Canadian Study of Parliament Group | **Groupe canadien d'étude des parlements**

CANADA: A DEMOCRATIC AUDIT

Friday, March 11, 2005
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CANADIAN STUDY OF PARLIAMENT GROUP

The Canadian Study of Parliament Group was created with the object of bringing together all those with an interest in parliamentary institutions and the legislative process, to promote understanding and to contribute to their reform and improvement.

The constitution of the Canadian Study of Parliament Group makes provision for various activities, including the organization of conferences and seminars in Ottawa and elsewhere in Canada, the preparation of articles and various publications, the establishment of workshops, the promotion and organization of public discussions on parliamentary affairs, participation in public affairs programs on radio and television, and the sponsorship of other educational activities.

Membership is open to all those interested in Canadian legislative institutions.

Applications for membership and additional information concerning the Group should be addressed to the Secretariat, Canadian Study of Parliament Group, Box 660, West Block, Ottawa, Ontario, K1A 0A6. Tel.: (613) 943-1228, Fax: (613) 995-5357, www.studyparliament.ca

INTRODUCTION AND ACKNOWLEDGEMENTS

The roots of the Canadian Democratic Audit go back to the spring of 2001, when a group of academics met at Mount Allison University to discuss the challenges facing political and social institutions in Canada. With generous funding provided by the Harold Crabtree Foundation, Mount Allison's Centre for Canadian Studies undertook an ambitious project; to assess the status of Canadian democracy.

When complete the project will consist of ten volumes, nine on specific aspects of Canadian Democracy and one that will synthesize the other reports. The audit's authors did not approach their work with specific "checklists" of accountability the way a financial auditor or auditor general might. Instead they agreed that the three broad themes of participation, inclusiveness and responsiveness would guide their work.

This conference provides an ideal platform for the launch of the results of the Audit project. Eight of the ten volumes are in print, and the others will be completed shortly. At the same time, many of the themes and issues that the authors are examining are being debated publicly by interested Canadians, public interest organizations and politicians. The term "democratic deficit" encompasses more than simply increasing voter turnout. Provincial and federal governments and legislatures are presently examining all matters of democratic life, including questions of citizen participation, the role of social movements and cabinets in deciding public policy, political party and finance reform, electoral and legislative reform, the role of the courts and the role of technology in questions of democratic governance. It is hoped that the works of these authors are helpful for all who are examining these critical issues.

Of course, conferences do not organize themselves. We are grateful for the partnership of the Centre for Canadian Studies at Mount Allison and the Canadian Study of Parliament Group for organizing and supporting this conference. Joanne Goodrich at Mount Allison has been a key component of the entire Audit and once again made the life of participants simple with her helpful travel arrangements. JoAnne Cartwright at CSPG has become the critical ingredient of successful conferences on Parliament Hill. The CSPG could not function without her. We would also like to thank the Parliamentary Interns who took notes at each session. Finally, thank you to all the panelists, both the authors and the academics and practitioners who provided us with a full day of thoughtful and insightful analysis.

William Cross
David Docherty

PANEL 1: CITIZENS, ELECTIONS, POLITICAL PARTIES AND ADVOCACY GROUPS

Chair: R. Kenneth Carty
                Department of Political Science
                University of British Columbia

Speakers: *Citizens*
                André Blais
                Department of Political Science
                Université de Montréal

                Elections
                John C. Courtney
                Department of Political Science
                University of Saskatchewan

                Political Parties
                William Cross
                Centre for Canadian Studies
                Mount Allison University

                Advocacy Groups
                Lisa Young
                Department of Political Science
                University of Calgary

                Joanna Everitt
                Department of Politics
                University of New Brunswick (Saint John)

Discussant: Terry M. Mercer
                Senator

The chair introduced the first panel, noting that throughout the democratic audit, to which each of the speakers contributed a book, *participation*, *responsiveness*, and *inclusiveness* are cross cutting benchmarks. Canada's public institutions of twenty-first century democracy are being judged for their delivery of these values.

Citizens **– André Blais**

André Blais organized his presentation around the five most important points of his volume.

