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Public Policy & Governance Review

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# Table of Contents

<b>Editors' Note</b>	4
<b>Commentary</b>	
Leading Policy in the Era of Humanity <i>Senator Roméo Dallaire</i>	5
<b>National Security</b>	
False Starts, Missed Opportunities and the Way Forward <i>Dylan Powers</i>	8
Post-9/11 Security Policy and the Canadian State <i>Ryan Nichols</i>	26
<b>Social Policy</b>	
Envisioning a Contemporary Indigenous Curriculum in Ontario <i>Deanne LeBlanc</i>	47
Income Inequality: Framing the Issue <i>Maria Edwards</i>	67
<b>Economic Policy</b>	
Sovereign Debt Crisis and the European Union <i>Nina Arbabzadeh</i>	82
Home Away From Home: International Tax Avoidance and Corporate Residency <i>Jonathan Bright</i>	90
<b>Foreign Policy</b>	
The International Intervention in Libya <i>Loulia Kouchaji</i>	100
Instability in the Northern Triangle of Central America <i>Agustina Silva</i>	117

# Editors' Note

Public Policy & Governance Review

## A New Year, a New Volume

As we enter the new year, we leave behind one of the most eventful periods in recent memory. Regimes were overthrown, financial districts around the world were occupied, worldwide economic difficulties have persisted and in many cases worsened, and the role of government continues to be questioned from Toronto to the United Kingdom.

The articles in this issue reflect the themes of the past year, as well as other longstanding policy challenges. We lead off Volume 3, Issue 1 of the Public Policy and Governance Review with a call to action from Senator Roméo Dallaire to policy leaders present and future. Other articles in this issue highlight current policy discourse on the topics of income inequality, the intervention in Libya, and the European debt crisis. Additionally, this collection features articles on Canadian national security, aboriginal education, tax policy, and foreign policy.

We are proud to present this issue, and its contribution to public policy discourse in Canada. Thank you to our Editorial Board for your hard work throughout the editing process, to our Advisory Board for your guidance, and to our readers for your continued support.

Sincerely,

Phil Donelson and Margaret Cappa

Editors-in-Chief  
Public Policy and Governance Review  
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Senator Roméo Dallaire

Lieutenant-General The Honourable Roméo A. Dallaire, O.C., C.M.M., G.O.C, M.S.C., C.D., (Retired), Senator

LGen The Honourable Roméo A. Dallaire, (Ret'd), Senator, has had a distinguished career in the Canadian military, achieving the rank of Lieutenant-General and becoming Assistant Deputy Minister (Human Resources) in the Department of National Defence in 1998. In 1994, General Dallaire commanded the United Nations Assistance Mission for Rwanda (UNAMIR).

His book on his experiences in Rwanda, entitled *Shake Hands with the Devil: The Failure of Humanity in Rwanda*, was awarded the Governor General's Literary Award for Non-Fiction in 2004.

Krystel Carrier-Sabourin

War Studies Ph.D. student, Royal Military College of Canada, Student Representative, Recipient of the Joseph Armand Bombardier CGS SSHRC Doctoral Award, Vice-President Events, Women in Defence and Security (WIDS)

## Leading Policy in the Era of Humanity

*The next crisis in civil-military relations will stem from policy leaders' failure to adapt to the global revolution in human rights. A transformation in the curriculum of policy leaders is needed to ensure a smooth transition into the 'Era of Humanity'.*

A lot of ink has flowed on the educational and behavioural requirements necessary for military officers to attain a degree based level of 'professionalism.' The military must strike a balance so that it is strong enough to "conduct its own affairs" but does not become so strong as to "destroy the society it is intended to protect" (Feaver, 1996, 151-2). To achieve this aim, Samuel P. Huntington (1957) prescribed the application of "professionalism" and "objective civilian control:" soldiers ought to be professional, apolitical and autonomous, and therefore, objective, while Morris Janowitz (1960, 439-440) counselled the application of "professional ethics." Both Huntington and Janowitz argued that military officers must be willing to subject themselves to the control of the political sphere. They do so through "self-imposed professional standards and meaningful integration with civilian values" (Janowitz, 1960, 420). The civilian sphere, on the other hand, must aptly define and impose limits for the appropriate realm of activities and responsibilities for the armed forces, so that the military can effectively accept those restrictions.

Yet not much has been written about the educational requirements and professional ethical standards for policy leaders in healthy civil-military relationships. I argue that a similar set of professional ethos should be developed for policy leaders so that they, too, may not "destroy the society" they serve. Policy students should learn how to define and manage *integrated policy* objectives, joining the traditionally separate disciplines of

development, defence, and diplomacy. Civilian leaders have too often either been unable to make integrated policy decisions, or to articulate those policy preferences clearly to the military. The past two decades have witnessed the failures of civil-military cooperation and coordination, 3-D, and 'whole-of-government' approaches. Partly as a result, the extremes of human destruction have been replicated; the human rights situation of the 21st century is not much better than it was in the past century, and that is in great part due to a lack of commitment to pursue integrated policy, both in government policy boardrooms and in the field.

