voted No were ill informed, and simply made the wrong choice.

This of course is incorrect. Canadians across the country had a very good understanding of the Charlottetown Accord, and seriously debated both its general impact and detailed legal

provisions. Properly designed and executed, consultative referenda are entirely appropriate for gauging public opinion in a constructive way—even when complex issues are at stake—and an important tool for strengthening our representative democracy and enhancing citizen participation.

Today, as we approach the 30<sup>th</sup> anniversary of the Charlottetown Referendum, the political establishment continues to argue that any further constitutional reform is impossible, and referenda are dangerous mechanisms. Indeed, the Liberal leader has gone so far as to argue that opening debate on the Constitution in any way would be just too difficult and distracting for Canadians, and that referenda are generally "[bad things to happen](#)" that “give people a chance to lash out at institutions...”

In fact, nothing could be further from the truth. Constitutional debate and reform, however “difficult” this may seem, comprise an absolutely essential and ongoing component of a well-functioning representative democracy. The Constitution is a “living tree” that belongs to the people of Canada. Our elected leaders cannot shrink from their profoundly serious obligation to serve the people and to facilitate, whenever need be and with clear popular consent, changes to the fundamental law of the land for the benefit of present and future generations of Canadians.

Requiring consultative referenda as part of the amending formula, drafting a new constitutional preamble, repealing the notwithstanding clause, Senate reform, and even instituting a new Canadian head of state, are all eminently debatable constitutional topics that should be put to the people. After all, the Constitution belongs to the people of Canada, who must be consulted directly with respect to all significant reforms, by way of consultative referenda. [*More on this in Chapter 5*].

One final point: There is one type of constitutional amendment that our faux democratic leaders can accept. This is when political leaders can control the constitutional amending process through targeted bilateral amendments that affect only one province and that minimize any unpredictable interaction with the public. Bilateral amendments are permitted in the constitutional amending formula, when it involves an issue that only impacts that province and is approved by Parliament as well as the provincial legislature. Several have been concluded since Charlottetown referendum.

However, the constitutionality of the [1992 bilateral amendment](#) that entrenched the collective rights of the two linguistic communities in New Brunswick in the Charter of Rights and Freedoms, remains to be determined by the Supreme Court of Canada. This is because the amendment introduced the alien concept of community rights in a Charter devoted to individual rights. And now, with Bill 96, Quebec takes the bilateral concept of constitutional amendments to new and absurd lengths with its controversial proposal to unilaterally amend the Canadian

constitution to advance the notion that both Quebec and Quebecers form a nation. We will likely have to wait for the courts to have the last word, since as always, our federalist political leaders refuse to disagree with Quebec for fear of losing votes in the next federal election.

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The basic organizational structures, skills and practices we honed during the citizen mobilization around the constitutional amendments between 1987 and 1992 are still required today, albeit with the benefit of much more efficient communication tools. We must try to ensure that the participatory power of social networks and our unfettered access to data succeeds in shifting political influence from brokers and elites and back to the people, provided we can harness digital infrastructure to expand our civic space, build principled movements. And this includes fully embracing the Me Too movement and ending the arrogant boys' club mentality that still dominates too many political networks and party backrooms.

## Chapter 3

### Citizen initiatives and referenda: Stepping up.

Taking back our democracy must include new measures to inspire and facilitate all sidelined citizens who deserve better, and who together have the power to make change, to step up. If we are to make our governments responsive and responsible, Canadians must be encouraged to mobilize whenever necessary to translate principles and ideas into positive, concrete action, and build genuinely democratic institutions. In doing so, we can learn from the sound practices of previous popular movements.

In the past, mobilization has occurred primarily through community-based groups, local councils, labour unions, and civil liberties organizations. As we seek innovative ways to mobilize today, we must recognize the benefits and pitfalls of instantaneous social networking. Social media is great for organizing meetings and marches, and elevating voices that previously lacked a platform. But they will never substitute for the hard work of building a clear consensus around complex issues. We have all witnessed how easily social media can be exploited to amplify polarization and propagate of hate speech, rumours, and misinformation (a.k.a. fake news). To counter such efforts to constrict constructive conversation, we need to find ways of getting involved on an ongoing, rather than intermittent, basis.

Various mechanisms could make our representative democracy more responsive to the demands around which we mobilize. In California, ‘citizens’ initiatives’—petitions that can become ballot propositions, and tangibly influence the legislative agenda—have led to the passage of landmark legislation on issues from minimum wage to, most recently, digital privacy protection (based on the well-respected European model). In a [column](#) published in *The Los Angeles Times* in January 2019, Nathan Gardels, executive advisor to the Think Long Committee for California, wrote that in California, “most consequential decisions are made not by the governor and legislature, but by the citizens directly at the ballot box on taxes, budget, the environment, etc.” Observers conclude that coherent governance is facilitated by greater participation, despite the deluge of contested information and divisive interests that characterizes our digital age.

California adopted this form of direct democracy 40 years ago. Under Governor Jerry Brown, the state took positive steps to make citizens’ initiatives more workable and effective at facilitating consensus across partisan lines. In 2014, the state passed a law that was collaboratively drafted by 30 groups, including labour unions and civil liberties organizations. If a citizens’ initiative collects at least 25 percent of the signatures required to qualify as a ballot measure, it goes directly to legislative hearings. The legislature and governor can then negotiate with the initiative’s sponsors, hold hearings, and “fix unintended consequences or collateral impact.” If an agreement is reached, either the ballot measure is amended, or legislation can be introduced

without a separate public vote—provided the process is completed no less than 131 days before the coming election.

Canada would certainly benefit from adopting the citizen initiative process. In 2014, the Canadian [House of Commons voted to partially adopt a United Kingdom procedure to accept e-petitions](#). Regrettably, MPs rejected a mechanism that would have allowed these petitions to trigger debates in the House of Commons, so this minimal initiative had little, if any, impact. This was a huge lost opportunity to give the Canadian people agenda-setting power, and strengthen the relationship between citizens and Parliament. In the United Kingdom, debates triggered by petitions feature among the most-watched parliamentary broadcasts.

In May 2019, Liberal backbencher Frank Baylis proposed a motion that would allow MPs presenting petitions with more than 70,000 signatures to request a take-note debate on the issue at hand, to be reviewed by an all-party subcommittee. Baylis’ motion would have essentially given citizens the power to trigger parliamentary debates via petition. Needless to say, this belated attempt to address our lamentable lack of direct democracy ultimately failed.

We could also focus on opportunities for one particular avenue of direct democracy: a consultative referendum. Properly designed and executed, [consultative referenda](#) are highly effective gauges of public opinion, and an important tool for strengthening our representative democracy and enhancing meaningful citizen participation, even when complex issues are involved. Unfortunately, our political leaders feel threatened by the freewheeling public debate that accompanies referenda, and too often close ranks to protect their executive powers and political bases.

As discussed in Chapter 2, the Charlottetown experience demonstrates how consultative referenda can strengthen our representative democracy and enhance citizen participation in Canada. Going forward, we should apply a crucial lesson from the Charlottetown referendum: It is confusing to undertake multiple constitutional reforms at the same time. Combining different reforms can be unprincipled, depriving citizens of the chance to evaluate each on its own merits. Bundling multiple propositions together allows provincial premiers, for example, to trade off one reform against another, however unrelated they may be. Discussions could proceed simultaneously on different issues, but there should be separate referendum questions to resolve each.

Of course, as we expand the use of consultative referenda, we must also learn from recent ill-thought-out and poorly executed referenda around the world. The 2016 Brexit referendum—recklessly called by British Prime Minister David Cameron to fend off pressure from within his own party—is a case in point. The question put to voters was deceptively simple: “Should the United Kingdom remain a member of the European Union or leave the European Union?” The

UK government miserably failed to specify what consequences would flow from the requisite majority (a minimal 50 percent plus one) voting either ‘Remain’ or ‘Leave’.

Cameron’s government never undertook the critical step of holding a clear debate, in advance of the referendum, to determine whether a ‘Leave’ vote would categorically bind the government to politically or legally proceed with Brexit. In retrospect, many agree that the government should first have initiated a *consultative* referendum, to ascertain the general direction of public opinion. The result would then have been weighed in the balance, alongside other political and constitutional considerations (such as minority rights, devolution, and the demographic and regional distribution of referendum votes), before deciding on a course of action.

The Brexit debacle directly ensued from the government’s failure to think carefully about how to frame the referendum question, and how to organize the referendum process. Exploiters of populist backlash against years of national austerity measures were able to divert attention to dysfunction in Brussels, play on deep-rooted racism, xenophobia and socioeconomic divisions, and ultimately tip the scales against the EU.

Many critics argue that controversial referendums in Colombia and Greece, alongside the Brexit vote, prove that referendums are too unpredictable and hazardous. But they condemn direct democracy too quickly.

In 2016, an agreement was reached to end over five decades of conflict between the Colombian government and the Revolutionary Armed Forces of Colombia, a guerilla movement. However, a referendum to ratify the deal was unsuccessful by a razor-thin margin of 50.2 percent to 49.8 percent. In the case of Greece, in 2015 the government rushed a referendum to decide whether to accept debt bailout conditions proposed by the EU and the International Monetary Fund (IMF). The results: a majority of more than 61 percent of Greek citizens rejected the bailout, triggering several senior political leaders’ resignations. Days later, Prime Minister Alexis Tsipras—whose Syriza party had run on a distinctly anti-austerity platform—accepted a three-year EU bailout package that imposed even more severe austerity conditions than those voters had rejected in the referendum.

Most problems that arose in Columbia and Greece could have been averted by framing the questions put to voters and organizing the referendum process more carefully, as well as by establishing some flexibility in the government response to referendum results. The real problem in Colombia was a failure both to build broader public support for ratifying the 2016 peace agreement signed by the FARC and the government, and to acknowledge the country’s history of failed peace plans. In Greece, the referendum took place after less than a week of campaigning, giving citizens little time to consider and debate the consequences of their vote. A successful referendum—that is, one that effectively expresses the will of citizens—must give voters enough

time to consider the issues at stake, and to educate themselves about the pros and cons of their vote. Democracy of any kind—including direct democracy—is all about discussion and debate.

Here are some points to guide the use of consultative referenda in Canada:

- First, we need an independent referendum commission to establish and administer rules fairly. Referenda are not partisan tools to be manipulated by the government. Indeed, the opposite is true: they are appropriate when a government needs to consult the public to assist the executive and legislative branches in formulating policy and action on a particularly difficult or controversial issue.
- Referenda should not be rushed. The referendum commission must determine the length of the official campaign after considering how thoroughly the issue has been subjected to previous public debate. Citizens need time to be well informed.
- The independent commission should be responsible for the final draft of the question or questions put to voters. As the Charlottetown Accord definitively demonstrated, it is confusing to undertake multiple constitutional reforms at the same time, in a single document. Combining too many different reforms can deprive citizens of the opportunity to consider each on its own merits.
- Careful thought must go into the size of majority vote required for an option or question to be approved or rejected. Serious consideration should be given to incorporating a compulsory voting requirement, since low voter turnout can have grave repercussions.
- The referendum commission must establish strict controls on spending by the Yes and No sides. It is arguable that a certain amount of public funds should be allocated for administration by the independent referendum commission, according to objective criteria.

## Chapter 4

### Changing the rules: Political engagement and social media today

As I look back on my rather eclectic history of political engagement, the most exciting and fulfilling experiences involved anti-establishment campaigns, grounded in popular mobilizations outside the traditional political arena. The pre-Internet, pre-social media era I started out in now seems so antiquated. Linking up in those days took endless hours of phone calls and photocopying, faxing, and snail-mailing. Things that took hours to accomplish then, now take mere minutes or seconds.

Social media today is certainly a positive development in the political landscape. Vital civic concerns can get traction, and many more voices can be amplified much faster and more effectively than before. I think of the #MeToo campaign and so many others.

The potential of this vastly enlarged civic space makes it well worth the time and effort required to correct negative impacts of heightened connectivity and to design effective mechanisms to filter out the bigotry, misogyny, and dis- and misinformation so prevalent on social media today, while containing the just plain trivial.

What most interests me, though, is how to use social media more constructively to strengthen our democratic institutions and practices, as well as ensure that it serves the broader purpose of supporting a thoughtful, more-informed citizenry. Can we restore public confidence in our elected representatives, and ensure more responsive and responsible government? Can we expand our civic space so that citizens can interact with our governments in a more collaborative, consensus-building and less polarized way, around long-term projects and goals?

I strongly believe most Canadians accept that our government's role is to enable all citizens to fully enjoy equality and our rights and freedoms, and to provide the basics of citizenship: justice and safety, public education, healthcare, clean air, clean water, housing, parks, etc. We believe government should help build a resilient social economy so Canadians can meet the real challenges we all face on a daily basis: finding and keeping a decent job with decent pay, raising children in a safe and clean environment, caring for elderly parents and disabled relatives, and ensuring enough food is on the table. At the same time, we believe that governments must raise enough revenues, through various types of taxation, to adequately fund our collective responsibilities. And raising this revenue must be done fairly, openly, and efficiently to ensure that the wealthy pay their fair share to ensure fiscal sustainability.

To accomplish all this, however, requires governments that are more collaborative, and elected representatives who can carry through big ideas and bold policies. This is where citizen action—and social media—comes in.

If you look around, you will see a vibrant world of engaged citizens, active community organizations and articulate civil society advocates collaborating on the ground, outside political parties, to promote leveling the playing field for all Canadians and their families. Their activities are varied—from helping Canadians directly with support or legal advice to initiating legal action, challenging government laws or regulations, and raising awareness of underserved communities.

Citizens are fighting for a wide range of policy initiatives at local and national levels—an annual basic income, tax reform, public education, childcare, post-secondary education, employment training, healthcare, pharmacare, infrastructure, public transportation, social housing, electoral reform, climate action and sustainable development. These are the reforms that will better prepare us for our real world of technological disruption, deepening globalization, climate change, and nuclear proliferation.

We must encourage citizens and innovative civil society organizations to network with each other much more, and combine their efforts, rather than operate largely out of separate silos. If their collective impact were enhanced, governments might then be persuaded to experiment with bold policy initiatives, rather than continuing to allow social and economic injustices to persist.

Today, at a minimum, I see strong networking opportunities across a wide range of civil society groups in the following policy areas:

1. Supporters of a basic minimum income that could simplify the confusing and conflicting federal-provincial-municipal income support programs, provide greater economic freedom to citizens, and even help resolve federalism's coming fiscal crisis.
2. Tax reformers who want fiscal sustainability and an overhaul of our unfair, exemption-riddled income tax system, as well as a better balance between income tax and other taxes such as corporate, financial transactions or consumption.
3. Workers who want to ensure that automation and artificial intelligence (AI) is deployed in such a way as to increase, not decrease, opportunities for meaningful work.
4. Environmentalists who support climate change mitigation and sustainable development.

The challenge is for these networks to have forged—well before an election—networks aimed at supporting concrete collaboration beyond just digital communications. Networks would agree on a joint program, or demands, to present to candidates of all parties in the election. Typically, election candidates receive endless streams of single-issue questionnaires that they just hand off the central party office to complete—which hardly encourages independent thought on the candidates' part. What's novel about the process I'm proposing is that candidates would be asked to support a joint program that included not only particular policy initiatives of concern to the

citizens' network, but also the institutional reforms essential to ensuring real legislative progress. These candidates, if elected, would commit to working with like-minded colleagues across partisan lines to find common ground, to broaden frameworks for engaging with citizens (including citizen ballot initiatives that are working well in California), to insist on voting independently in the legislature, and to support electoral reform involving a proportional voting system.

Even if only a few such candidates were elected initially, the emergence of an independent, multi-partisan democratic caucus—comprising representatives directly accountable to a network of diverse Canadians united around common goals—could make a real difference and likely force through crucial reforms, especially under a minority government. One such reform, namely, the introduction of some form of proportional voting—would eventually lead to more minority and coalition governments which, as we have seen in British Columbia and New Brunswick, can compel elected representatives to work together across party lines.

In general, such governments ultimately prove more productive and responsive to the concerns of citizens. Minority governments clip the wings of party leaders, preventing actions like the Ontario government's cancellation of the minimum wage increase. But equally importantly, minority governments would take more care than the preceding government did to build the necessary consensus and enact critical safeguards required to preserve what is arguably a good long-term policy on minimum wage.