1) Before anything else, he wanted to identify a positive: namely that the Canadian participation rate (e.g. protest, interest groups) compares well against other advanced democracies, voter turnout being the one exception.

2) Canadian voters have a low level of political information. More than 40% could not name the party leaders right after an election and 30% could not attach a single promise to a party. New channels of information and higher levels of education over time seem not to have improved these numbers.

3) Low information may not matter if voters can use effective shortcuts to ascertain their rational political preferences, though conversely a certain amount of knowledge may be necessary to use shortcuts effectively. The audience had a mixed reaction to the evidence that (controlling for education, gender, and income) high-information voters tend to be more liberal on social and fiscal issues.

4) Turnout in Canada is consistently 10% lower than in other advanced democracies. The continuing decline is attributable to younger voters, with the least educated of this cohort the most likely to neglect their franchise. Dr. Blais refuted the notion that younger voters are turning instead to other forms of political activity, suggesting that those least likely to vote were also those least likely to engage in political action. He suggested that a sense of duty to vote has declined.

5) Youth voters are not cynical, but their disengagement presents a legitimacy crisis. Reforms are necessary, and education is a central factor: better educated people become politically networked. Compulsory voting is an idea. Finally, youth voters can be engaged by direct personal contact, whether by Elections Canada or by the political parties.

Elections – **John C. Courtney**

John Courtney presented five building blocks of Canadian elections that are possible to compare over time (historically) and across jurisdictions. He added *representation* to the three benchmark variables (*participation*, *responsiveness*, and *inclusiveness*).

1) Franchise: While 15% of Canadian residents were eligible to vote in 1867, 70% are eligible in 2005. This is arguably the widest franchise in the world, limited only by age and citizenship. The Charter has allowed judges, developmentally disabled, and incarcerated persons to vote. If this last category of individuals had had the right to vote in Florida in 2000, it could well have changed the outcome of the presidential election.

2) Districting: Forty years of non-partisan redistribution exercises puts Canada high on the democratic scorecard.   This is a responsive system that has avoided the pitfalls of gerrymandering.

3) Registration: Door-to-door enumeration was relatively complete (95%) and cost-effective, Dr. Courtney argued. Election specific enumeration also reminded voters to vote and showed them how. Ten years ago, partially in response to increased voter mobility, Chief Electoral Officer Jean-Pierre Kingsley introduced a controversial permanent register of voters. With a decade of improvements, the register now contains 92% of eligible voters. Younger voters are still overlooked because of mobility, and concerns remain about the accuracy of a system which processes 4 million transactions within a 36 day voting period.

4) Machinery: While the federal system of partisan appointment of returning officers remains an area of minor concern, in general Canadian electoral machinery is among the most respected in the world with good reason.

5) Voting mechanism: The last five years have seen an explosion in interest in electoral system change, with four or five provinces and territories actively reviewing possibilities. Dr. Courtney

cautioned against unreasonable expectations for higher turnout or better representation following a systemic shift.

Political Parties – **William Cross**

To illustrate the centrality of parties to our system, William Cross cited two surveys that asked respondents to agree or disagree with the statement: 'Without parties there cannot be true democracy.' Support has been stable, he suggested, with 75% agreeing in 1991 and 69% agreeing in 2004. Parties are important, and five aspects of parties reviewed in the democratic audit are particularly noteworthy.

1) Party membership: Evidence shows that only 1% of Canadians are party members between elections. Members tend to be male, older (avg. 59 years), more wealthy and educated, and less diverse in origin. Most donate rather than participate.

2) Policy: Most Canadian parties have no policy foundation or ties with independent policy groups. Members are dissatisfied with policy input opportunities and see interest groups as a more effective channel to influence outcomes.