What has recently changed, though, both in military and civilian circles, is our growing intolerance for abuse. While in the past human rights abuses were often written-off as mere 'tribal conflicts,' or the 'normal spoils and consequences of war,' human rights abuses today are denounced by the most influential and powerful political and military leaders. Despite this denunciation, policy leaders are still reticent to make a leap ahead to integrated policy, and, most importantly, are still showing great reserve towards intervention.

To facilitate this leap, policy leadership standards need to be developed based on a philosophy of human rights and humanity and balance this with the current overriding "self-interest" factor. While state leaders are trying to hold on to the notion of the nation-state as the apogée, policy students should start viewing states as no more than instruments or facilitators at the disposition of policy leaders. In an era where the future is ill-defined, and where conflicts and threats are ambiguous, policy and military leaders must work not only to protect the nation-state, but more importantly, to raise the bar of civilization to protect humanity. The new generation of policy students will be aptly placed to be the driving force for the launch of the Era of Humanity. Raised in decades where global environmental degradation has fueled civil and international wars over natural resources, and a growing sense of 'one humanity' joined by the perils of global warming, this generation has a heightened sense of the need for integrated policy-making, of the growing disappearance of 'the other', and of the interconnectedness of regional, national and international policy problems. They are more and more "without borders".

Current curriculum are not set-up to teach policy or multi-disciplined students the complete arsenal of professional and ethical standards necessary for the conduct of integrated policy. To present an analogy of a house, 'while the structure is in order, repairs and upgrades are necessary'. Policy studies in the Era of Humanity should be multidisciplinary, resulting in leaders with a savvy for managing different sectors in an integrated paradigm. Until a revolution in policy education occurs, it is up to students – future policy leaders, really – to supplement their academic learning with practical experience to make their education multidisciplinary and focused on issues of humanity and integrated policy-making.

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## False Starts, Missed Opportunities and the Way Forward: Creating a Comprehensive Cyber Security Strategy for Canada

**Dylan Powers**

University of Ottawa

Dylan Powers is a masters candidate at the University of Ottawa's Graduate School of Public and International Affairs. He has spent the last few years critically examining approaches to cyber security around the world. Recently, he has concluded an internship with the Canadian Embassy to Thailand where he investigated South East Asian regional cyber security responses and other new, emerging security concerns.

Currently, Dylan is consulting for The Asia Foundation to help develop their new environmental programming in Thailand aimed at addressing emerging security threats arising from climate change.

*This essay explores the complexity of creating cyber security policy in Canada. At present, the approach taken in Canada's Cyber Security Strategy is inadequate to protect Canada's citizenry and national security. To address this situation and ensure Canada's cyber systems remain safe from infiltration and attack, a comprehensive and ambitious approach is needed. This approach needs to balance the concerns of civil liberties, the private sector and national security. A comprehensive re-articulation of Canada's cyber security strategy will help to protect Canadians and provide international leadership in an area demanding attention.*

### Introduction

The internet has become an integral part of any modern society. Canada is highly dependent upon its cyber systems to run its economy, and with its large geography and dispersed population, has a unique historical appreciation of telecommunications. Not only did a Canadian develop the telephone, but Canada has also produced some of the greatest theorists of technology, from Harold Innis to Marshal McLuhan (Deibert, 2009). However, the internet can also be a source of great insecurity. The strengths that arise from utilizing cyberspace also have unintended negative consequences. Cyber systems are vulnerable to attack and infiltration from organized criminal groups and foreign intelligence agencies. These groups, through the use of malicious software, are capable of stealing a citizen's identity, manipulating a bank's financial data, or disabling a critical infrastructure. To date, the private and public sectors have been reluctant to openly acknowledge the magnitude of the problem posed by cyber criminals and foreign intelligence agencies. Victims of identity theft have their bank or credit card accounts quickly restored and the debts the criminals incur are wiped clean with few questions asked. Properly confronting the growing insecurity that arises from a society's dependence on cyber systems is becoming a top priority for many countries. This is

evident in the recent proliferation of cyber security policies in Canada, the United States, and the United Kingdom. However, creating effective regulation on cyber security is an incredibly difficult and complicated affair. The policy landscape has many stakeholders to consider and the technical feasibility of achieving security in cyber space is under debate. Some believe that regulation by government is the only way to adequately protect cyber systems from infiltration or attack, while others feel that added regulation could stifle innovation and growth. Proper policies will need to consider questions of privacy, individual freedoms, the Charter of Rights and Freedoms, as well as the greater public good. This essay will first outline the problem of cyber security and the importance of the subject, in order to provide a basic understanding of the landscape. It will then proceed to provide a brief history of policy thinking on cyberspace in Canada. The essay will then highlight the variety of problems and complications that must be considered in any cyber security policy. This will include an overview of the many issues, perspectives, and international complications that must be considered. Finally, this essay will outline how Canada should construct a comprehensive policy towards cyber security that takes into account the complexity of the landscape. The current Canadian Cyber Security has neglected some serious aspects of the issue and needs to be revised in order to protect the privacy, identity, and security of Canadians with stronger domestic and international actions.