I hold out great hope that younger Canadians—the Millennials and Generation Z that follows them—can turn around the environmental and financial mess that Baby Boomers and Generation X are leaving behind. Generation Z, born after 1997, now constitutes 17 percent of the population. One study finds that, like Millennials, they are “connected, open and optimistic”, extremely diverse—from their values to their backgrounds—and pragmatic, having watched their parents struggle through economic decline. Data from the Samara Centre suggests that young Millennials and Generation Z actually discuss politics more than older Canadians, and are more likely to participate in almost every way—except for voting. Whether they will develop the habit of voting early remains to be seen.

Most importantly for this discussion, these younger generations are masters of social media. But we must remember that to have an enduring impact requires more than merely digital networks. It requires coordinated, on-the-ground operations and constant vigilance over the use of social media to encourage online participation in thoughtful forums, rather than the instant, reactive kind of exchange that shuts down or intimidates constructive civic engagement.

Social media can serve as an extraordinarily efficient communication and information-sharing tool. And digital networks play a valuable role in bringing together a diverse range of

unconnected citizens. But we are now all too aware of the risks inherent in our instant access to unlimited quantities of information. It often amplifies our sense of insecurity and skepticism, and encourages disinformation and disrespectful discourse.

In effect, digital networks on their own can neither translate the kind of superficial, fleeting emotional attachment expressed through a “like”, a “comment”, or a “retweet” into constructive action, nor build informed consensus and encourage collaboration across wide gulfs of opinion. Too often, the most insightful voices are lost in the noise or drowned in triviality. Research finds that social media platforms are built to intensify and spread strong emotions like anger, awe, and anxiety—thoughtful deliberation is less valuable in the attention economy. If we cannot find a way to use our networks to communicate meaningfully across these divides, social media risks simply intensifying the existing fault lines in our society.

When the French grass-roots movement involving citizens wearing yellow vests (that they are required to carry in their vehicles) first erupted in fall 2018, it was not connected to any particular trade union, political party, or other national organization. Many assumed the internet was the explanation for the emergence and diffusion of the protests, or that Facebook had somehow *caused* the protest movement itself. What observers ultimately discovered was that the transmission of information via social media was simply an enabler for a variety of organizations, such as traditional unions of teachers and transport workers, to join forces around their shared concerns, while reinvigorating their individual organizations’ platforms. This collaboration significantly amplified both their collective and individual impacts on national conversations about economic and social justice.

So, behind all the hashtags and virtue signaling in our digital world, it is still the people on the ground and their real-life, mobilized networks that drive social movements. The original yellow vests protests that began at the traffic circles in small communities were organized by people already connected and living together in the same small town. It was an organic popular movement focused on improving the lives of the working class. But while the original movement demonstrated the power of civil society groups collaborating to enhance their collective impact, the very breadth and force of social media that enabled concrete citizen mobilization also facilitated its hijacking by extremists more interested in disrupting and shutting down opportunities for broader civic engagement.

The protests in France demonstrate that organizing modern social movements for change still requires effective on-the-ground networks, while integrating digital capabilities carefully into traditional methods of organizing and civic infrastructure. Popular movements still drive the internet, not the other way around. But inequalities in access to digital activism persist, reflecting broader structural inequities of class, race, gender, and other factors. Constant vigilance is

required to prevent exclusionary, divisive elements from infiltrating and subverting a movement's goals and principles.

As we turn increasingly to social media to help expand our civic space and organize politically, popular platforms like Facebook and Google merit public scrutiny and oversight. Facebook and Google have coercive economic power. They effectively control half of all digital advertising revenue. They exploit the data they control, bundle the services they offer and use discriminatory pricing to retain benefits they would otherwise be obliged to share with consumers. They have achieved monopoly power while also competing against one another, swallowing up competitors and deploying enormous resources to invade each other's territories.

In addition, Facebook and Google's business models are built around surveillance. They make most of their money by elaborating increasingly detailed profiles of your behaviors and preferences, and selling that information to advertisers. Search results and social feeds created by advertising companies are strongly incentivized to push you toward information silos or apps that show you more ads from those same platforms.

Companies this dominant—near-monopoly distributors of information—will rarely take adequate action on their own to protect society from the consequences of their actions, especially with respect to privacy and data protection laws. When so many of us are only too happy to give away our most valuable asset, our personal data, in exchange for a free email service or a cute cat video, governments must take action to protect the public interest.

The historian Yuval Noah Harari calls this meta-challenge “avoiding a digital dictatorship”. We must regulate data ownership to prevent a concentration of all wealth and power in the hands of a small elite—whether it's Amazon's Jeff Bezos or Facebook's Mark Zuckerberg.

Furthermore, decent future jobs in AI are predicted to be relatively few in number compared to jobs lost to automation, and likely to go to the well-educated and well-connected. As many citizens lose their economic power, they lose political power. The same technologies that risk making billions of people economically irrelevant may also make them easier to monitor or control. In fact, AI could erase the practical advantages of democracy, erode the ideals of liberty and equality, and concentrate power among a small elite group who control the data. Our sidelined citizens will be left even further out-of-the-loop, angry, and alienated.

So, national government oversight and stringent regulations are needed to preserve competition, privacy, innovation, and fair and open access to data. Unless we move in this direction, we are abdicating crucially important civil decision-making to large, private, non-governmental corporations instead of to fully accountable governments or governmental organizations.

Canada is, unfortunately, a global outlier in terms of government action vis-à-vis the tech companies, according to Jim Balsillie, Chair of the Council of Canadian Innovators, and many others. Balsillie appeared before the International Grand Committee on Big Data, Privacy and Democracy that met in Ottawa in May 2019. The Committee is comprised of Canadian MPs and legislators from a small group of countries (including U.K., Ireland, Singapore, Mexico, Chile, and Morocco) concerned about content regulation and privacy protection on social media.

Facebook's CEO, Mark Zuckerberg and COO, Sheryl Sandberg, refused to appear to testify before the Committee, leaving it to Facebook's in-house policy advisors to repeat the official position: Facebook welcomes more control by governments and regulators, and the establishment of basic standards as concerns difficult issues like free expression, democratic participation, and hate speech. Facebook is clearly determined to avoid adopting pro-active measures of its own accord, such as amped-up screening algorithms, that would prevent content inciting fear, hatred, and conspiracy theories from being posted. Facebook will only take action when the content is brought to its attention. The sad truth is that such incendiary content drives users to its platforms and adds monetary value.

Canada is lagging seriously in all areas of legislative and regulatory oversight relating to competition, privacy, and election laws. In April 2019, the Privacy Commissioner, Daniel Therrien, completed an investigation into Facebook's operations following the Cambridge Analytica scandal. He concluded that Facebook had broken the law by acquiring hundreds of thousands of Canadians' private information and indicated that he would be seeking a court order against Facebook. However, the privacy protections in our legislation were empty and effectively unenforceable in these circumstances.

At an international meeting in Paris following the Christchurch massacre and the murderer's disturbing Facebook posts, Canada signed the Christchurch Call along with 17 other countries to address, among other things, content regulation (free speech versus censorship) on social media. The federal government also announced a 10-point Digital Charter that regrettably turned out to be an assemblage of digital initiatives preoccupied with protecting and managing personal data collected by online companies. Canada urgently requires much more: a coordinated policy initiative with respect to content, data, and competition policy in the digital industry.

For the 2019 federal election, the Liberal government issued a Declaration on Electoral Integrity regarding the conduct of social media companies during an election. Unfortunately, the Declaration is as vague as the Digital Charter, with no teeth, or any announced plan whatsoever for measuring whether the terms of the declaration are being met. This reflects a familiar pattern in the government's efforts to tackle this problem—of being almost deferential to the social media platforms, and steering clear of any hard regulatory power of the state.

In addition to establishing oversight and rules for tech companies, social media and political parties, much more conscientious action is needed to strengthen civic and media literacy, and ensure a truly informed democratic citizenry. All citizens need expanded ethics and rights training in all areas of social, economic and cultural life. And substantial investment is required for teaching civic and media literacy every year, at every level in schools—not just for one term in high school.

Clearly, the questions of who controls social media and data, as well as who controls our political parties and democratic processes, present urgent challenges here in Canada and elsewhere. The pandemic has certainly highlighted the very real danger to citizens of the rapid spread of false information across social media related to the safety of vaccines. Addressing these challenges will determine whether we succeed or fail to build a more resilient and inclusive democracy, and advance sustainable social and economic justice for all Canadians in our extraordinary, globally connected society.

## Chapter 5

### **Constitutional reforms to strengthen protections against the exercise of arbitrary power.**

Today, most Canadians have been convinced that constitutional change is impossible. At least this is what our political establishment repeats *ad nauseam* since Meech and Charlottetown, as discussed in Chapter 2.

Of course, constitutions are enormously important documents and certainly not to be amended lightly. But constitutions are also “living trees,” as described in a leading court case that ruled that the word “persons”, as used in the 1867 British North America Act, also included women.

Currently, several areas of outstanding constitutional business require attention, some more urgently than others. These include requiring a consultative referendum for constitutional amendments, drafting a new constitutional preamble, repealing the notwithstanding clause, Senate reform and establishing a new Canadian head of state. All these issues are all eminently debatable constitutional topics that should be put to the people. After all, the Constitution belongs to the people of Canada, who must be consulted directly with respect to all significant reforms, by way of consultative referendum. Yet rarely do any of our politicians, media personalities or academics support even a discussion of constitutional change.

### **Require consultative referenda for constitutional amendments**

The made-in-Canada constitutional amending formula introduced in 1982, unfortunately put the legislatures, rather than the people of Canada, in the driving seat when it came to constitutional amendments. The amending formula does not recognize a role for the people, and refers only to various votes in legislatures and parliament, most often completely controlled by a small clique of politicians. Indeed, our preamble might as well read “We the prime minister and the premiers,” rather than “We the people...”

With no referendum mechanism, we failed to ensure that the people of Canada were adequately respected in our constitutional reform process. The danger that arises from governments—as opposed to the people—dominating our constitutional process was all-too-evident during the debates over the Meech Lake and Charlottetown Accords that spanned 1987 to 1992.

As discussed in Chapter 2, Prime Minister Brian Mulroney and the provincial premiers made the first attempt to amend our constitution using the new formula in 1987. Behind closed doors, the initial signatories of the Meech Lake Accord negotiated a complex agreement that amended our foundational document in a serious way. These men felt no need to consult with either their caucuses or the people of Canada in a meaningful way, which was a huge mistake. The Accord’s painful trajectory exposed political parties as tools of domineering leaders, a predicament true to this day. And it exposed the flaws in the constitutional amending procedure introduced in 1982,

which entrusted too much control to the executive-dominated legislatures. With a majority of seats in the legislatures, leaders can have their way even on constitutional issues that require support of the people of Canada.

Canadians who mobilized to defeat the Accords were hopeful that the ultimate calling of the Charlottetown referendum in 1992 created a precedent for holding a consultative referendum for any subsequent significant constitutional reform. It is clear that we need to formally include a consultative referendum mechanism in the constitutional amending formula to prevent our faux democratic politicians from entrenching their autocratic ways.

Yet our autocratic politicians continue to oppose letting people have the last word on constitutional change. The Liberal leader has gone so far as to argue that [opening debate on the Constitution in any way would be just too difficult and distracting for Canadians](#), and that referenda are generally "[bad things to happen](#)" that "give people a chance to lash out at institutions..."

Most recently, however, the Liberal leader's absurd acceptance in 2021 that the Quebec government can make unilateral amendments to the Canadian constitution that undermine the Charter and the federal-provincial balance of powers (Bill 96), provides even more compelling reasons to insist on a consultative referendum mechanism in the amending formula.

With Bill 96, federal political leaders shamefully refuse to criticize the Quebec government's provocative proposals to unilaterally amend the Canadian constitution to declare that "Quebecers form a nation" and "French shall be the only official language of Quebec. It is also the common language of the Quebec nation." This is faux democracy at its worst – our autocratic leaders refusing to uphold the constitution because they are trolling for votes in a province led by a government that would prefer to leave Canada.

By uncritically accepting the latest Quebec government proposals in Bill 96 and referring to Quebec's unilateral amendments to the Canadian constitution as purely symbolic, our federal leaders have learned nothing from the lessons of Meech and Charlottetown. They are shirking their solemn obligations to uphold the constitution and our rights and freedoms – the very core of a true democracy. The situation is all the more outrageous because in Bill 96 the Quebec government pre-emptively used the notwithstanding clause to override the Canadian Charter of Rights and Freedoms. It makes absolutely no pretence of ceasing to claim (inaccurately) that Quebec is somehow excluded from the Canadian constitution.

Enough already! We cannot continue to make concessions to those whose end game is to leave Canada. Our federal leaders must accept that we may have to risk putting the question directly to Quebecers: Do you wish to remain in Canada?

### **Draft a new constitutional preamble**

With the long overdue focus on, and commitment to, reconciliation with Indigenous peoples, it is time to draft a new constitutional preamble. The current preamble of our constitution is pitiful: It refers only to Canada being founded on “principles that recognize the supremacy of God and the rule of law.”

Genuine steps towards truth and reconciliation should include drafting a new preamble that includes a clear affirmation of Indigenous peoples and their crucial contribution to Canada’s constitutional identity. A new preamble is also where we can recognize particular dimensions of Quebecers’ distinctiveness (as originally put forward by Quebec in 1987), rather than the overreaching distinct society provisions in the Meech Lake and Charlottetown Accords, and the more recent iteration in Bill 96.

We can and should have a stirring constitutional preamble that reflects our constitutional foundations, our fascinating country and our exciting future in the 21<sup>st</sup> century and beyond.

### **Repeal the notwithstanding clause.**

In 1982, our then-prime minister only reluctantly accepted the notwithstanding clause. This is the provision that allows governments to override (to legislate notwithstanding) certain fundamental rights in the Charter. Section 33 was a political compromise to bring a few recalcitrant provincial premiers onside to entrench the Charter of Rights and Freedoms. The federal cabinet debated, but ultimately rejected, another option: going over the premiers’ heads to obtain popular assent to the Charter through a referendum on the entire constitutional amendment package, without the notwithstanding clause.

The regrettable decision to both include the notwithstanding clause in the Constitution and leave out a referendum mechanism in the amending formula was considered the best option at the time. Many expressed hope that the notwithstanding clause would never be used, and eventually be repealed.

During the Meech and Charlottetown Accords debates, many criticized Brian Mulroney for not taking any steps to at least incorporate a repeal of the notwithstanding clause into his negotiations of the Accords with the premiers. (Mulroney was on the record as opposing the notwithstanding clause). Indeed, amid the Meech Lake ratification process of 1988, Premier Bourassa inserted the notwithstanding clause into the Quebec government’s Bill 178 to uphold a ban on English-language signs. This further inflamed debate over the proposed ‘distinct society clause’ for Quebec.

The notwithstanding clause has now proven to be a ticking time bomb in the heart of the Charter. The initial hope in 1982 that it would be rarely invoked is proving inaccurate. Quebec is using it

pre-emptively again, and other provincial premiers, notably in Ontario and Alberta, have attempted or threaten to use the notwithstanding clause to override Charter rights that have been upheld in the courts.

In 2017, the Quebec government enacted Bill 21, a bill that bans public workers from wearing religious symbols. Bill 21 violates religious freedoms, disproportionately impacts Muslim woman, and undermines our collective commitment to guarantee and respect our shared rights and freedoms across the country. To avoid legal challenges that could have delayed the bill's implementation for years, Legault invoked the notwithstanding clause to override religious freedoms guaranteed in Canada's Charter of Rights and Freedoms, as well as Quebec's Charter of Human Rights and Freedoms. Then, in 2021, Legault used the notwithstanding clause pre-emptively again, in Bill 96 to unilaterally amend the Canadian constitution in ways that impact minority rights and undermine the Charter.

More frequent use of the notwithstanding clause will steadily erode yet another pillar of our democracy. It is not sufficient for our leaders to [simply rebuke](#) premiers Legault, Ford or Kenney, and express "disappointment" with their use or threatened use of the notwithstanding clause. To do so is to reduce the debate to how a deeply flawed provision in the Charter could somehow be restrained by defining the impossible: the "exceptional circumstances" under which the clause might legitimately be used.