3 & 4) Nomination and leadership selection: Central officials have increased their interference in local nominations. Paul Martin has guaranteed the renomination of Liberal MPs. Hundreds, not thousands, of voters participate in the average nomination, while a high number of candidates is acclaimed. Because of voter tendencies, nomination is often the true determinant of the eventual seat winner. And leadership races, like nominations, tend not to be particularly democratic. Imagine if Elections Canada asked voters to pay a poll tax, put in place a voter registration deadline of months before the election, and ran a single voting location in each constituency. This is how leadership and nomination contests are often conducted. Parties have argued that nominations are a private affair, but selecting the Prime Minister is not a private affair, and public funding has rendered this argument even weaker

5) Campaigning: Increased polling and political professionalization has meant that volunteers at the grassroots level have been sidelined. Dr. Cross suggested that proportional representation would encourage greater grassroots participation across the country and that reducing party dependence on public funding would increase the incentive of the parties to attract campaign volunteers.

Advocacy Groups – **Lisa Young & Joanna Everitt**

Lisa Young began by defining advocacy groups as groups that seek to influence policy but not to govern, including both self-interest and public-interest groups. Lisa Young and Joanna Everitt contend that advocacy groups have the potential to impact the quality of internal democracy, representation, and public policy formation.

Considering the benchmark of *participation* (in interest groups), Canada ranks close to the US near the highest levels in the world. Members of advocacy groups tend to be well-established: employed, with above average incomes and education levels, and of majority ethnic heritage. But the causes they represent sometimes advance the causes of specific underrepresented groups such as women, or ethnic or cultural minorities. Evidence shows that advocacy groups complement traditional participation, as members are active voters, less cynical than average

citizens (and more politically active than party members, in fact). Traditionally, advocacy groups contribute to Canadian democracy, but there is a disturbing current trend toward 'chequebook groups' that should be resisted.

Regarding *inclusiveness*, Dr. Young observed that Mancur Olson's collective action dilemma would suggest that diffuse groups (e.g. consumers) be underrepresented. Groups with limited resources (e.g. anti-poverty) should also be found less capable than more wealthy groups. Recent declines in federal funding for advocacy may mean that groups are losing independence. To counter these challenges, Drs. Young and Everitt recommend 1) that the tax system recognize advocacy groups as charities, and 2) that a direct, independent system of funding be implemented.

Discussion

Senator Mercer began his remarks with his concern that Canadian democracy is in peril. Coming from a career in party politics, he suggested that youth wings of the political parties help Elections Canada to register young voters. He noted that none of the speakers addressed the effects of C-24 (on electoral financing) making participation more valuable in otherwise uncontested ridings.

It's time to focus on civics again in the education system, the Senator argued to general approval, as this was the germ of his interest in politics. He suggested that enumeration is another way to engage voters in the electoral process. Finally, countering William Cross's interpretations, Senator Mercer thought that delegates in leadership races tended to be younger and more diverse than the party membership in general, and thereby more reflective of the Canadian population.

Rapporteur: Jeffrey Bell

PANEL 2: CANADIAN LEGISLATURES AND CABINETS AND FIRST MINISTERS

Chair: Brenda O'Neill
                Department of Political Studies
                University of Manitoba

Speakers: *Canadian Legislatures*
                David Docherty
                Department of Political Science
                Wilfrid Laurier University

                Cabinets and First Ministers
                Graham White
                Department of Political Science
                University of Toronto

Discussants: David McLaughlin
                Deputy Minister
                Commission on Legislative Democracy
                Government of New Brunswick

                Jonathan Malloy
                Department of Political Science
                Carleton University

Legislatures **– David Docherty**

David Docherty presented his study of fourteen legislative assemblies. Dr. Docherty began his session by identifying two aspects of his study that he now considers to be dated. The first involved members' use of websites, which is now quite common, while the second had to do with encouraging minority governments, which reflects the current situation in the House of Commons. With respect to the latter, Dr. Docherty noted that recent experience in Ottawa has demonstrated how relevant legislatures can be in minority governments.

In his presentation Dr. Docherty argued that legislatures fulfill three basic roles, (representation, scrutiny, and legislation) their efficacy at which he examined in turn. In general he found that where problems exist they are not with the elected representatives themselves but with the resources available to them to do their jobs. In response he suggested that it was necessary to "let legislators legislate" and "let representatives represent".