In my view, the notwithstanding clause is not required and should be repealed. Section 33 was never anything but a political compromise to secure what was then the novelty of entrenched rights and freedoms. [It is no longer needed](#). The Charter is now almost universally accepted as fundamental to Canadian citizenship. Leaving the notwithstanding clause in our constitution is simply a temptation for other impetuous, unprincipled politicians, and an unnecessary source of political conflict.

The case for repeal of the notwithstanding clause is grounded on the fact that section 1 of the Charter—the reasonable limits clause—provides legislators with enough flexibility to pursue legislative goals that may incur "reasonable limits" on guaranteed rights and freedoms "prescribed by law as can be demonstrably justified in a free and democratic society." Moreover, the notwithstanding clause applies to fundamental democratic rights, legal rights, and equality rights, but not to other Charter provisions, such as mobility and language rights. This creates an illogical and unacceptable hierarchy of rights.

I believe there is strong popular support for repealing the notwithstanding clause. If the federal government wanted to do more than merely lament Premier Ford and Premier Legault's actions, the prime minister could initiate the repeal process. At the same time, he could offer to formally abolish the historical constitutional powers of disallowance and reservation enshrined in sections 55 and 56 of the *Constitution Act, 1867*. These British imperial mechanisms—initially designed

to veto legislation enacted by colonial governments—technically remain operative despite over 50 years of disuse.

As part of the repeal process, the federal government would hold a consultative national referendum as in 1992. If a majority of voters in all provinces supported repeal, the premiers and prime minister would be morally compelled to pass the legislative resolutions required to amend our constitution. Even in the unlikely event that the referendum proposal were defeated, the opportunity for vigorous, open democratic debate would revitalize our civic space; promote free, informed, and respectful discussion; and strengthened our bonds of common citizenship.

Canadians working together to abolish the notwithstanding clause, entrench consultative constitutional referenda, and draft an inspiring constitutional preamble, will ensure our constitution can endure as a vibrant instrument of the people, by the people, for the people, rather than be weakened by faux democratic politicians intent on expanding their partisan powers.

### **Senate reform**

The Liberal government’s 2015 changes to the Senate appointment process succeeded in pausing the embarrassing soap opera that played out under the Harper administration. However, these reforms are unlikely to survive much beyond the current prime minister’s tenure. The new Independent Advisory Board sources applicants (through outreach to some 200 select non-governmental organizations and related groups, as well as through media advertisements), examines online applications, and prepares a short list of “merit-based” appointments for the prime minister’s consideration.

Despite the government’s rhetoric about respecting an arm’s-length process and appointing only “independent” senators, new appointees remain wholly dependent on the prime minister’s approval, and entirely unaccountable to Canadians. The leader can still easily guide appointments through the new channels and onto the shortlist. And a new game is bound to be developing, involving behind-the-scenes campaigns to patronize NGOs and groups on the Advisory Board’s outreach list, in exchange for endorsement and inclusion on Senate candidate shortlists.

The creation of “independent appointments” has unintentionally resulted in appointees exercising their independence to inappropriately advocate for particular causes. We have seen this a number of times, such as with respect to the proposed oil tanker moratorium on the West Coast. As commentator Andrew Coyne noted in a May 2019 column in *The National Post*, “Today’s independent “non-partisan” Senate has a mandate of its own—a mandate of virtue... But the Commons has a larger mandate to pass legislation in the people’s name and be accountable for it”.

Even if appointees don't actually vote down government bills, an unduly activist unelected Senate raises a whole range of democratic problems. For instance, the Senate has significantly slowed down the legislative process. Among other things, at the end of the 2019 Parliament, the Senate failed to pass a significant number of private members' bills that the House of Commons had already passed.

Constitutional reform is urgently required to either abolish the Senate or design a new, elected Senate with a seat distribution and powers appropriate to the 21<sup>st</sup> century. Continuing with the status quo is not an option, but until we can implement reform, the appointment process must be completely independent from the executive branch. We cannot settle for the sham independence of current arrangements.

Yet today, our Prime Minister (backed by many in the media and academia) still resists any engagement with the Canadian people in an open constitutional reform process, even one focused on a single issue like Senate reform. They continue to argue that constitutional reform is unnecessary and to be avoided—a dangerous attitude. The prime minister and premiers must stop shrinking from their democratic obligation to consult with citizens in a meaningful way about proposals to update the basic rules and structure of our democratic institutions.

### **A Canadian head of state**

One final detail relating to constitutional reforms is worth considering. Despite its historical role in our history, a monarchy linked to Britain is no longer relevant to Canada as a modern nation. We need a made-in-Canada alternative to defend our institutions of parliamentary democracy, a Canadian head of state with democratic legitimacy.

However, constitutional change of this magnitude can only be accomplished after a consultative referendum. It also requires a renewed treaty process with First Nations, to ensure the move is not unilateral, and that treaty and Indigenous rights are protected and promoted. Crucially, the impetus for change must come from the Canadian people, and we currently have little appetite for this particular initiative.

It is noteworthy that Australia held a referendum to abolish the monarch in November 1999. The referendum question asked whether Australia should become a republic with a President appointed by a two-thirds majority of Commonwealth Parliament members. The referendum was defeated, but the general consensus is that the issue will resurface following the death of Queen Elizabeth II. I am confident that as the Canadian population expands, we will inevitably abandon antiquated ties to the House of Windsor.

## **PART II**

### **REFORMING REPRESENTATIVE INSTITUTIONS AND PRACTICES**

- Chapter 6      Political party reforms:  
                    Taking back control from political party machines.
- Chapter 7      Election-related reforms:  
                    Making our vote count.
- Chapter 8      Parliamentary reforms:  
                    Increasing accountability and scrutiny.
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                    Raising adequate revenues accountably, fairly and efficiently.

## Chapter 6

### **Political party reforms: Taking back control from political party machines.**

What can be done to end the hegemony of our insular, autocratic political parties and open up the various institutions and practices they currently monopolize?

Political parties used to play the crucial role of mobilizing citizens and constructively guiding public policy agendas. Now, they operate phony grass-roots organizations, which at most involve two percent of the population and serve merely as election machines for party leaders. Research from the Samara Centre recently found that a majority of Canadians wouldn't even consider joining a major party in the future.

Party leaders tightly control everything: the nomination of the candidates you vote for, the election policy platforms you are presented with, and, if elected to power, Parliament's legislative program. This means submissive party caucuses, submissive cabinets, and ultimately submissive legislatures. Even the new, transparent way of governing the Liberal leader promised, quickly devolved into the same top-down, tightly-controlled style of government familiar to any previous prime minister going back to the 1970s.

This centralized control does not translate into the bold government action we desperately need to address our economic and social anxieties. The government's focus on the four-year re-election cycle leaves no room for long-term thinking and goals. Debate in the legislature is methodically controlled over so-called wedge issues—like carbon pricing or immigration—to attract the short-term attention of voters. MPs dutifully recite talking points prepared by political parties that scrape your personal data off Facebook and Twitter to design micro-targeted messaging, while conveniently exempting their outreach operations from oversight by the Privacy Commissioner.

In this connection, the Privacy Commissioner is deeply concerned that Canadian political parties have not yet agreed to be subject to Canada's privacy legislation: "At the same time as developing highly sophisticated methods of data collection, the federal parties have plead poverty—insisting that they would be unable to meet even basic legal privacy standards. But in many other jurisdictions (including British Columbia), political parties must meet the same or comparable privacy standards as are imposed on private companies, while still campaigning effectively. Yet the partisan data collection by political parties, as much as by private companies, undermines the personal autonomy and private will of sovereign individuals—the fundamental basis of democracy. Indeed, one of the primary objectives of parties in collecting our data is simply to determine whether or not we're likely to support them, and therefore, worth talking to or not. Political parties are in the business of learning as much about you as possible and influencing your choices at election time, yet have hitherto refused to submit to our privacy

legislation and the pertinent regulation and oversight. This is unacceptable and must be corrected. Citizens must have much greater rights over the use, mobility and, monetization of personal data in all contexts, and any regulation thereof must be accompanied by meaningful enforcement.”

As more and more questions arise as to whether political parties are illegally using constituency data, paid for by public funding, for partisan political purposes, it seems outrageous that the Privacy Commissioner cannot even do any spot-checks on MP offices and the caucus research bureau to see if public funds are being used for partisan advantage.

Sadly, it is of course never in the self-interest of political parties seeking re-election to submit to oversight or implement policies designed to break down top-down party control and encourage more collaboration across partisan divides in the legislature, however important this may be. Hence, once elected with a majority control of Parliament in 2015, the Liberal government swiftly rejected electoral reforms that would introduce some form of proportional representation; parliamentary reforms to allow more free votes and eliminate omnibus bills; and other modifications that would place party nomination races and memberships under Elections Canada oversight.

To be effective in restoring power and influence to citizens, we need to overhaul the role of political parties and reduce their influence in our democratic processes.

I will draw on my personal experiences navigating the shoals of party politics to illustrate the urgency to overhaul the role of political parties, and for activist citizens to work outside the political party structure. My eclectic career spans over 30 years of varied political activity, but mine is a cautionary tale. I found participating in active politics exhilarating yet failed in my ultimate goal of becoming an elected representative.

This is not to say I have regrets. Looking back, I can easily identify moments when I could have changed course and compromised my principles to succeed. I knew that many established politicians and pundits considered me naïve and intransigent, but I could never accept that politics was a game. Among other things, this trivializes governance in our democracy.

If we are serious about strengthening our weakened democracy and revitalizing representative institutions and practices, the way forward comes not from the exceptional success stories of politicians who have succeeded in getting elected. It should come from the experiences of many more who have failed. The stories of those who failed to obtain a nomination, who were manipulated out of the way by the party leader or his advisors, or the rare examples of those who were elected but refused to be reduced to talking-point factotums, are the stories that must be told. For out of the accounts of losers in a rigged political game will come a blueprint for serious

structural and systemic reforms that will end the rule of insular established parties and inject more accountability, popular input and control into our democracy.

As recently as the 1970s, political parties were still considered the essential underpinnings of our democratic system. They played critical roles in mobilizing voters, nominating candidates for elections, selecting party leaders, and developing policies for election platforms that could eventually form part of a government's legislative program. Today, I believe our established parties no longer make a constructive contribution in the democratic process.

By the 1980s, when I first became politically active, many current criticisms of political parties had been articulated by the President's Committee for Reform of the Liberal Party of Canada. The [1985 report](#) of that Committee, which I participated in drafting, was a response to strong grass-roots objections to the centralization of control by the leader, Pierre Trudeau, and his office. The recommendations were wide-ranging and included strengthening the role of unelected party members, as well as creating a Council of Riding Presidents to ensure more meaningful interaction between the elected and unelected wings of the party. The recommendations were largely ignored. When the Council of Riding Presidents was finally created years later, it was left weak, dysfunctional, and practically irrelevant.

While this disappointed me at the time, I did not realize that it would be just the first of many similar disappointments that would follow successive efforts to reduce the top-down control of established political parties' structure and operations. My involvement in party politics—trying either to influence policy or get elected to parliament—was a long, frustrating process of learning that the only way to have any real influence is to be very close to the leader and his advisors who expected absolute loyalty from his “team”.

As I mentioned earlier, elected politics was not an option while I was engaged in the constitutional battles. Only in 2005, when I decided my children were old enough, did I try re-entering the party-focused political arena I had left 18 years earlier. At that point, I had no obvious riding in which to run, except where I was living in Ottawa, and no effective connections with then-leader Paul Martin or his team. Nevertheless, I had some enthusiastic supporters, and enough confidence to believe that a hard-working, independent-minded, principled candidate could run successfully for open nominations. I would soon learn otherwise. The nomination for my Ottawa riding was quickly passed off by the retiring Liberal MP to her preferred successor. The date of the nomination vote was rigged so that only the successor had time to sign up enough members to seriously contest the ballot. The successor was conveniently acclaimed.

Rather than give up, in 2005–06, I settled on my only other option: to run in a completely unwinnable riding. Liberal Party central was prepared to grant me a free path to the nomination

for the riding of Toronto Danforth, provided retiring MP Dennis Mills agreed. The support of Mills, who still “controlled” the riding association membership at that point, would pretty much guarantee my acclamation at the nomination meeting. Paul Martin’s campaign advisors thought I might be able to attract some positive attention to an otherwise hopeless race against NDP leader Jack Layton, who was the riding’s shoo-in candidate. My allies advised me that running in Toronto-Danforth would amount to “paying my dues”, making me eligible for a more winnable riding in the next elections.

That general election period was one of the longest in history, stretching from November 2005 to the end of January 2006, and necessitating a few days’ break of sorts over Christmas. Most of my party help came from provincial Liberals led by Dalton McGuinty, who would call a by-election in the riding shortly after the national election. The provincial Liberal candidate, Ben Chin, accompanied me from time to time when I was canvassing door-to-door. Two or three extraordinarily dedicated volunteers also helped, but I frequently canvassed alone through rain, sleet, and snow. I discovered that I thoroughly enjoyed door-to-door exchanges and the chance to really get to know, and respond to, the concerns of citizens.

After my all-too-predictable loss, and with Jack Layton and the NDP now comfortably ensconced in Toronto-Danforth, I turned to next steps. I hadn’t factored in Paul Martin’s sudden resignation after Stephen Harper’s government came to power. My ability to find a nomination in another, more winnable, riding was now dependent on building a connection with a new leader. For all intents and purposes, any “credit” I had earned by running for the Martin team was null and void, non-transferable to a new leader.

In the 2006 leadership race, I decided to support Michael Ignatieff. I was advised to find ways to work for him to build up my “credit” with him and his inner circle and become eligible for a better riding should he become leader. But almost immediately, I grew concerned when he swiftly supported Harper’s declaration that the Québécois were a nation, albeit within Canada. I managed to schedule a brief meeting with Ignatieff and present him with a memo about the history of Meech and Charlottetown, explaining how the better approach to re-opening the issue of Quebec’s so-called exclusion from the constitution and distinct society was to draft a new preamble to the Constitution. [You can read more about it [here](#).]

Ignatieff responded that while he understood the problem, his team thought a change of position would appear weak in the eyes of voters. Indeed, his support for the nation concept already figured in his printed campaign materials. At the leadership convention, he and Bob Rae both lost to the compromise candidate, Stéphane Dion, who had a somewhat stronger federalist position on the “Québécois-as-a-nation” debate.

So, I was back to square one with yet another leader with whom I had no connection. I decided to seek a nomination in the Toronto riding of Don Valley West, which had opened up when MP John Godfrey retired in 2008. It was a riding that I had lived in and understood. I was told that my candidacy was futile since the leader's office would be supporting Rob Oliphant, but that if I withdrew quietly, I would be in a better position for the next winnable riding. I could see what was happening on this chessboard. Dion's office pulled in behind the candidate supported surprisingly by both the Ignatieff and Rae teams, which jointly dominated the Liberal scene in Toronto. Rob Oliphant had been a vocal supporter of Ignatieff, but had also helped Rae by stepping out of the 2006 Toronto Centre nomination race to make way for Rae after the leadership campaign.

After withdrawing from the Don Valley West race, I briefly considered a Brampton riding whose MP, Colleen Beaumier, had announced that she would not be running in the next election. I met with the riding president and retiring MP but was then advised that Dion was throwing his support behind Andrew Kania, who reportedly had donated significant funds to Dion's leadership campaign. (As I recall, the local riding association did not welcome the party's choice, and much manipulation took place before the party could safely call a nomination vote and be assured there were enough Kania votes in the bag.) Yet again, the lesson learned was that when party central decides on a preferred nomination result, there is no point putting up a fight. At the time, I was reminded once more by senior organizers that it was "not my time and place."

But I also concluded that if you ran a credible campaign for party leadership, the successful leader would generally enable unelected leadership candidates to obtain nominations. In 2006, this was the case for Bob Rae in Toronto Centre (which led to Rob Oliphant's play for Don Valley West) as well as Martha Hall Findlay, who had run for party leadership after being sidelined in the 2006 election, when Conservative MP Belinda Stronach crossed the floor to be nominated as the new Liberal candidate for Newmarket. Indeed, I had looked into Jim Peterson's riding of Willowdale when he announced his retirement after his 2006 re-election. He indicated that while he liked the idea of my candidacy, he was obliged to pass it on to Martha Hall Findlay following her unsuccessful leadership bid.

In addition to taking steps to find a new riding, my continued interest in government and policy led me to establish a website and blog called Canadians Without Borders in 2008. My experience as a first-time candidate two years earlier had convinced me that I had to understand the entire policy universe, including intergovernmental connections, in order to feel confident in active politics and have credibility when asserting public policy positions. I felt that as a candidate, anyone in the public was entitled to ask me a question and get an informed answer, without spin or doublespeak.

I wanted to encourage and contribute to a public debate among Canadians about what we share; what it means to be Canadian when so many of us come from all over the world; and what we, as Canadians, want to accomplish together. We need to have a national voice that is clear, coherent, and principled. But to have that we had to have bold, visionary, national leadership and a more collaborative and collegial federalism.

It took the devastating collapse of the Liberals in 2011 to permit a sclerotic party, however briefly and cautiously, to open itself up to people like me, who have a genuine interest in engaging Canadians in a debate about the future of our country. So, on June 27, 2012, I decided to campaign for party leadership, and created a new website ([www.deborahcoyne.ca](http://www.deborahcoyne.ca)) to promote *One Canada for All Canadians* and to document my ideas, policies, and activities.

I was determined to see whether, in our age of instant and low-cost communication, it was possible to do politics differently; to run a relatively frugal campaign of substance, uncluttered by spin and manipulation. We had to move beyond obsession with partisan political agendas. A renewed Liberal Party would only be as strong as its links to citizens, encouraging and connecting with the many grass-roots groups committed to helping the disenfranchised, protecting the environment, advocating for world peace, and generally strengthening Canada.

I'm not naive about the tactics pursued by others, but I have full confidence in the Canadian people's ability to distinguish between the authentic and the phony. I know many people get it. There is a different way to approach politics.

I drew inspiration from a trip I took to Washington in 2010 to see Jon Stewart's and Stephen Colbert's "Rally to Restore Sanity and/or Fear." It took two political satirists to assemble a quarter of a million people at an anti-rally rally against the hijacking of the political system by elites that effectively shut out ordinary people. It was a political event that never endorsed a politician, just the idea that the citizenry can—and should—take control of the political narrative. There was a lot of humour, but Stewart struck a more serious tone in his closing speech, stating: "We know instinctively as a people that if we are to get through the darkness and back into the light, we have to work together."

That is, in fact, what drew me to political life: the idea of helping to bring people together, something I have always strived to do. The all-volunteer team I assembled for the Liberal leadership race included former colleagues from various organizations for which I worked, former law students, people I helped over the years, and citizens who backed my Meech or Charlottetown efforts.

Running for the leadership was a great experience for me. I ran with a comprehensive policy platform: One Canada for All Canadians. With help from some enthusiastic volunteers, we

created a colourful Roadmap to One Canada, with each policy direction linked to 22 short policy papers. [You can see it [here](#).] I was finally free to express my opinions, unfettered by existing party policies, for what I hoped was an interested audience. And here is the summary of my vision of One Canada—the policy framework I hoped could help the party and next leader—in [my final speech in April 2013](#)

Unfortunately, throughout that long leadership race spanning June 2012 to April 2013, most media outlets studiously ignored my candidacy because I had not been previously elected. Even when Justin Trudeau and I were simultaneously confirmed as accredited candidates with all the requisite signatures, I was never mentioned by name. With dark humour, my campaign manager compared me to Lord Voldemort in the Harry Potter series, “he who must not be named.”

Of course, this all made me constantly question why I was sticking it out, but I kept my expenses and expectations low. I successfully covered all my expenses through supporter contributions but was left with some outstanding leadership debt (now retired) because the party unexpectedly set the contest fee at an exorbitant \$75,000, instead of the anticipated \$30,000 (the 2006 fee), in an attempt to limit the number of candidates.

As I said in my final speech of the campaign on April 6, 2013: “It was an amazing journey. Nine months, and over 20,000 kilometers of driving later, here we are at the end. I have dodged buffalo while driving the Alaska Highway across northern British Columbia in a snowstorm. Survived the treacherous Highway 63 on my way to Fort McMurray. Crossed the Confederation Bridge onto Prince Edward Island in fog and high winds. Visited communities from Whitehorse to Gander. I have consumed more early morning oatmeals and coffees in more Tim Hortons than I care to remember, and I have thrived on the excitement of innumerable rerouting battles with my GPS. I owe enormous thanks to my all-volunteer team for running an unprecedentedly frugal national campaign. We proved that a campaign about vision, principles and ideas can survive.”

I thoroughly enjoyed the opportunity to meet so many Canadians genuinely interested in how government could be more responsive and responsible. I loved long questions and answers sessions during which I could really listen to their concerns and suggestions, and exchange views on a wide range of practical proposals that would enable elected representatives to implement real change for the better.

In the end, however, the leadership race was all about “electability”, not policy. And many in the establishment would argue that the election of a majority Liberal government in 2015 confirmed the merit of the choice.

But in my view, leadership races should still be about policy and long-term vision. By focusing on electability alone, the party missed an important opportunity to reset and reform itself to

provide a more responsive, transparent, and accountable government. The centralized control of both organization and the policy and legislative agenda by the leader was simply transferred to a new person.

I can think of at least two crucial policy areas which were largely ignored and did not sufficiently test our future prime minister in ways that would have ensured a more informed leader, and a more informed electorate. One is electoral reform, which he evaded throughout the leadership race. More thoughtful engagement in 2013 might have prompted greater scrutiny of his sham 2015 campaign promise, which he abruptly but predictably revoked in February 2017.

The second is Canada's approach to China, which was already looming large as a highly significant challenge for 21<sup>st</sup> century foreign policy. Maclean's commentator Paul Wells recently looked back at [Trudeau's comments during the Liberal leadership race](#) depicting China as a benign actor on the world stage. Wells wonders whether we might not be in today's disturbing standoff with China had there been more scrutiny of, and challenge to, the Liberal leader's naïve views much earlier in his mandate. Some of us [tried to initiate debate on this](#) and other critical topics, but the leadership selection process was too carefully controlled—and the media coverage too narrow—for our interventions to be heard.

After the leadership race ended, I tried to secure a nomination one more time. After a futile effort in the infamous riding of Toronto Centre, which was yet again in play with Bob Rae's retirement, I was blown off quickly by the leader's office. They had already tagged the riding and obtained Bob Rae's support for the Liberal leader's candidate of choice, Chrystia Freeland. I then settled on my old riding in Ottawa, Ottawa West Nepean, which was then held by retiring Harper cabinet minister John Baird. From February to late October 2014, I worked hard going door-to-door signing up new members. I refused all offers of assistance tied to the unethical practice of buying memberships. My two opponents refused to participate in open public meetings or debates save for one carefully controlled event, which involved each of us speaking to five individual questions (two minutes per question) that we were given in advance. When my team and I uncovered many forged memberships while going door-to-door to meet potential voters, I carefully documented and submitted formal challenges to these memberships. Party officials categorically rejected my challenges on voting day. Once again, my defeat was not unexpected.

Looking back, should I conclude from my experience that continuing to seek out a viable riding was misguided? Should I have given up and accepted long ago that principle and policy were of no real value in politics, that you simply must have and maintain the leader's support? For better or worse, I was determined to prove that citizens deserved better. So, what have I learned from three decades of political involvement?

For too long, nomination races have formed the ignored, undemocratic underbelly of our political system. Selecting the candidate to represent the party in the next general election is the party's equivalent of The Hunger Games—an often-amoral competition among insular elites, sustained by ego and personal ambition.

The process of signing up new party members and getting them out to vote is so ethically challenged, and devoid of any genuine attempt to engage the broader electorate, that few Canadians pay any attention. It is particularly frustrating to see the ongoing faux interest in motivating more women to run for elected office. My experience tells me there is no lack of interest in elected office among women. However, once a potential candidate discerns what winning a nomination in a winnable riding actually requires, and the many systemic barriers to their success, many step aside.

A nomination in a winnable riding is still all about your connection with the party leader, the value of your background to the leader, your willingness to recite endless talking points provided to you in the leader's name, your donations to the party, your ability to fundraise for the party, your ability to hire a leading party insider as campaign manager, and your willingness to overlook memberships or votes obtained in ethically dubious ways during a nomination contest.

The leader and his office maintain such tight control that very few independent-minded people will make it through the nomination gauntlet, men or women. And sadly, elected life is still very much a career-limiting move for the vast majority of us who dare to cross over the divide into partisan politics. The time is overdue for serious reform.

In our social media age of fragmentation and flexibility, it is futile to even try to restore the former role of political parties as a bottom-up channel for policies in between elections. We need to take oversight of the candidate selection process out of political parties' hands and give it to Elections Canada. We must amend the *Canada Elections Act* to remove the requirement for an officer of the national party to sign nomination papers for candidates of their respective parties. This does not preclude appropriate vetting of qualifications and appropriate provisions to ensure candidates comply with finance-related aspects of the *Canada Elections Act*. At the same time, we must implement other election-related reforms, for example, to level the playing field for the increasing numbers of independent candidates, as I briefly discuss in the next chapter.

These changes will ensure that nominated candidates are chosen by a representative group of informed voters in their electoral district. No longer will a candidate owe more loyalty to a leader than to their constituents. Elected MPs will have greater autonomy and be much less likely to unthinkingly toe the leader's line in Parliament. This will complement parliamentary reforms (discussed in Chapter 8), needed to enhance accountability and scrutiny of government's actions.

Here is a framework for serious reform that will introduce respect for democratic values and high ethical standards into the nomination process for electoral district candidate selection:

- **Authorize Elections Canada**, as a neutral body, to oversee the entire nomination process on behalf of the political parties as well as independent candidates.
- **Encourage the involvement of a much broader base of the riding electorate.** This requires the elimination of unethical vote-buying and the amassing of automaton voters that has become all-too-characteristic of nomination races, especially in so-called winnable ridings.
- **Limit the campaign to a four to six-week period with a public and predictable schedule.** This allows candidates to get into the race and, if they lose, return to their prior occupations as soon as possible.
- **Ensure the primary focus is on many in-person all-candidate exchanges in local establishments.** For example, events could be scheduled for several evenings and afternoons a week throughout the campaign. These exchanges would be (and are) the most effective test of local appeal and eventual competence in Parliament.
- **Implement online voting, subject to a rigorous multi-step system to authenticate voters.** This requires the process of registering to vote in the nomination race to be rigorously administered by a credible arms-length body (mentioned above), and for personal ID that will eventually be presented at the time of a vote to be assessed and determined to be acceptable.

Finally, another important area for political party reform involves the way party leaders are selected. We should return to the process that allows members of caucus to select the parliamentary leader and provide for neutral oversight pursuant to Elections Canada, or the *Parliament of Canada Act*. In other Westminster countries, like the UK and Australia, Parliamentary caucuses still play an important role in leadership contests. In Canada, caucuses have ceded that role entirely. Conservative MP Michael Chong tried to restore some power to the caucus in a private member's bill, which allows the caucus to initiate a leadership review, and potentially to vote in a new interim leader. But in the face of opposition from the parties, the bill had to be watered down to pass. Rather than directly empowering the caucuses to exercise that power, the Act requires caucuses to vote on whether or not to adopt the authority at the beginning of each new Parliament. Stuningly, the Liberal Party failed even to hold the required votes.

Re-empowering members of caucus to select the parliamentary leader would hopefully entail more thoughtful choices in terms of serious policy debates and, by ensuring the leadership process is no longer a purely internal party process, further diminish the excessive power of the leader and ensure much greater accountability.

## Chapter 7

### **Election-related reforms: Making our vote count.**

The previous chapter laid out the reforms needed to reduce the debilitating influence of established political parties on our democracy, with a particular focus on how the selection of both the candidates that represent us in elections, and our parliamentary leaders, should not be controlled by insular political party cliques. This chapter turns to critical election-related reforms: changing our electoral system, introducing mandatory voting, and changing political financing to accommodate the increasing number of independent candidates who do not belong to established political parties. These reforms, along with others to be discussed in subsequent chapters, are designed to form governments whose members are encouraged to work across partisan lines and make reasonable compromises at all times.

When I ran as a Green Party candidate in the 2015 election, supporters were constantly telling me how much they hated strategic voting but felt compelled to cast a ballot for whichever candidate was most likely to defeat the Conservative in their riding. That's why it's so important for Canada to adopt a form of proportional representation, so that our representatives in the House of Commons reflect the popular vote, and we initiate a tradition of coalition building in Parliament. Electoral reform is essential to ensuring a Parliament that is more responsive to Canadians, more collaborative, and more creative. We also need electoral reform to put an end to governments that rule as majorities with a minority of the vote.

Contrary to what its critics claim, introducing some form of proportionality into Canada's electoral system would not lead to an unruly House of Commons and disruptive extremist groupings. Properly designed, the reform would, in fact, go a long way toward empowering MPs and encouraging collaboration, while curbing executive power. However, care must be taken to ensure political parties do not have excessive influence through the preparation of party lists of candidates, and that independent candidates are accommodated. These concerns might best be addressed by choosing the single transferable vote system combined with mandatory voting, as used by Australia's House of Representatives.

The Liberal government's decision to abruptly withdraw support for any electoral reform to replace our first-past-the-post system is yet more evidence of a government out of touch with Canadians, and more concerned with holding onto majority power than strengthening democracy. The Prime Minister wrongly assumed that Canadians do not care enough about the issue for it to affect his re-election plans. [This was acknowledged all too clearly](#) when he suggested, in a response to a question at a town hall meeting, that Canadians were far less interested in electoral reform than before, because his government was so much better-liked than the Harper regime. In my view, the decision to abandon electoral reform was a significant betrayal of voters' trust.

During the 2015 election campaign and shortly after his landslide victory, the Liberal leader presented himself as committed to changing the way federal elections are run to “make every vote count,” as he often said. At a forum at the University of Ottawa in April 2016, six months after being elected, he said, “I believe fundamentally that we can do better. We can have an electoral system that does a better job of reflecting the concerns, the voices, of Canadians from coast to coast to coast, and give us a better level of governance”. According to his pre-election platform:

“We are committed to ensuring that 2015 will be the last federal election conducted under the first-past-the-post voting system. We will convene an all-party Parliamentary committee to review a wide variety of reforms, such as ranked ballots, proportional representation, mandatory voting, and online voting. This committee will deliver its recommendations to Parliament. Within 18 months of forming government, we will introduce legislation to enact electoral reform.”

A House of Commons Special Committee on Electoral Reform was struck to study the issue, together with town hall forums, an online survey, and millions of postcards mailed out to encourage Canadians to participate in the discussion. A lengthy Report was issued in December 2016. Then, in January 2017, the Prime Minister broke his promise. The gratuitously sudden cancellation of the electoral reform initiative, through a simple rewrite of the mandate letter to a new minister of Democratic Institutions, demonstrates just how top-down the Liberal government is. And the prime minister’s outrageous claim that the cancellation somehow resulted from citizens’ failure to come up with a sufficient consensus to replace the existing first-past-the-post, winner-takes-all system was utterly baseless.

The Prime Minister has since said he could not support proportional representation (PR), the system that would best ensure the popular vote is accurately reflected in the House of Commons. He claims PR would allow extremists to hold the balance of power in Ottawa. That is simply fear-mongering, unworthy of a prime minister. His argument that proportional representation would undermine the brokerage role of mass political parties does not even hold up for his own party. The Liberal Party is no longer a grass-roots brokerage party of diverse ideas—it is just an election machine run by the leader and his office.

The electoral reform charade made regrettably clear that there is no real commitment to building the “fair and open” government the Liberal leader promised would engage with Canadians. That’s why so many of us citizens feel sidelined. Regardless of whether electoral reform was a top-of-mind concern for most Canadians, the government’s brusque about-face breached a solemn commitment made to voters during the election campaign. It serves to underline what is already increasingly clear: that copious government surveys and online opportunities encouraging Canadians to “participate”—whether on the subject of electoral reform or any other

campaign promise—*do not* amount to actual citizen engagement in directing and shaping governance. Such initiatives are more focused on gathering data about voters and manipulating the leader’s message.

So, how to fix things?

Canada is one of the last free and prosperous nations in the world to continue to use the antiquated, first-past-the-post voting system. By allowing a party with a minority of votes to gain majority power, first-past-the-post disadvantages Liberal and NDP voters in the West, Conservative voters in the cities, and Green voters right across Canada. Ultimately, it can neither produce governments that reflect the diversity of people in Canada, nor accurately convey voters’ wishes.