He suggested that for the most part Canadian legislators do a good job at constituency representation and resources are available for this purpose. Ottawa serves as the model for constituent service while quality varies across the rest of the country. In particular, need still exists in small communities and isolated areas. While constituent representation is not cheap it is effective at connecting the population to their government. One of the aspects of constituent representation he chose to highlight was the freedom of members to determine their staff allocations. Accordingly, he argued that these should be, and are, political decisions.

According to Dr. Docherty the areas in which Canadian legislatures are less effective are scrutiny and legislation. With regard to scrutiny, the shrinking size of legislatures creates a

number of problems: opposition members may be outnumbered by just the government Cabinet, critics are overburdened, and too few members are stretched too thinly between too many committees: all of which contributes to an environment where thorough scrutiny of the government is impossible. Dr. Docherty recommended that all legislatures should consider the issue of their size

With respect to the legislative function, Dr. Docherty argued that Westminster style parliaments always favour the government and Cabinet. Additionally, the government possesses powerful tools such as time allocation and cloture which limit the amount of debate that can take place on any given issue. While there is a need to ensure that the work of parliament proceeds smoothly, political parties have not been able to find a balance between this objective and their use of debate limiting measures. Committees offer an opportunity for parliamentarians to influence legislation and generally these are adequately resourced; however, the committee process is too *ad hoc* and legislation comes to committee too late in the process (often after second reading) to allow legislators to make major alterations. Sending legislation to committee after first reading would allow parliamentarians to debate the issues before partisan lines are drawn. He also drew attention to the growing politicization of officers of Parliament. According to Dr. Docherty, when these positions coincide with ministries it can remove debate about issues from the political arena and insulate the executive from attempts to hold them accountable, thereby weakening the role of legislators.

One possible reform that Dr. Docherty suggests is to embrace minority government, something that could be facilitated by electoral reform. Minority government has a number of benefits including; increasing the participation of parties, forcing party leaders to listen to backbenchers and increasing the power of committees. In minority situations government must learn to accept defeat on bills meaning that legislative outcomes need not be predetermined.

Cabinet and First Ministers – Graham White

Graham White started off by describing cabinet and first ministers as powerful players in Canadian democracy. Because of the power they hold, any changes in the way first ministers and Cabinet go about their work, he said, have important consequences. Dr. White looked at Ottawa, the provinces and territories and other Westminster systems in his effort to answer the question – "Is there undue power in the PMO?" He concluded that the situation is far worse at the provincial level than at the federal level. It is a concern he says, but one that should not be overblown.

Dr. White seemed to imply that the first minister is the one held accountable by his Party, by his caucus, by the legislature, by the public and academics, and therefore should be setting the agenda. He discussed the availability of information accessible to the public and academics in this particular field of study: commission documents, documents obtained through freedom of information, Cabinet documents (although they are only available 25 years later), testimony (such as Mike Harris' during the Walkerton trial). Most of the time, however, "the public is not invited to the Cabinet room".

The most interesting part of Dr. White's speech was his suggestion that in order to loosen the power the cabinet and the first minister currently hold, backbench MPs should be included in cabinet committees. He noted the flexibility of the Westminster system, and indicated that in some jurisdictions backbenchers do sit on cabinet. He suggested cabinet-caucus committees, where the government caucus could review potential draft legislation or sit on Cabinet. He did

recognize that having backbench MPs on cabinet committees would tie them to a cabinet oath (in order to deliberate sensitive information) and cabinet solidarity (i.e., no free votes).

Dr. White also suggested fixed elections terms should apply but the notion of confidence should continue to exist. (i.e. the government could still fall on non-confidence motions). He also suggested that caucus be able to vote a non-confidence motion in the leader to *trigger* a formal leadership review.

In his conclusion, he stated change was possible. However, those who have power typically do not want to give it up and he hinted that the only way for change in such an area was to look to opposition leaders and try to obtain a commitment before they actually gain power.

Discussion

Commenting on the presentations made by David Docherty and Graham White, Jonathan Malloy raised the importance of institutional rules and structures, arguing that these shaped behaviour and thought, while providing tension with raw power. Dr. Malloy pointed out that the presenters addressed two widely held conventional wisdoms, rigid party discipline and the power of the centre. With regard to these, Dr. Malloy identified two factors which have the ability to shake up the system, electoral reform and the overthrow of party leaders. In any kind of change or reform, he argued that the goal should not be to tie down First Ministers but to widen the context in which they operate so that there is room for more negotiation of issues.

David McLaughlin talked about the role of politicians. He pointed out that constituency politics-especially in small provinces- is really what representation is all about. He discussed Graham White's suggestion that backbench MPs should have a place in Cabinet committees; he noted that this would result in stronger solidarity. Without criticizing Dr. White's suggestion he told the participants he believed the legislature should have more independence from the executive. He wished MLAs had more individual power, were more independent thinkers, and more accountable. He recommended work to reduce party discipline. He suggested that the cabinet is a good focus group that often provides a highly representative view of the electorate.

Rapporteurs: Joshua Alcock and Althia Raj

PANEL 3: COMMUNICATION TECHNOLOGY, COURTS AND FEDERALISM

Chair: Richard Sigurdson
               Dean, Faculty of Arts
               University of Manitoba

Speakers: *Communication Technology*
               Darin Barney
               Department of Communication
               McGill University

               Courts
               Ian Greene
               Department of Political Science
               York University

               Federalism
               Jennifer Smith
               Department of Political Science
               Dalhousie University

Discussants: Joseph Peters
               Partner
               Ascentum

               F. Leslie Seidle
               Institute for Research on Public Policy

Communication Technology **– Darin Barney**

Darin Barney's presentation focused on the relationship between the new Information Communication Technologies (ICTs) and Canadian democracy. Rather then focusing on institutions or actions, his section of the audit deals with the potential of ICTs to enhance democratic possibilities. More specifically, it explores the contribution ICTs have made to Canadian politics as measured by the audit's criteria of inclusiveness, participation and responsiveness.

Citizens can relate to information technology as objects of political judgement, as a means of political action or as part of the wider political setting. With these relationships in mind Dr. Barney's work centers on three questions, each in turn corresponding to ICTs function as object, means or context:
1) has the development of ICTs in Canada been subjected to democratic judgement and control?
2) What effect is the increasing mediation of political communication by ICTs having on the practices of democratic politics in Canada?
3) How do ICTs affect the distribution of power in Canadian society?

Dr. Barney's book studies the new media/ICT policy cycle in the decade following 1993. Separate chapters explore key issues, such as globalization and the use of ICTs by government, political parties, advocacy groups, citizens and other actors. Another chapter

deals with the relationship between ICTS and the distribution of power in Canadian society, examining the political economy of ICTS, the 'digital divide' and technology's role in the mediation of the public sphere.

Overall this portion of the Audit had a rather bleak assessment of the role the new technologies have played in Canadian democracy to date. Dr. Barney found that ICTs have not lived up to their potential to affect the distribution of political power in Canada. Unlike advocacy groups and social movements, the Canadian government and political parties have not capitalized on ITCs to make democracy more participatory, inclusive and responsive. Furthermore the Canadian public has not been using the new technology to engage in politics, and ICT policy development itself departs from democratic norms. Lastly, he argued that the policy makers' responses to globalization have been inadequate to deal with the challenge at hand.

Dr. Barney then dealt with some of these failings in greater depth. For example, the process and outcomes of ICT and new media policy cycle were not always developed along traditional democratic standards. He described the processes undergone by Industry Canada and the others as undemocratic, non-transparent and heavily swayed by industry interest. Policy framers themselves subscribed to a neo-liberal orthodoxy that led to market-dominated outcomes. Overall ICTs occasioned the undermining of policy-making structures in Canada.

The second major failing Dr. Barney described was the issue of ICTs and their relationship to globalization. ICTs are instrumental in the process of capitalist globalization which has in turn undermined the democratic potential of the new technology. Contributing to this trend is the dominant view of ICTs as commodities to be mediated exclusively by industry and shielded from state-level regulation. This has resulted in the de-politicisation of the new technologies, a situation that does not bolster democratic norms. So far technological-nationalist responses have been able to reverse these trends.