Reforming our electoral system is overdue, and the best solution is some form of proportional representation (PR). But how can we get around established parties’ resistance to the change we need? Pundits often note that political parties will support electoral reform while in opposition, but reverse their position once in power, precisely when they are in a position to take action. It’s easy to see why. Our current system provides greater certainty that one dominant party will either remain in power or regain it. A PR system, which would more accurately reflect the popular will, means the established parties would lose control. No longer will they be able to maintain absolute majority control over the legislature with less than 40 percent of the popular vote. Among other things, PR is more likely to lead to a minority government, requiring politicians to engage in coalition-building and seek compromise with their opponents.

Are minority governments a problem? No.

Our national politics would be better served by more civility and collaboration, and less of the conflict that turns Parliamentary debate into the equivalent of a hockey brawl. In [a May 2019 article](#), political analyst Philippe J. Fournier speculated how the 2015 federal election would have unfolded with proportional representation. Under a proportional system, the Greens would have 34 seats, the NDP 56, the Bloc Québécois 15, Liberals 108, and the Conservatives 125. Arguably, these results would have resulted in a much more innovative and collaborative Parliament than we endured from 2015 to 2019.

When a minority government was elected in 2019, the NDP, at the very least, was expected to pressure the Liberal government on electoral and other parliamentary reforms. But the pandemic intervened and effectively shut down the opposition.

As soon as possible after the next election, we should place changing the electoral system on the agenda for an all-party Democratic Voting Commission tasked with reviewing the research on

electoral reform options, and conducting a public consultation on the style of proportional representation best suited to Canada. So much work has already been done that choosing a broadly acceptable electoral system for subsequent elections should be relatively easy, particularly if the legislation provides for a mandatory in-depth review of citizens' experience of the PR system after its first use.

If needed, the decision to introduce a new electoral voting process lends itself particularly well to a consultative referendum, as recommended in the 2016 report of the House of Commons Special Committee on Electoral Reform. Lessons should be drawn, however, from British Columbia's unfortunate experience with an overly complex, multiple-question format in their latest referendum on electoral reform. (There were two questions with four options relating to three new systems of proportional representation—dual member, mixed member, and rural-urban—with many details to be determined further down the line.) Any future referendum question should present a straightforward choice between a single reform option and our existing system.

What about voter apathy? Electoral reform would help, but we could also make voting a legal obligation for all citizens, as in Australia, where turnout exceeds 90 percent. Anyone who chooses not to vote for reasons of conscience is able to spoil their ballot. Mandatory voting would eliminate the need to rally supporters to the polls by pandering to divisive prejudices, and hopefully encourage more meaningful election debates on substantive public policies. A Green Party proposal to lower the voting age to 16 also merits close consideration.

Some think easier online voting will overcome elector apathy. Certainly, it may help, and the technology may soon advance to the point where a digital vote is secure and viable and subjected to a rigorous multi-step system to authenticate voters. Even so, we still need to invest much more effort in voter registration and increasing citizen engagement. This should start in schools with formal civics and media training every year. We must be constantly vigilant against attempts at voter suppression, such as those implemented under Stephen Harper and fortunately rescinded by the Liberal government. Elections Canada must always have a vigorous, independent, fully funded mandate to increase voter registration, remove barriers to voting, and enable much greater citizen engagement.

Political financing, both during and between elections, must also be adjusted to reflect the diminished role of established political parties and higher profile of more independently elected representatives. It is true that Canada's political financing rules, which eliminate corporate and union contributions, place us in a much better position than the United States. Yet we still have some way to go to achieve a better balance that reflects the equal value of every citizen.

Current political financing rules still favour established parties and their proxies, so they feel compelled to spend (translation: waste) enormous amounts of money on attack ads, push polls, robocalls etc. Third parties aligned with the established parties still spend inordinate amounts of money in the pre-writ period—witness the laughable ads, both for and against Andrew Scheer, that irritatingly popped up during the NBA finals in June 2019. A new compliance regime is needed that applies to all individuals and parties. One approach is to establish a maximum total annual contribution for all citizens—a cap that applies to a citizen’s total contribution to candidates or parties. The tax deduction for such contributions, which simply benefits better-off Canadians, should be eliminated. And we could reconsider a per-vote subsidy, but one that goes directly to individual candidates, not their parties. When the per vote subsidy was in place from 2004 to 2011, it went only to political parties to enable them to fund policy development between elections, among other things. As demonstrated above, the established political parties have proven unable or unwilling to innovate policy beyond that dictated by the leader’s office. Providing a modest subsidy to election candidates receiving a minimum number of votes would be a more productive way of strengthening the influence of individual citizens vis-a-vis the insular political parties.

One final point: Paul Thomas, a senior researcher at The Samara Centre for Democracy, has noted that there is far too much executive discretion in the calling of by-elections after an MP resigns. The average Canadian vacancy is 115 days, compared to 53 days in the U.K. *The Parliament of Canada Act* requires a by-election to be called between 11 and 180 days after vacancy, which is a huge range. Once a by-election is called, the campaign must last at least 36 days, and at most 50 days. This means a minimum 47-day campaign.

Clearly, there is a need to fill vacancies between elections much more expeditiously and minimize the length time during which electors are left without representatives. This is yet another area for change if we are to diminish self-interested party control of public processes.

## Chapter 8

### **Parliamentary reforms: Increasing accountability and scrutiny.**

In this chapter I turn to a wide range of parliamentary reforms designed to encourage elected representatives to pursue reasonable compromises and principled cooperation across party lines. As with the recommended political party and electoral reforms outlined in previous chapters, these will facilitate implementing meaningful and durable changes that benefit citizens and survive beyond the inevitable reconstitution of government with each new election.

As noted earlier, our established political parties have lost their vibrant grass roots community bases and, along with them, any meaningful outlet for public participation and its mediating role in building consensus around long-term political action. Instead, party leaders have centralized power and created top-down organizations that serve primarily as 24/7 election machines. During elections, citizens are sold on personalities and “good intentions,” rather than policies and “good governance.” When voting is over, policies are shunted to the sidelines.

Executive-controlled parties lead to top-heavy governments guided by electoral cycles and special interests rather than the public interest. In most established democracies today, executive rule has never been so strong and responsible governance never so weak. In Canada, this affects both federal and provincial levels of government. In majority governments there is minimal civic space in which citizens can constructively engage with policy-makers. Lobbying is futile. Citizens’ frustration is compounded by the chaotic dysfunction that exists between different levels of government—federal, provincial, territorial, municipal, Indigenous—which produces paralysis instead of the crucial harmonization needed for effective public policy.

The tragedy is that we’ve reached this nadir of representative democracy just as we are experiencing peak economic insecurity and anxiety, especially after the pandemic.

This insecurity affects all generations, from the 50-year-old factory worker to the 30-year-old millennial. Far too much work is considered to be precarious by Canadians. The frontiers of biological, physical, and digital systems are expanding at unprecedented speeds. Disruptive technological advances—from artificial intelligence and the Internet of Things (IOT) to self-driving vehicles and 3-D printing—have a huge impact on the labour market and our ability to hold down decent jobs with adequate pay.

And yet just when we most need creative and responsive governance to manage these multiple challenges, we have leaders reducing complex issues to catchy slogans and tweets. Too many citizens see a frustratingly persistent gap, across a wide range of issues, between our aspirations and the capacity of our governments to respond. At best, we have governments settling for half-

measures carefully curated and disseminated through fragmented social media channels, all with an eye to the next election.

Power remains extraordinarily concentrated in the executive branch of the Government of Canada, namely the Prime Minister's Office (PMO). The majority Liberal government is proving itself just as top-heavy as Stephen Harper's previous government, perhaps even more so given its strong focus on protecting the Trudeau brand. A government so focused on protecting the personal brand of a charismatic leader inevitably finds it difficult to avoid slipping out of touch with the citizens they represent. As Alex Marland, author of *Brand Command: Canadian Politics and Democracy in the Age of Message Control* (2016), wrote: "Branding is addictive, it is circular, and it is a seemingly unstoppable force... Branding requires message control and simplicity, and political power centralizes when communications converge." With executive power even more unchecked in Canada than in the U.S., we are by no means immune to backlash by alienated or forgotten voters if disillusionment with the leader snowballs, as it did in the winter of 2018–19.

The MPs elected under the Trudeau banner in 2015 knew all too well that they owed their positions and power to a fluke of our first-past-the-post electoral system, which delivered a surprising majority government despite having the support of only the minority (40 percent) of the mere 68 percent of the population who bothered to vote. Within the PMO-dominated House of Commons, widespread sycophancy has become common, together with the same recitation of mindless PMO-drafted talking points that characterized the Harper era. This deplorable development is perhaps most obvious in the conduct of both the former and current Ministers of Democratic Institutions, in the cash-for-access controversy, and in the readiness of Liberal members of parliament to rally around the leader during the dramatic Jody Wilson-Raybould/SNC-Lavalin affair of 2018–19.

In 2015, Canadians voted for significant change. We were not just settling for switching leaders, or even for "sunny ways." We expected serious reforms to our representative institutions, and to the role and conduct of government. This would ensure responsive and responsible governance between elections. We expected an ambitious long-term agenda aimed at relieving the stress of precarious work, strengthening social security and building a vibrant economy for all Canadians, not just the lucky few.

Of course, we expected our government to be assertive on the global stage, working vigorously with our allies to bolster—morally and financially—all the multilateral international organizations and conventions so critical to international security, trade, and individual and collective rights. We also support maintaining our open immigration and refugee policies as well as resisting the bullying "America First" tactics in trade negotiations.

But we needed an ambitious domestic agenda aimed at securing measurable improvements for struggling Canadians.

This has never materialized.

So, what can we do?

Our representative institutions and practices, which used to serve as checks on unfettered executive power, continue to atrophy. Neither the House of Commons nor the still-hapless Senate provide meaningful legislative oversight of the Trudeau PMO on any issue of the day. Our political parties—formerly broad-based grass-roots organizations—have been reduced to election automatons at the beck and call of party leaders who tightly control the nomination process that determines who we can elect to Parliament.

Extensive parliamentary reforms are crucial if we are to truly constrain prime ministerial authority, curtail the executive branch, and re-engage Canadians with our government. These reforms should relax party discipline, loosen the leader’s grip on power, and allow MPs much more autonomy in developing responsive policies and programs across partisan lines. In turn, this will open Parliament to better engage with and remedy citizens’ concerns.

During the 2015 election campaign, [the Liberal leader promised](#) many specific initiatives that would lead to more openness, accountability, and transparency in governance, and more freedom for MPs. Some meagre progress has been made, but much, much more remains to be done.

To begin with, the federal government has not undertaken the overdue overhaul of our out-dated legislative frameworks for ethics, privacy, and freedom of information. Early on in his first mandate, the Prime Minister tripped up defending the indefensible cash-for-access controversy. He was eventually reduced to claiming that we should just trust him not to have behaved unethically. This is dangerous territory. Leaders may well consider themselves personally incorruptible, and believe they personally know what is best for their citizens. But this is inadequate in a vibrant democracy which depends on the rule of law, not a leader’s personality.

Urgent legislative action is required. For example, the *Accountability Act* still does not provide for the enforcement of senior public servants and cabinet ministers’ “duty to act honestly” by the independent Conflict of Interest and Ethics Commissioner reporting to Parliament. This “duty to act honestly” is referenced only in a set of accountability guidelines—“Accountable Government: A Guide for Ministers and Ministers of State”—the enforceability of which is in the prime minister’s hands.

We need to strengthen the powers and independence of the Conflict of Interest and Ethics Commissioner to investigate government officials and lobbyists, and ensure the selection of the Commissioner is made by Parliament through a merit-based process, not cabinet. Retiring NDP MP David Christopherson’s 2019 Private Members Bill made a useful suggestion: that all officers of Parliament should be selected by a special parliamentary committee. Sadly, it was defeated. Add to this effective whistleblower protection for public- and private-sector employees.

We must strengthen the rules of conduct for lobbying. All lobbyists’ contacts with politicians and government bureaucrats, both formal and informal, must be reported and made public. And as the SNC Lavalin scandal illustrated, oversight of lobbying efforts must go beyond registration.

Within months of the 2015 election, SNC-Lavalin mounted a multi-year lobbying campaign focused not just on the PMO, but also on other government bodies, including Global Affairs Canada, Export Development Canada, Public Services and Procurement Canada, the Treasury Board, and the Privy Council Office. All this to convince the Liberal government to introduce “deferred prosecution agreements” (DPAs), which would [allow the company](#) to pay fines and restitution, escaping criminal prosecution and certain restrictions on its ability to contract with federal departments and agencies.

Similarly, the *Access to Information Act* and the *Privacy Act*, which both date back to 1983—i.e. before the Internet—require comprehensive overhauls to bring them into the digital age. Reforms must ensure greater transparency of, and accountability for, government activities, and a more equitable balance between Canadians’ right to know and the legitimate protection of information. The federal government’s 2019 amendments to our access to information regime fall far short of the Liberals promise to make government “open by default”, with outgoing Information Commissioner Suzanne Legault writing in February 2018 that the amendments would result in a “regression” rather than improve access rights. As discussed in Chapters 4 and 6, the Privacy Commissioner has indicated that modern tools are urgently needed to deal with privacy concerns arising from the operations of social media and the tech giants, as well as political parties.

In addition to the foregoing reforms of important frameworks for legislation, we need to explicitly reduce the sweeping powers of the PMO. A range of changes to the standing orders and internal regulations would support greater independence for elected representatives in the overall legislative process. These reforms include stricter limits on the PMO budget and dismantling the all-powerful command-and-control network currently sustained by the PMO through a thick network of political staffers and communications officers.

Equally essential is strengthening the operations of parliamentary committees and reducing party leaders’ and whips’ control of Parliament, which would enhance the autonomy of individual

MPs. Indeed, House of Commons committees have a vital role to play in examining our government's policies, programs, and actions. Committees need to have adequate budgets—controlled not by the Board of Internal Economy, but rather through the Library of Parliament—to function vigorously and independently. Committee members should follow a clear set of rules and check their partisanship at the committee door, and committee chairs should be elected by secret ballot by the whole of the House of Commons. This latter suggestion is to prevent the ruling party from gaming the current system by putting forward only one candidate for chair who inevitably wins the most votes within the committee.

The House of Commons Standing Committee on Justice and Human Rights that examined the SNC-Lavalin scandal exemplified what is wrong with a system essentially controlled by the PMO. The committee was dominated by Liberal MPs. Despite ongoing and widespread concerns over the federal government's attempt to undermine the independence of the Attorney General of Canada, the committee prematurely shut down its investigation. The situation had become intolerably uncomfortable for the prime minister, who refused to acknowledge any wrongdoing on his part.

Parliamentary committees should be productive consensus-building forums in which elected representatives are encouraged to find common ground on crucial citizen concerns. In the United Kingdom, some all-party committees are obliged to scrutinize particular legislative matters until a consensus is achieved. Imagine what a difference this would make in formulating sensible gun control legislation that would really stem the illicit arms trade, and impose reasonable regulations consistent with a citizen's privilege, not a right, to own a gun. And what about developing a consensus on building what will be our last oil pipelines, consistent with the goal of phasing out fossil fuels by 2050, and displacing imports of foreign oil?

In 2021, we witnessed an intensifying crisis impacting the Canadian Armed Forces dealing with sexual misconduct, that has been covered up by CAF authorities and their political masters for years, despite a damning report issued in 2015. One promising proposal to ensure more accountability and responsiveness to issues arising within the CAF, was made by the National Defence and Canadian Armed Forces Ombudsman. The Ombudsman would report directly to Parliament instead of directly to the Minister of Defence. Only this will mean full structural and administrative independence from the Department of National Defence, and would increase accountability to Canadians through Parliament, which is as it should be.

In a related area, after the Liberal government essentially thumbed its nose at a request of the National Security and Intelligence Committee of Parliamentarians (NSICOP), it has been sensibly suggested that NSICOP should be a parliamentary committee subject to parliamentary scrutiny, rather than an executive body controlled by the government of the day. This change is all the more urgent and appropriate, after the government of the day took the unprecedented and

unconstitutional step of opposing the long-established constitutional right of Parliament to request documents relating to the firing of two scientists from a top-security research laboratory. Indeed, in an unprecedented case, the Department of Justice has also gone to court to essentially rule on a proceeding of the House of Commons and stop the release of the documents – a serious violation of Parliament’s privilege.