The digital divide was also a topic raised in the presentation. Here Dr. Barney examined the relationship between ICTs and the distribution of power, working with the premise that if the new technologies are involved in democratisation, then their contribution to equality in Canadian society should be easy to discern. In exploring this issue he used a different definition of the digital divide than is typically encountered, going beyond the simple issues of access to computers or language barriers to include the relationship between technology and the culture of citizenship within the democratic sphere.

Dr. Barney concluded his presentation by offering some recommendations for future action. Firstly he proposed that at a minimum, a public review of the 1999 CRTC exemption of New Media undertakings from regulation should occur. He also proposed the establishment of a Public Information Highway Advisory Council with broad civil society representation and a mandate for widespread public consultation of ICT issues.

Secondly he sees the need for resolute action by the Canadian government on behalf of a public interest approach to ICT issues at the World Summit on the Information Society, including support for civil society participation in this process.

Lastly he calls for the establishment of a federal-provincial taskforce to conduct a comprehensive public review of regulatory and legal frameworks surrounding non-standard work and employment relationships, aimed at reducing the material insecurity attending emerging forms of ICT-mediated work and employment.

Courts **– Ian Greene**

Ian Greene spoke on the role of the Courts as institutions in a democratic system. He began by suggesting participation, inclusiveness and responsiveness as a definition by which we can measure how democratic an institution is. He argued that courts don't really fit this definition, quoting Peter Russell, who wrote, "For too many lawyers and judges, judging is still not regarded as the provision of a basic social service but the exercise of a private professional craft."

Dr. Greene pointed out that the great debate surrounding the courts in Canada has centred on the question of judicial activism. But, he argued, the real question is, do courts make policy that supports democracy? That is, do they promote inclusiveness and participation? He reviewed the various points in the judicial process at which these values might be promoted. At the stage of judicial selection, he found that opportunities for public participation are still very limited. With respect to the administration of courts, there is almost no opportunity for public input. In terms of litigants and witnesses, there are ample opportunities, but they are hampered by delay and disrespect. Members of the public of course sit on juries, but the jury system is often abused. There is extensive use of public interest litigation, but rigorous evidence is limited. Expert witness testimony is also extensive, but it is often misused or misunderstood.

Dr. Greene then turned to the question of inclusiveness of various groups within the legal profession and court support staff. Women make up half of law school graduates, one third of lawyers, four-fifths of paralegals, and nearly all legal secretaries. In order to reach representative levels for aboriginal people, there would need to be four times more aboriginal lawyers, and three times as many legal secretaries. Visible minorities would need to make up twice as great a share of lawyers, though they are fairly represented among paralegals and secretaries. One-quarter of judges are women; we need four times as many aboriginal judges to have proper representation. Aboriginals, however, are equitably represented among court support staff, while visible minorities are under-represented, but not as much as amongst lawyers. Women occupy two-fifths of administrative positions in court support staffs, four-fifths of clerk positions, and make up nine-tenths of recorders and transcriptionists.

Among litigants, the poor are over-represented in criminal courts, while the rich are over-represented in civil courts other than small claims courts. Cuts to legal aid in the 1990s have led to an increasing number of Canadians choosing to be self-represented, Dr. Greene said.

Speaking of institutional responsiveness, Dr. Greene said that most Canadians are satisfied with their lawyers and judges. There are, however, too many patronage appointments, and too often a lack of qualification among justices of the peace and members of administrative tribunals. We must also tackle the problem of delays in the court system, he argued.

Dr. Greene found that Canadian courts have applied the Charter in a way that has increased inclusiveness. Judicial decisions have resulted in legislatures doing a better job of balancing competing rights.

In summary, Dr. Greene said that while in many respects courts are doing well, and are respected by the public, we need to provide more support to individuals representing themselves, and we need to deal with delays in the court system.

Discussion

Leslie Seidle argued that if we are going to look at reforming something, we have to ask what objectives we want the reform to serve, and what values those objectives are linked to.

Dr. Seidle said that Ian Greene's research shows how there is progress in our discussions of reform with respect to the Supreme Court of Canada. Twenty years ago, reform proposals focussed on having the provinces nominate people, to make the Supreme Court sensitive to provincial interests. More recently, reformers have focused on parliamentary review in order to prevent judge-made law.