Canadians should be very concerned with this deeply troubling pattern of autocratic behavior from our elected representatives.

Another area for reform is the prime minister’s power to appoint deputy ministers, associate deputy ministers, members of boards and commissions, and ambassadors. This power should be removed and replaced by an impartial and objective Public Appointments Commission. Similarly, the prime minister’s power to make judicial and quasi-judicial appointments should be replaced by a [fully independent and transparent appointments process](#), involving meaningful parliamentary confirmation. This appointments process would also apply to the membership of a [new arm’s-length Criminal Justice Council](#) that would oversee changes to and insulate the Criminal Code from capricious partisan amendments, from Harper’s mandatory minimum sentences to the Deferred Prosecution Agreement (DPA) the Liberals buried in a 2018 budget bill.

Which brings us to yet another urgent reform: outlawing the undemocratic practice of omnibus bills. Ironically, this was yet another campaign promise the Liberal leader abandoned. In a 2013 interview with *The National Post*, he stated: “Omnibus bills, I’d like to say I wouldn’t use them, period. There will always be big bills, but they need to be thematically and substantively linked in all their different pieces so that they form a piece of legislation. The kitchen-sink approach here is a real worry to me.”

Yet despite superficial changes to the Standing Orders to prevent the practice, omnibus bills just keep coming with one Budget Implementation Act after another. And there it was: a change to the Criminal Code to allow for remediation agreements instead of prosecutions for companies accused of corruption. This DPA amendment was easy to miss in the outrageous 556-page Budget Implementation Act of 2018.

The 2019 Budget Implementation Act, which weighed in at 392 pages, enacted or amended more than 60 different pieces of legislation. Among many other things, controversial and hastily drafted amendments to the Immigration and Refugee Protection Act affecting asylum seekers were stealthily slipped in on one line. Such omnibus budget legislation is prohibited in Australia and the United Kingdom, and severely restricted in New Zealand. The fact that Canadian governments persist in this anti-democratic practice without compunction—(the 2021 Budget

Implementation Bill is over 700 pages)—is further testimony to the abysmal state of our political system, and the arrogance of our political leadership.

One final point: the House of Commons Board of Internal Economy (BOIE), and the Procedure and House Affairs Committee (PROC) would be well-advised to ensure MPs benefits are comparable to those of the ordinary Canadians who pay their substantial salaries (baseline \$178,900), expense accounts, and extended benefits. For example, MPs' extended health benefits, pensions, and maternity leave, well exceed those of most Canadians. Differentials like these contribute to citizens' cynicism with politics and politicians.

## Chapter 9

### **Comprehensive tax reform: Raising adequate revenues accountably, fairly and efficiently.**

The subject of taxation is usually a guaranteed conversation-stopper. Many of us citizens are quick to complain we are overtaxed, though we know our taxes fund a wide range of essential services that individual Canadians and the private sector cannot, or will not, provide efficiently. Taxes pay for our roads and sewers, health care and education, police and military, and many other essential public goods and services.

We are also thoroughly disillusioned with our politicians' easy promises, so often abandoned due to their failure to consider how to raise sufficient revenues for implementation. Governments' ability to act on behalf of citizens is critically dependent on their ability to raise revenues. Citizens deserve straight talk from representatives, who must fully inform us of the realistic costs of any action, provide short- and long-term funding options, and take action accordingly.

Taxation in Canada is progressive, meaning that those earning higher incomes are expected to contribute more to public services. In a progressive system, tax revenue should directly or indirectly help lower-income citizens and provide equal opportunity for social advancement. Yet our current income tax system is riddled with exceptions, special cases, and limited exemptions that are at best inconsistent, and at worst profoundly unfair. Some wealthy individuals and many businesses get breaks they don't need, while average and low-income wage earners are held back by counterproductive rules and regulations. The cost of these (largely politically inspired) tax adjustments in terms of foregone government earnings is estimated at between \$80 and \$100-billion.

Reforming our tax system will improve our collective ability to raise revenues efficiently and fairly and enable us to fund urgent policies and initiatives without resorting to unsustainable debt financing. Restoring fair and progressive taxation will help us sustain a productive, prosperous economy, while genuinely helping mitigate Canada's widening income gap. We need much more than the current federal government's much touted but minimal middle-class tax cut, which does nothing for Canadians earning less than \$45,000.

How bad is our income tax system, really? When the right-leaning Fraser Institute and seven out of 10 [business leaders](#) agree it's a mess, it's safe to say there is a problem. Accessing the system is so baffling and frustrating that citizens struggle to access tax credits they deserve. A 2017 study by the University of Calgary's School of Public Policy found that only 40 percent of more than 1.8-million Canadians living with a severe disability take advantage of the federal disability tax credit (DTC). The mind-numbing complexity of the system was thought to be a major obstacle to access, and this is bound to be affecting other population groups, too.

In a January 2019 column in *The Globe and Mail*, Ian McGugan aptly described our income tax system as “a labyrinth of rules that appears to have been cobbled together during a midnight rave-up of politicians, Sudoku aficionados, and people new to the English language.” McGugan then asks how we might reform a system that has sprawled in every direction. The following comments elucidate some of the challenges we face:

“Making matters even more difficult is the growing trend toward income inequality. An increasing proportion of society's earnings now flow to the top tier of earners. This poses a knotty dilemma. On one hand, any attempt to impose hefty levies on society's wealthiest and most productive members simply prods people of high ability to decamp to other countries. On the other, it's hard to ethically or politically justify a system that goes easy on the well-to-do simply because they're mobile.

Economists and other theorists who study optimal approaches to taxation generally agree on a few notions. They're for reducing special exemptions and flattening tax rates. They also find merit in distinguishing between income from employment and income from stocks, bonds and other investments.

For example, Kevin Milligan of the University of British Columbia has argued persuasively for a system that combines strongly progressive tax rates on employment income with a relatively low flat rate on investment income. The goal would be to tamp down the inequality in people's paycheques while encouraging individuals to invest in activities that can grow the economic pie for everyone.

One modest first step would be to follow the lead of the United Kingdom and set up an Office of Tax Simplification. More ambitiously, the time is ripe for a broad rethinking of Canada's tax system. Our last such effort, the Carter Commission in the 1960s, took 10 years to move from initiation to very piecemeal implementation. The sooner we get started on a new effort for the 21st century, the better.”

We should establish a national, independent committee of experts to conduct a thorough review and propose steps to overhaul our unfair, inefficient, and exemption-riddled tax system. This committee's mandate should extend beyond personal and capital income taxes to encompass all existing and potential sources of tax revenue, including sales, consumption, estate, and financial transaction taxes. It would also take up the very useful work done by the [expert panel](#) established by the Department of Finance Canada in 2016 to review tax expenditures. Encouragingly, several panel members (most notably economist Robin Boadway and political scientist Jennifer Robson) have a clear-eyed understanding of the inequities overwhelming our tax system. But they appear to have had little concrete impact, as the Department of Finance continues to publish excruciatingly detailed and unreadable annual reports on federal tax expenditures.

Comprehensive, root-and-branch tax reform is not just the piecemeal elimination of a few tax credits here and there. If we broaden the field of action, calculating winners and losers becomes more fluid and less divisive. For example, it would make sense to replace the workplace health

and dental coverage taxable benefit—which currently costs the government almost \$3 billion in foregone revenue—with a refundable tax credit that would extend the benefit to all Canadians. But the federal government withdrew this initiative following pushback from vocal, well-funded organizations representing the narrower interests of a fortunate 13.5 million Canadians with employer-sponsored plans.

The same thing happened when the government clumsily attempted targeted reforms to prevent the misuse of private corporations to reduce tax bills. These reforms were sensible, but because they were presented in isolation, small business owners and professionals were able to overwhelm and embarrass the government with well-crafted messaging, representing themselves as innocent victims of an unjustified government vendetta. Had these changes formed part of a much broader tax reform initiative, the government would not have been so easily pressured to abandon them.

Any comprehensive review and reform must involve in-depth scrutiny of corporate tax structures with a view to systemic reform. Some European countries have successfully implemented a reform that converts corporate income tax into “rent” tax. Unlike income tax, this cannot be said to act as a disincentive to investment and innovation. Allowance for Corporate Equity (ACE) tax systems allow a firm to deduct borrowing and equity costs related to investment in its business, among other advantages.

Indeed, a tax system such as ours, written for the analog era using statistical methods that fail to capture real wealth, is ineffective in today’s financialized, digital economy. Standard measures of GDP fail to reflect a whole panoply of intangible assets, from digital music and mobile apps, to Google and Twitter. Digital assets undeniably influence profitability, but businesses can book them as intermediate goods as opposed to output, reducing their tax bills. Similarly, affluent earners can opt to receive income in the form of stock options, on which they pay much less tax than on regular income, if any. Tech giants routinely book their profits in low-tax jurisdictions, although countries like Canada are attempting to coordinate international action to prevent this. One example of such efforts is the [European Union action on a Digital Services Tax](#), and the 2021 decision of over 130 countries, led by the OECD, to implement a 15 percent global minimum corporate tax rate, directly aimed at the tech giants.

As we seek out new sources of revenue for our collective priorities, we should join European nations like France and Germany in promoting and enforcing an international financial transactions tax (popularly known as the “Tobin tax”). Bill Gates put forward a [related proposal](#) for increasing tax revenues in G-20: a 0.01 percent tax on the sale of equities, and a 0.05 percent tax on bond transactions. This could raise approximately \$48-billion among G-20 member states.

We must also review the balance of income tax and sales tax revenues. If we determine that additional sales tax revenue is needed, we already have mechanisms in place to provide lower-income Canadians with exemptions and refundable tax credits to make the impact as equitable as possible.

Take, for example, one of our biggest consistently underfunded areas: guaranteeing basic rights, equity and justice for Indigenous Canadians. Despite the Liberal government's stated intentions to pursue reconciliation, the impact of additional federal expenditures on Indigenous education and health care remains unclear. Housing conditions have worsened; incarceration and suicide rates remain tragically high. On First Nations reserves, a significant percentage of water systems are substandard. If we are serious about finally moving beyond empty rhetoric, why not dedicate an immediate 1 or 2 percent of GST to Indigenous peoples to solve clearly defined issues? This could secure resources for accelerating the repeal of the *Indian Act* and building Indigenous-led governing structures and services with sufficient resources to begin addressing the effects of intergenerational trauma. Only dramatic budgetary and legislative initiatives can succeed in reminding Canadians of the need to turn things around on a daily basis, whatever the cost.

Additional revenues should also be channeled toward settlement funding for new Canadians. It is important to get this right, as Canada will absorb many more millions of immigrants over this century. With our expansive geography, and provided we adequately invest in initiatives to tackle climate change, we could be uniquely positioned to show the world that a progressive, vigorous, multi-ethnic democracy can thrive in the twenty-first century. But we need concrete structural change to make sure no one is confined to the sidelines. All of our voices must be heard.

## **Part III**

### **FIXING FEDERAL DYSFUNCTION**

- Chapter 10 Reform of intergovernmental institutions and practices:  
Getting governments working together and harmonizing fiscal  
responsibility.
- Chapter 11 Intergovernmental harmonization of critical policy areas:  
Benefitting all Canadians.

## Chapter 10

### **Reform of intergovernmental institutions and practices: Getting governments working together and harmonizing fiscal responsibility.**

Canada is a complex federation with multiple levels of government—provincial, territorial, Indigenous, municipal. It is a huge challenge to demand greater accountability, transparency, and responsive policies and programs when several layers of government are concerned. The traditional approach of relying on *ad hoc* first ministers' meetings or bilateral federal-provincial agreements to achieve an intergovernmental consensus no longer works. Too often, we end up with either the lowest common denominator of agreement, or no multilateral agreement at all, and a potentially inequitable patchwork of standards and services across the country.

Canadians are worn out by intergovernmental dysfunction. We desperately need a fresh, effective, institutional structure to guarantee the completion of so many urgent initiatives. As noted in Chapter 5, the Senate in its current form is no place for forging durable, multilateral compromises and collaborations. Nor is the generally dysfunctional Council of the Federation, which consists of provinces and territories only, and which does little more than provide for an annual get-together where premiers whine about Ottawa and the federal government.

We know all too well that many critical challenges we face involve every level of government. The responsibility for action cannot be neatly allocated to one jurisdiction or another. Rather, coordinated governance is needed to ensure all our representative institutions work together to help Canadians find and keep decent jobs with decent pay, raise children in a safe and clean environment, care for elderly parents and disabled relatives, and make sure enough food is on the table.

Canadians are fed up with one level of government passing off responsibility to another, and with one level suddenly vetoing another's action on a purely electoral calculus. The examples are endless. Time and time again, the federal government sets new goals for immigration, yet fails to assure sufficient settlement funding for the provinces that are primarily responsible for integrating the new Canadians. Municipalities try to increase public transit, only to find funding opportunities unexpectedly cut by the province. Former Ontario premier Kathleen Wynne's surprise veto of Toronto Mayor John Tory's proposal for toll roads comes to mind, as does current Ontario premier Doug Ford's abrupt municipal budget reductions.

This chapter will examine how to initiate reform to our intergovernmental structures and practices, including intergovernmental fiscal transfers. The time is overdue for structural change to modernize our federal system, and to facilitate cooperation between all levels of government to achieve common goals for all Canadians. To this end, I propose a Council of Canadian

Governments, which would be carefully structured to design and implement programs and initiatives needed nationally but delivered locally.

Too often, progress is impeded by our elected representatives' failure to secure adequate revenues to build and sustain the programs and initiatives we need. So, we also have to focus on revenue generation and intergovernmental fiscal transfers, and demand maximum accountability and efficiency from our collective public expenditures across all levels of government. I describe below how a neutral Commission on Fiscal Transfers could facilitate consensus on intergovernmental funding.

### **Council of Canadian Governments**

Australia has a model that Canada could follow to create a more collegial and collaborative federalism, without constitutional change. The ten-member [Council of Australian Governments](#) consisted of the prime minister, state and territorial leaders, and the head of the Australian Local Government Association. Established in 1992, the Council fostered co-operation on policies and programs of national importance for almost 30 years. It is generally well-accepted by Australians, as having eliminated much of the inter-jurisdictional wrangling with which Canadians are so familiar. Australia has now succeeded in harmonizing policies across the country in areas including a national disability insurance plan, skills training, business regulations, transportation, infrastructure, and health care.

In 2020, shortly after the start of the pandemic, the Australian Council was replaced as the main intergovernmental forum by a National Cabinet, modelled after Australia's WWII War Cabinet, with the prime minister, and state and territorial leaders. Ongoing intergovernmental coordination continues through specialized committees focused on policy areas like skills, infrastructure, health, transport, population and immigration, energy, and rural and regional Australia). This chart of the [Australian Federal Relations Architecture](#) as of October 2020 describes the new structure.

A [Council of Canadian Governments](#), chaired by the prime minister, would include provincial premiers, territorial leaders, representatives of municipal governments, and representatives of Indigenous peoples. It would neither be a formal part of our legislative process, nor have any governmental powers or constitutional status; rather, it would supplement First Ministers' conferences. The Council's role would be to initiate, develop, and monitor the implementation of policy reforms of national significance that require action by all Canadian governments.-This focus on collaboration would bring more direction and coherence to national governance.

The Council would be thoroughly transparent: full details of its meetings, agendas, proposed initiatives, agreements, and so forth would be available online. Ideally, council meetings would

be open to the public, giving citizens access to the experts invited to consult on policy developments. This high degree of transparency would facilitate constructive citizen mobilization around issues of national concern, and permit Canadians to demand much greater accountability from our leaders on matters requiring co-ordinated action at different levels of government. (We would equally need to hold provincial and federal legislatures accountable for any laws or regulations they passed to follow through with the Council's work.)

Strengthening our social safety net and our economic fundamentals in a meaningful way requires all levels of government to take collaborative, constructive action. Citizens should not have to put up with one level of government avoiding an issue by blaming another, or see their benefits arbitrarily cancelled because federal action is uncoordinated with a related provincial program. Finding that our training certificates are not recognized throughout Canada, or that our businesses must comply with different regulations in order to operate across more than one province, is absurdly frustrating.