He highlighted a problem that Dr. Greene had pointed out with respect to legal aid and accessibility: if we prevent people from going to court simply because we think they won't win, we lessen the inclusiveness of the judicial system.

Dr. Seidle also questioned what underlies the proposals of some reformers. He asked if courts in seven provinces and territories had determined that marriage was between a man and a woman, would many of these reformers still have a problem with the courts? That is, are complaints perhaps about the result, rather than the process?

Dr. Seidle took a dim view of the Justice Minister's appearance before a parliamentary committee as a mechanism for review of Supreme Court appointments, comparing it to sending a coach to a job interview. He also suggested that parliamentary review of judicial nominees conflates the roles of parliamentarians, and may reduce the quality of judges.

Federalism – Jennifer Smith

Jennifer Smith began her address by stating that her democratic analysis of Canadian Federalism initially proved to be difficult, as federalism was not clearly designed as a democratic instrument. However, she maintained that federalism can be understood to be in tune with democracy and can promote it. As a result, it is possible to examine the three democratic benchmarks of inclusiveness, participation and responsiveness in terms of federalism. Once this was done, it was found that the results were negative: federalism primarily inhibits democracy rather than promoting it.

Under the first benchmark of inclusiveness, Dr. Smith found that federalism privileges territorially-based communities over those that prefer to be defined by other characteristics. Also, she stated that the province-centered bias also excludes geographically based communities like municipalities and Aboriginal communities. These organizations are mainly excluded from federal institutions, detracting from their democratic content.

The second benchmark, participation, revealed that intergovernmental relations within federal institutions doe not promote citizen participation. Such relations do not present possibilities of citizen engagement. Rather, Dr. Smith said, they limit participation to first ministers and those directly involved in intergovernmental affairs.

Finally, Dr. Smith stated that the third benchmark of responsiveness showed similar negative results. Federalism has developed to make provinces unable to be responsive to citizens. Rather, provinces have been placed in a position of opposition to the federal government, which

increases democratic responsiveness between governments but reduces the level of accountability to the electorate.

While Dr. Smith remarked that there are not many options, she maintained that there are measures that can be implemented in order to democratize the federal system. These reforms may not be desirable for other reasons but they would serve to democratize federalism.

Dr. Smith proposed four democratic reforms. First, an elected Senate would increase the body's role in terms of provincial representation, and reduce the provincial governments' role as the opposition to the federal government. Second, Dr. Smith stated that the inclusion of Aboriginal leaders in the Council of the Federation would give more credence to geographically based Aboriginal communities that have legislative power. This goes beyond adopting a tri-cameral rather than a bi-cameral approach to the division of federal powers. Third, the inclusion of legislators in the selection of judges would obviously increase the level of participation.

Finally, Dr. Smith maintained that there is a need to address the asymmetry that exists in Canadian federalism. Asymmetry refers to the fact that all provinces are legally equal but not politically or economically equal. This inequality interferes with responsiveness, for the have-not provinces cannot be accountable to their electorates with regards to programs they are unable to finance. This can be countered by developing a system of virtual regionalism, in which economics is based on regions. In this situation, Dr. Smith suggested that the Atlantic area might be considered to be a region, not as separate provinces. Program delivery would be given to the region as a whole, thus avoiding competition between have-not provinces. It would also combat asymmetry, which would in turn serve to democratize the Canadian federal system.

Discussion

Leslie Seidle praised Jennifer Smith's section on Senate reform as masterful. Dr. Smith had raised the question of the non-territorial representation of groups, in particular Aboriginals, and suggested that they might be included in the Council of the Federation. Dr. Seidle disagreed with the suggestion that this would be the best solution, arguing that it would be preferable to have aboriginal senators elected from lists. This would make the Senate an institution of the people, not just territory. He noted that incorporating Aboriginals into the Council of the Federation is difficult because many Aboriginals don't have a land base, including those who live in cities. Election from a list of all aboriginals would solve that problem.

Rapporteurs: Karen Diepeveen, Katrina Marsh and Jay Nathwani