A Council of Canadian Governments would prevent Canadians from falling between the cracks because of complex, uncoordinated federal-provincial-municipal-Indigenous initiatives. The Council would also be mandated to strengthen our internal Canadian economy, and eliminate the regulatory labyrinth that makes it easier to conduct business outside our borders than across Canadian jurisdictions. Greater national continuity would bolster all citizens' economic and social security, and increase investment and jobs across the country.

Finally, a transparent Council of Canadian Governments would allow for much-needed reporting on our massive \$70-plus-billion federal-provincial fiscal transfer program, which accounts for over a quarter of all federal spending. It would be invaluable to have a forum in which much-misunderstood topics such as federal-provincial "fiscal balance" could be examined. ("Fiscal balance" debates are triggered by the frequent claims of provinces facing large deficits that Ottawa should be increasing transfers to the provinces and shouldering more of their expenditure load).

### **Commission on Fiscal Transfers**

Every year, Ottawa channels billions of dollars to the provinces and territories to reduce inequities among Canadians. This goal of economic and social justice is so fundamental to our way of life that it is entrenched in the Constitution. Section 36(1) *commits* our governments to: "(a) promoting equal opportunities for the well-being of Canadians, (b) furthering economic development to reduce disparity in opportunity, and (c) providing essential levels of public services of reasonable quality to all Canadians." Most federal contributions to provinces take the form of transfer payments earmarked for health care, post-secondary education, social assistance, and social services. These arrangements are jointly referred to as "fiscal federalism." Section

36(2) of the Constitution *commits* our governments to providing “reasonably comparable levels of public services at reasonably comparable levels of taxation.” This specific form of financial redistribution of our national wealth is what we call “equalization.”

Transfers from federal to provincial and territorial governments are an integral component of a well-functioning, modern federation. In a federation such as ours, the so-called ‘vertical balance’ between federal and provincial levels of government is just as important as the ‘horizontal balance’ that implies correcting disparities across provinces. Too much provincial self-sufficiency can increase interprovincial disparities, which in turn puts pressure on equalization. Indeed, we should be concerned that in Canada, federal transfers account for a lower percentage of provincial revenues than any other federation in the developed world. Canada is considered the most decentralized federation in the world, with Ottawa’s share of total revenues the smallest of any other central government.

It has become very difficult to measure whether fiscal federalism, as currently structured, allows us to share our financial burdens fairly and promote national objectives to all citizens’ benefit. Different levels of government increasingly strike *ad hoc* deals, which make calculating the real impact of transfer payments next to impossible. Recent bilateral, federal-provincial deals on healthcare funding are just the latest case in point. The House of Commons’ lack of meaningful scrutiny of intergovernmental transfers is an alarming failure of transparency and accountability to the Canadian people, who don’t need statistical evidence to know that the collective impact of public spending falls well short of its intended goals. To achieve greater openness, we must change how Parliament handles fiscal redistribution.

Each year, the Canada Health Transfer allocates over \$30 billion to the provinces, while the Canada Social Transfer distributes another \$13 billion-plus for services including post-secondary education and childcare. All provinces now receive both these transfers on an equal per-capita basis (for every citizen). Equalization payments, which are made only to provinces with a ‘fiscal capacity’ below the national average, total over \$17-billion. Over half of this amount goes to Quebec; the rest is divided between Ontario, Manitoba, Nova Scotia, New Brunswick, and Prince Edward Island. Many other federal programs and initiatives incorporate equalizing elements. One example is Employment Insurance, currently structured to benefit unemployed citizens in areas of the country with fewer job opportunities. Other federal transfers are distributed to provinces according to different per capita measures, on no clear principle.

Equalization is undoubtedly a valuable program. Some observers argue it could help Canada to quell the kind of citizen backlash that tipped the American vote to Donald Trump in certain hard-hit geographic areas. Yet this aspect of financial redistribution is [long overdue for substantive and procedural reform](#). The formula used to calculate equalization payments—by adding up

various tax bases and subtracting others to somehow measure fiscal capacity across provinces—is so complex that few experts can explain it in intelligible terms.

Too often, equalization has become a political football. Alberta’s government is planning a very impractical referendum on the issue. Among other things, Albertan politicians question why Quebec receives enormous equalization payments and yet funds services other provinces cannot afford, such as subsidized electricity, very affordable child care, and the lowest post-secondary tuition fees in the country.

We urgently need to bring coherence, consistency, and accountability to the perverse jumble of federal contributions to provinces, to stop this issue dividing governments and eroding Canadians’ ties to one another. A permanent, non-partisan, and independent advisory commission, [similar to Australia’s Commonwealth Grants Commission](#), could scrutinize and manage fiscal federalism. This [Commission on Fiscal Transfers](#) would examine economic conditions in every province by drawing up a giant balance sheet of GDP in each jurisdiction, taking all revenue sources into account, measuring the effectiveness of government programs, and charting improvements in equity. Among other improvements, the current equalization formula would be replaced.

The Commission—made up of experienced experts appointed by Ottawa through a new, transparent and arm’s-length Public Appointments Board—would then submit an annual proposal to the federal government for adjusted equalization and fiscal transfers that better promote our national goals of equity and equality of opportunity for all Canadians, regardless of residence. It would work in conjunction with the Council of Canadian Governments to resolve such difficult questions as whether specific transfers should be made on a per-capita basis, or according to “fiscal need”, taking disparities among provinces into account. The Commission’s reports to Parliament and recommendations to the Minister of Finance would make federal transfers to other levels of government more transparent, and much less political. Detailed findings would inform broad-based debate on longer-term national objectives, strengthening ties among Canadians and increasing our confidence in the fairness of the system.

## Chapter 11

### **Intergovernmental harmonization of critical policy areas: Benefitting all Canadians**

This book has addressed our need for more responsive government, more responsible long-term planning and policies, and fewer useless, polarized debates. I've mapped out how to overhaul our representative structures and practices to eliminate our faux democracy, as well as reforms ensure a more functional federation.

In this chapter, I provide five examples of critical challenges ahead that call for serious and sustained intergovernmental collaboration and harmonization: climate change mitigation; improved income security; eliminating interprovincial barriers to trade, employment and carrying on business; coordinated training and support for workers; and improved access to healthcare.

#### **Climate change mitigation**

Climate change is not just an ecological question. It is also an energy issue, an infrastructural issue, a jobs issue, a migration issue, a health issue, and a foreign policy issue. Yet our public response has been underwhelming and uninspiring, characterized by intergovernmental incoherence and a general lack of committed leadership. The federal government's carbon-pricing initiative, that includes a weak provincial-territorial patchwork of pricing and cap-and-trade systems, makes this all too clear. Bilateral deals made with individual provinces unravel with each new election. What we need is systematic collaboration and multilateral co-ordination between the federal and provincial governments in a harmonized, long-term framework.

Robert Lyman, author of "[Carbon Taxation – the Canadian Experience](#)" published by the Global Warming Policy Foundation, [succinctly notes](#) that "carbon dioxide pricing has simply been added to the over 600 existing federal, provincial and territorial programs and regulations. There is no inventory of these programs and no way to assess their effectiveness or cost-effectiveness."

While putting a price on carbon is the most economically efficient way to tackle climate change, it has arguably been the focus of too much attention. Political opponents have polarized debate around, and exaggerated, the financial sacrifice a carbon tax would represent for voters. Moreover, revenues from current carbon levies on consumers and businesses do not actually offset the social costs of carbon emissions, which include environmental devastation, health risks, and extreme weather events. The Parliamentary Budget Officer (PBO) has [demonstrated](#) that the federal government's plan to raise the current \$20-a-tonne levy on fuels to \$50 in 2022 falls far short of our Paris Agreement target. To reduce greenhouse gas emissions by 30 percent below 2005 levels by 2030 and honour our international commitment, the PBO estimates the fuel levy must gradually increase to about \$102-a-tonne by 2030. But before anyone moans, the

impact on GDP will be negligible (less than one percentage point), and the national average price of gas at the pumps will rise by only 1.3 percent a year—a small price to pay for significant climate change mitigation.

In fact, the Liberal government’s ‘Pan-Canadian Framework’—with federal “benchmarks” for provincial and territorial carbon pricing systems, and a “backstop” plan for jurisdictions that do not comply—is flawed in more ways than pricing. For example, the federal goal is to encourage the transition from high-emitting to low-emitting forms of electricity generation. But the government has designed the federal tax to kick in at different emissions levels for different types of fuel, with higher tax-free allocations for coal-fired plants than natural gas, and none at all for hydro and wind. This will discourage the shift to low-emitting forms of electricity generation. Ironically, Alberta’s Carbon Competitiveness Incentive Regulations adopt the better approach of a uniform benchmark for all fuels used to generate electricity.

Concurrently with introducing an effective carbon pricing plan for fuels and beyond, that is supported by all levels of government, coordinated intergovernmental effort is required on a wider range of action that includes designing clean energy mandates and subsidies, and tax reforms that eliminate fossil fuel subsidies. Although less efficient economically, this approach can also make a real difference.

In 2021, the federal Conservatives finally announced an improved climate change plan relying on “green technology, not taxes.” The plan has some elements that could complement a more vigorous carbon pricing approach. It would set strict emission limits on major greenhouse gas emitters that, if exceeded, would require the companies to pay into a fund tied to government-certified clean tech companies. There is now room here for compromise across political divides if only compromise was on the agenda.

The key is to encourage a national consensus and sustained collaboration across provinces and territories within the proposed Council of Canadian Governments, as well as in Parliament. Mitigating climate change is undoubtedly the existential challenge we all face in the 21<sup>st</sup> century. By failing to take innovative steps—both on structure and policy—to build a durable national consensus for coordinated intergovernmental action, the federal government is failing all Canadians and jeopardizing the well-being of future generations.

### **Improved income security**

The child benefit introduced by Liberal government to replace Stephen Harper’s regressive Universal Child Care Benefit, as well as the old Canadian Child Tax Benefit and the National Child Benefit Supplement, is a strongly progressive initiative. It provides significant relief to

lower-income families, and could further advance social equity if phased out at a more realistic income level (the benefit is currently offered to families earning up to \$188,000).

But the government should not stop here. An ambitious political agenda must extend to additional tax reform, and some form of guaranteed basic income for working-age adults to complement what is now effectively a basic income guarantee for children, and the basic income elderly Canadians receive via Old Age Security and the Guaranteed Income Supplement.

We are all deeply concerned about the widening income gap and steadily increasing numbers of people trapped in the low-wage economy—workers, especially younger generations, struggling with part-time, precarious employment. Despite relatively rosy employment statistics, part-time jobs still account for a large percentage of net job creation.

The 2018 Canada Workers Benefit (CWB), an update of the original Working Income Tax Benefit (WITB) introduced by the Harper government in 2007, is a small step forward. This refundable tax credit initially supplemented low-income workers' earnings by a maximum of \$1000 for families. As originally structured, the WITB operated as a disincentive to work when combined with provincial benefits. A person was required to make at least \$3,000 to be eligible for the benefit. A single person working at a fast-food outlet for minimum wage and making \$343 a week, or less than \$18,000 a year, earned too much to be eligible. If she reduced her hours by half, however, she could not only receive the WITB, but also retain provincial benefits for the working poor, such as prescription drug coverage. Clearly, she was better off working fewer hours. The Liberal government changes—including increased benefits for individuals and families and lower clawback rates—are modest, but remove some disincentives to employment from our tax system.

But the federal government has yet to effectively collaborate with the provinces to scrap social assistance rules that interact negatively with federal programs like the CWB, and discourage recipients from making the transition to full-time employment. For example, significant discrepancies in minimum wage and social assistance policies across provinces and territories make it difficult to formulate a uniform federal benefit that fairly addresses the varied needs of low-income workers across Canada. Effective income security policies require serious efforts by the federal government to collaborate multilaterally with the provinces and territories. Regrettably, collaboration has been the exception, not the rule, although Quebec, Alberta, British Columbia, and Nunavut have now bilaterally changed the parameters of the federal CWB to better meet local needs.

A [basic income guarantee](#) is certainly an idea whose time has come and has gained traction during the pandemic. It has been proposed for many years by conservatives and liberals alike. An enormous quantity of persuasive research demonstrates that today's multiplicity of income

support programs—overlapping, confusing, and riddled with contradictory incentives—is a huge problem. A “big bang” version of an income guarantee would replace separate federal and provincial programs with a single, universal, unconditional cash benefit delivered through the tax system. (This would not include EI or pensions). The general principle would be to establish an income floor below which no Canadian could fall, but with incentives for recipients to continue working and to earn more. However, a basic income guarantee can only improve equity among Canadians in conjunction with continued support for essential social services like affordable childcare, housing and transit.

Federal-provincial spending on income security in Canada is significant, totalling over \$170 billion, or almost 10 percent of our GDP. The biggest challenge in implementing a user-friendly and efficient basic income guarantee will be getting all levels of government to work together on any particular initiative and establish a collaborative road map across jurisdictions. The introduction of a universal basic income would provide a regular payment to every Canadian without requiring a needs test. The payment would be designed to be “clawed back” only as a recipient earned additional income, in such a way as to be phased out completely once an income of, say, \$60,000 was achieved. The overall cost of the program would depend on the claw-back rate.

The simplest way for the federal government to begin the transition to a basic income guarantee and get more funds into the hands of Canadians most in need, would be to make most existing tax credits refundable. Our current maze of nonrefundable tax credits (NRTCs) —worth over \$80-billion—is largely politically inspired and only accessed by a subsection of Canadians whose tax bills are sizeable enough to benefit. In contrast, refundable tax credits (RTCs), like the CWB and GST credit, are carefully designed to provide a benefit to low-income Canadians, including those who pay little or no taxes. A 2015 [research paper](#) by Wayne Simpson and Harvey Stevens analyses various alternatives for converting NRTCs to RTCs at a modest additional cost. Implementing one of these options would be a positive initial step towards increasing the fairness of our tax system and mitigating income inequality. Furthermore, this federal tax reform initiative would enable Ottawa to spur provinces and territories into taking comparable action, and snowball improvements to low-income Canadians’ income security.

This is where my proposed Council of Canadian Governments would come in handy. In recent years, we have seen some limited federal-provincial coordination spark progress in select areas. One example is the consolidation of a hodge-podge of tax credits—sales, property, energy—into a streamlined monthly payment delivered quarterly through Ontario’s Trillium Benefit and Québec’s Solidarity Tax Credit. British Columbia has similarly consolidated its Climate Action Tax Credit with both the federal GST credit and provincial PST credit. Still, so much more action is needed, and a dedicated forum for intergovernmental collaboration would undoubtedly expedite change.

In 2017, the province of Ontario commenced its own pilot project for working-age adults based on a [report by former Conservative senator Hugh Segal](#). The federal government was not involved; the project was limited to replacing the current Ontario welfare and disability benefits with a basic income, and assessing whether this provided individuals with better support. If the project had been judged a success, Ottawa would likely have been asked to add federal income supports into the mix. Sadly, this prospect was precluded by Ontario's abrupt cancellation of the basic income experiment in 2018.

In April 2018, the PBO published a report on [Costing a National Guaranteed Basic Income Using the Ontario Basic Income Model](#). The report concludes such an initiative would be feasible “as a combined federal-provincial basic income system that could be managed by intergovernmental fiscal arrangement. This would replace some provincial transfers for low-income individuals and families including many non-refundable and refundable tax credits thereby reducing its net cost.” The stage is set for a meaningful federal-provincial initiative combining a basic income guarantee with enhanced accessibility to affordable services—housing, transit, child care—so as to better respond to the varied needs of struggling individuals and families.

More active federal government participation, and closer collaboration with provinces, would be enormously helpful in advancing such an initiative. A first area for federal-provincial efforts could initially focus on the relatively straightforward creation of a [basic income guarantee for persons with disabilities](#). This would be a huge improvement, replacing the mess of no fewer than nine different federal and provincial income streams currently available: Social Assistance, Workers' Compensation, the Disability Tax Credit, veterans' programs, private programs, Canada Pension Plan Disability (CPPD), EI Sickness Benefit, Registered Disability Savings Plan, and CWB disability supplement. The kind of multilateral forum and framework provided by a Council of Canadian Governments and Commission on Fiscal Transfers (described in Chapter 10) would prove invaluable in facilitating the intergovernmental collaboration necessary to achieve this goal, and significantly enhance transparency, accountability, and vital citizen engagement.

### **Eliminating interprovincial barriers to trade, employment and carrying on business: A strong internal economic union**

A productive, prosperous economy depends on expanding our internal market and improving regulatory harmonization so that businesses and individuals can easily work across provincial borders. This requires [dismantling the numerous trade barriers](#) imposed by provinces, which make Canada a generally more fragmented and fractious place to do business than even the now-

stumbling 28-member European Union. A strong internal economic union is all the more essential if we are to stand up forcefully to America First tactics in negotiations with the U.S.

The Liberal government announced with much fanfare a new “Canada Free Trade Agreement” to replace the anemic Agreement on Internal Trade (AIT), which dates back to 1993. Officials made extravagant claims that the myriad of provincial rules and regulations impeding both trade and individuals’ ability to work across internal borders would soon be terminated. But this blanket elimination was subject to a “secret list” of many provincial exceptions, and the legislation that ultimately took effect in July 2018 fell far short of the government’s rhetoric. Regrettably, provisions that permit provincial governments to limit market access in areas such as forestry, fisheries, energy production, and gambling remain intact. Only “some progress” was made on that perennial favourite: beer and wine sales. And “unfinished business” includes “aspects of financial services.” The prognosis for real progress remains poor.

Ironically, there was much gnashing of Canadian teeth over the absurdity of dairy farmers in Wallonia slowing up the Canada-European Union Comprehensive Economic and Trade Agreement (CETA) back in October 2016. In fact, our own governments have created an absurdity by failing to devise an enforceable internal Canadian agreement over provincial procurement. Now that CETA is ratified, a French or German firm bidding on a contract in a particular province may have an advantage over a company from another Canadian province.

True Canadian economic union requires focused and firm action in a multilateral forum like the proposed Council of Canadian Governments. It is most certainly not enough for the federal government to settle, as apparently it has, for a largely ceremonious new co-chair position on a sub-committee on internal trade, within the all-provincial organization exaggeratedly called the Council of the Federation. As noted above, the Council of the Federation was created by disgruntled provinces in 2004 and [still functions generally as a talking shop for provinces to air grievances about the federal government](#). The time is overdue to implement a functional, clearly-mandated intergovernmental forum: a Council of Canadian Governments.

### **Coordinated training and support for workers**

Intergovernmental collaboration is desperately needed [to provide more relevant and practical workforce development](#) and improve Canada’s poor record of on-the-job training. The federal government has focused only on [minor tinkering with the Employment Insurance program](#), for which less than half of today’s workers are eligible, and has made little or no effort in the intergovernmental arena to bring coherence and cohesion to the fragmented and poorly coordinated transfers of over \$3-billion each year to the provinces and territories for labour market development. There are almost 50 assorted bilateral federal-provincial-territorial agreements currently grouped under four federal-provincial labour market programs broadly

devoted to helping various categories of unemployed people get back to work. Measuring accountability, equity, and effectiveness is challenging for officials, let alone the citizens who desperately need to use the programs.

Serious consideration could be given to [innovative suggestions](#) such as collapsing these federal programs into a single transfer system to the provinces, territories, and Indigenous governments—a system funded from general revenues and allocated according to the provincial or territorial share of unemployed workers in Canada, with a single set of administrative requirements. Provinces and territories would not be allowed to impose residency requirements for individual eligibility for training and they would have to report publicly on program results. Under this type of system, workers would not have to qualify for EI to use the programs, and EI premiums for both workers and businesses would be lowered.

But even more importantly, we must move beyond the narrow focus on the deficiencies of the unemployed or people requiring training. Almost all programs and policies only target individuals and what they need. Yet the evidence is clear that the companies that invest in their workers and in productivity improvements are also the most successful.

We need programs and policies that focus equally on employers. But in the very few instances, where there are incentives provided to employers, such as the Canada Jobs Grant program, this money is used in an entirely transactional way, a one-off bribe to get a worker trained. Indeed one [program evaluation](#) finds that CJC, among other things, serves only current employees, overwhelmingly men, and almost no new employees or the unemployed. This means it shares the same problem with other transfers administered under EI of providing the least help to workers most disengaged from the labour force.

The 2018 Future Skills initiative is designed without collaboration with other levels of government and there is much room for skepticism about whether this initiative will ever provide meaningful help to Canadians. The creation of a Future Skills Council as “an independent research centre that develops, tests, and measures new approaches to skills assessment and development”, sounds very nice but is still on the drawing board. It is all too likely that it could end up functioning more to camouflage a reluctance to undertake the urgent task of co-ordinating and ensuring the effectiveness of the over \$3-billion a year in federal transfers to the provinces for training. Similarly, another federal initiative—the 2019 Canada Training Benefit in Budget 2019—is well-intentioned but a far too limited step comprising yet another tweak to EI for a modest Employment Insurance Training Support Benefit (EITSB) and an equally modest annual Canada Training Credit (CTC) up to a lifetime limit of \$5000.

Interestingly, the federal government has failed to follow up on a much more meaningful proposal of its Advisory Council on Economic Growth in its report entitled [Tapping Economic Potential through Broader Workforce Participation](#) (February 6, 2017) that included the Future

Skills initiative: “The entire EI system could be reviewed and recalibrated to eliminate labour market distortions.” And, in the same report, the Council also suggested that the government consider both a national child care program based on the Quebec subsidy model, and the Norwegian system of giving parents with children under 12 the right to work part-time or with flexible hours, as a way to boost labour-force participation. This is, of course, a welcome acknowledgment that affordable childcare is essential to stabilizing the lives of parents, particularly in precarious or low-wage jobs. Yet the topic continues to be absent from public debate to date. Until the federal government is able to get serious about engaging with the provinces in an intergovernmental forum to create a coherent national framework for action, we will not see any real progress in these areas.

The federal government must abandon EI tinkering and take the lead in spurring other levels of government to bring about systemic change in the workplace and among employers using EI funding in a transformative way. This would be an ideal area to be addressed by the proposed Council of Canadian governments.

We must urgently overcome the unwillingness of many Canadian employers to invest in long-term internships and apprenticeships. These companies fear that they will lack the ability to protect themselves against attempts by their competitors to poach their interns and apprentices. Meanwhile Canada’s productivity growth rate, our ability to “work smart”, and our level of innovation in the workplace is persistently below those of our competitors, while we face frequent shortages of trained workers. We need to provide incentives for employers to train workers and to invest in productivity improvements for the long term to improve our overall competitiveness.

We need to consider encouraging investment in workers through the Workplace Development Board system used in the US. These regional boards lead sector-by-sector collaboration across businesses, industry, labour unions, educational institutions (usually community colleges because of the emphasis on vocational skills), community and residents’ organizations, community-based employment services, and governments. They can vastly expand on-the-job training by achieving economies of scale. Such co-ordination is a very labour-intensive process that involves consultation, deliberation, and alignment of various individual interests, but it can also deliver great results, especially in identifying employers who are committed to investing in their workers and those who need support for ongoing training and career advancement.

It would help if Canada could encourage the kind of social solidarity that exists in many European countries, where strong tradition of workers’ mobilizations has led to more collaborative relations between employers and workers (in many cases workers sit on company boards), and a strong consensus in favour of government participation in apprenticeship and training. Citizens in these countries agree on the value of paid apprenticeships and internships,

and remain committed to avoiding the outrageous disparities between the pay levels of CEOs and those on the shop floor that afflict the US, the UK, and, increasingly, Canada.

And we can learn from how Germany's extensive apprenticeship system and similar initiatives in the Nordic countries, Austria, Italy, the Netherlands, France, and Switzerland helped to shield these nations from the job shortages associated with the European economic crisis. Apprenticeships are integrated into formal education and students receive a wide range of vocational training in high school. On-the-job training is blended with classroom training. These countries all provide tax credits for enterprises that increase training year-over-year. For example, France has added a payback clause that requires employees to reimburse the employer for the cost of their training if they leave the employer within a certain time period after the training is complete. This was done to offset employers' fear of losing their investment in their employees.

### **Improved access to health care**

The Liberal government's attempt at more effective federal-provincial collaboration—by means of the same old *ad hoc* first ministers' meetings—quickly ran aground in late 2016 when healthcare negotiations faltered. In the absence of a constructive, stable national framework for intergovernmental negotiations, little progress could be made towards either building a consensus on policy and innovation, or improving accountability for the federal government's enormous fiscal transfers to the provinces. Despite her good intentions, then federal Minister of Health Jane Philpott was [hamstrung when an all-provincial consensus was not forthcoming](#), and reduced to striking a string of bilateral federal-provincial deals.

This approach risks producing an inequitable patchwork of services across the country, and relegating the federal government to the now-familiar role of headwaiter to the provinces. Instead of taking the lead in forging intergovernmental consensus on subjects of concern, so as to enhance national governance, Ottawa settles for minimal effort and lowest-common-denominator outcomes to satisfy provinces' disparate demands.

In March 2019, the federal government announced an ambitious proposal to implement national pharmacare. Though laudable, this initiative will likewise founder on the shoals of inadequate intergovernmental collaboration to define appropriate federal-provincial-territorial roles and contributions. The federal government must come to grips with complex variations between provincial and territorial pharmacare plans in order to promote more cost-effective coverage and reach a national, universal standard. Dr. Hoskins (current chair of the Advisory Council on the Implementation of National Pharmacare) proposes that pharmacare payments be distributed on a different basis from current per-capita healthcare transfers, and calculated to subsidize provinces with below-average fiscal capacity, much in the same way as equalization. This approach would

satisfy provincial concerns that pharmacare transfers should reflect particular demographic challenges. For example, Newfoundland and Labrador has Canada's oldest population, and higher rates of chronic diseases when compared with other provinces.

Certainly, health care in general, especially long-term care in the wake of the pandemic tragedy, including pharmacare, is another crucial area of essential public services that would benefit from a new intergovernmental forum like the Council of Canadian Governments.

It is these kinds of intergovernmental initiatives, combined with what, up until now, has been rare examples of reasonable compromise and principled cooperation among our elected representatives, that will take us into a stronger future.

## Epilogue

The essential message in this book is that faux democracy is here to stay unless citizens take urgent action.

The situation is critical, but not yet desperate. We can rescue our democracy if citizens seize the day by getting off the sidelines. Costly court challenges are not enough. We must take direct citizen action to reclaim control of the selection of candidates we vote for, the agenda, and the conduct of politics from the withering political parties.

We need to elect independent-minded candidates, demand more compromise among all elected representatives, and insist on long-term initiatives that inspire us to look over the horizon to an enormously bright future ahead. Above all, we need to exercise constant vigilance and monitor our democratic health at all times, not just at election time, as we build a uniquely fascinating, just, and inclusive society with citizens from all corners of the world.

I hope my experiences will help individual citizens understand why our established political parties, with their all-powerful leaders, are part of the problem and not the solution. Politics is not a game. Democracy is not an elite sport.

There are no quick fixes to changing the polarizing culture in Parliament and provincial legislatures that too often stymies constructive progress, both within and between governments. There are, however, crucial and manageable reforms that, if implemented, will modernize and strengthen our democratic institutions and practices. These reforms will eliminate top-down political party control, encourage more collaboration and reasonable compromise among elected representatives, expand direct citizen input between elections, and facilitate harmonized action across all levels of government: federal, provincial, territorial, municipal, and Indigenous.

If we can methodically fix the fundamental weaknesses in our democratic structure—implementing reforms to the full web of representative institutions and practices—we will have a much better chance of achieving policy outcomes that respond to citizens' concerns and the critical challenges ahead.

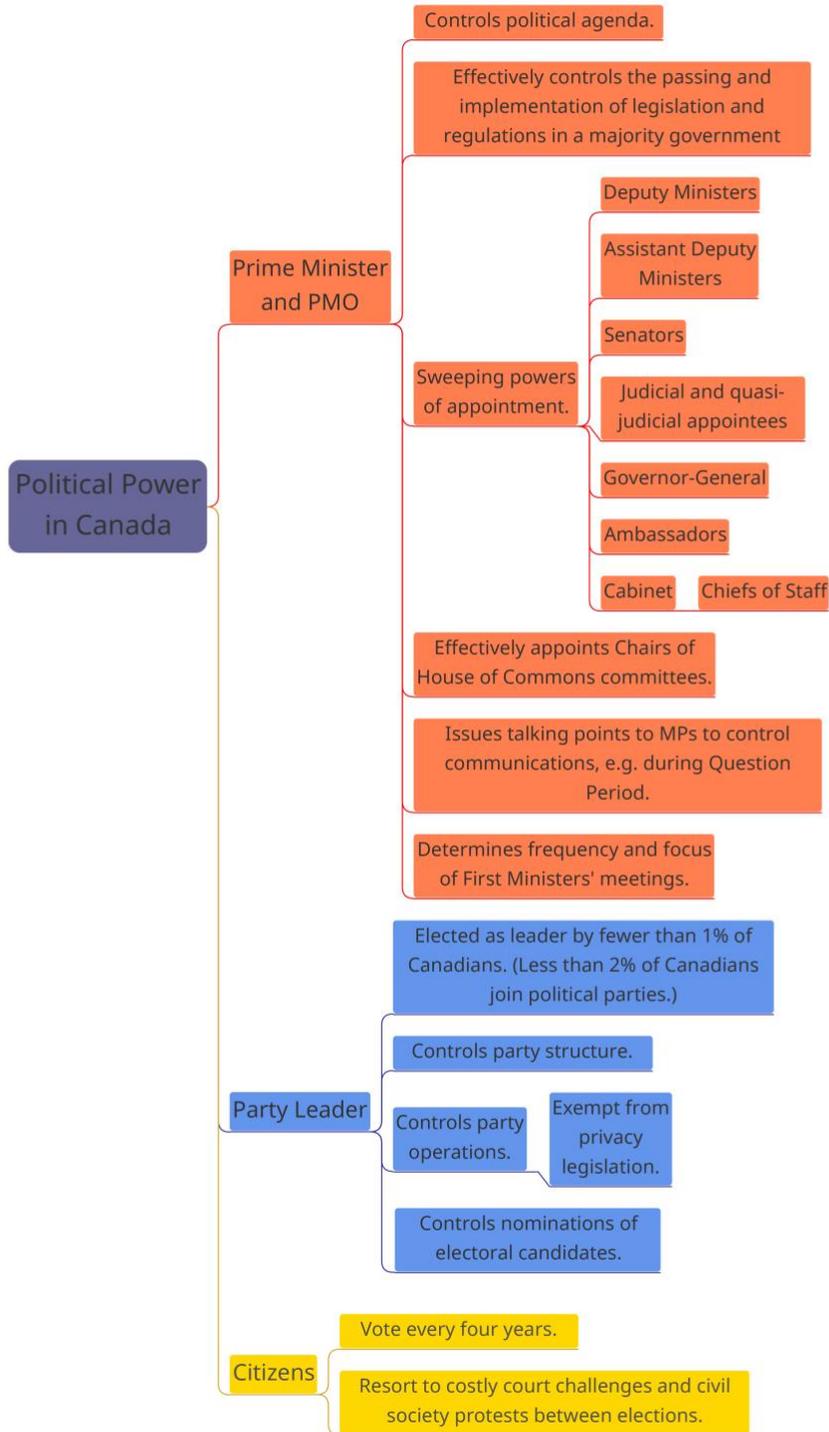
I hope citizens will be persuaded that reigning in our faux democrats and strengthening our democracy is a goal worth fighting for, candidate by candidate, issue by issue, for as long as it takes. Citizen engagement can play out in many different forums and many different ways, during and in-between elections. What must unify us is our shared determination to work outside political parties, take control of the political agenda, and demand much more from our elected representatives.

I leave readers something to do during an election. Ask the candidates at your door or in community meetings the following six questions. If you do not get positive responses, look elsewhere. Vote for representatives who promise the most genuine commitment to holding governments accountable and to stopping democratic decay.

1. Are you prepared to act and vote independently of your party position and your party leader for the good of the country?
2. Will you refuse to use talking points issued by the leader's office?
3. Do you support electoral reform that will end the existing first-past-the-post system?
4. Will you collaborate with your colleagues and members of other parties to help find common ground for conflicting opinions on difficult issues?
5. Will you help expand direct citizen engagement during, and between, elections, for example through referenda and direct citizen initiatives?
6. I'm fed up with different levels of government not co-operating on crucial policies like climate change. How will you fix that?

# Mind Map

## Where we are now...



# Where we should be...