### **Cyber Security and Cyberspace – An Area of Vital Importance**

Cyberspace is a difficult concept to define properly; it is ethereal in nature, yet it concretely affects peoples' lives every day. In rare instances it can be instrumental in toppling governments, as the world has witnessed in Tunisia and Egypt. Yet, cyberspace can be defined as "the electronic world created by interconnected networks of information technology and the information on these networks... it is the global commons where more than 1.7 billion people are linked together to exchange ideas, services, and friendships" (Public Safety Canada, 2010). A more technical definition of cyberspace is "a domain characterized by the use of electronics and the electromagnetic spectrum to store, modify, and exchange data via networked systems and associated physical infrastructures" (US Department of Defense, 2006). Indeed, cyberspace is the true global

commons. It is operated by a combination of private and public actors and, in theory, is not restricted to geo-political borders. However, this has not kept governments from attempting to erect walls within cyberspace. The Great Firewall of China and the attempts by Egypt and Iran to cut off access to the internet during times of unrest are attempts by governments to assert their control over the content of the internet. Moreover, the physical infrastructure of the internet—the fibre optic cables, copper wires, microwave relay towers, or internet routers—all exist within national territories, and their owners also expect their national governments to protect their proprietary interests (Kanuck, 2010). Thus, cyber space is simultaneously a global commons open to everyone and an institution subject to government censorship and proprietary concerns.

The internet is a vital component of the Canadian economy and the lives its citizens. In 2007, approximately 87% of Canadian businesses were using the internet, and online sales by were estimated at \$62.7 billion (Public Safety Canada, 2010). Moreover, the information revolution that has transformed the Canadian economy has also fundamentally changed how the government provides services to citizens. Currently, the federal government offers more than 130 commonly used services online, ranging from tax returns to employment insurance forms. Canadians have fully embraced cyberspace and utilize it in many aspects of their daily life. In 2009, for example, 69% of Canadians banked online and 74% of Canadians had paid internet services (Public Safety Canada, 2010). Yet, cyberspace has also become a source of great insecurity and utilizing it, without proper protection, could pose significant risks to firms, governments, and private individuals. In 2008, 1.7 million Canadians, or 6.5% of adults, were victims of identity theft. These victims “spent a total of 20 million hours and more than \$150 million to resolve problems associated with these frauds” (Baker, 2010). Cyber crime places real and future costs on consumers and producers. The annual cost of identity theft in Canada is estimated at \$1.9 billion. Canadian firms are also in a global race to get new products to the market. If this ability is compromised by having new product designs stolen through cyber espionage, then Canadian firms will become uncompetitive in the global economy. To demonstrate this point, consider a well-published case of cyber espionage. A month before Research in Motion, a Canadian telecommunications firm, was set to release its

BlackBerry product in China, a cheaper stolen version of the product, called RedBerry, was released by a state-owned enterprise (York & Avery, 2006). Allegations of state involvement can never be confirmed, but the coincidences are uncanny. Recently, it has been estimated that 86% of large Canadian companies have been the victim of a cyber attack over the span of a year (Public Safety Canada, 2010). The expansion of the internet has outpaced the development of proper tools to protect its users.

Cyber attacks are many and varied in a cyber dependent world and the extent of their destructive capacity varies. Cyber crime, though costly, represents a relatively low level of severity; each individual act is small-scale and does not pose any systemic risk. From a perspective of systemic threats, the ability for cyber attacks to target Canada's critical infrastructures is the most consequential. There are specific nodes within a society's critical infrastructures—such as oil refineries and piping, electricity grids, nuclear power plants—that are much more important than others, and if attacked, could have cascading effects throughout the entire system. A recent survey conducted by McAfee Security of 143 executives in charge of IT security for critical infrastructure firms world-wide found that over 75% were connected to the internet (Baker, 2010). Moreover, nearly half of these executives believed that connection to the internet represented an unresolved security problem for their organizations.

Cyberspace is an important aspect in the lives of all Canadians. It powers the economy, provides vital government services, and is instrumental in the operation of critical infrastructures. The conveniences that it provides to daily life also serve as a source of weakness that can be exploited by organized criminal networks and foreign intelligence agencies. Therefore, actions are needed that will allow cyberspace to grow unencumbered, but that will also provide an acceptable level of security for those that use it. Governments have been grappling with finding the proper balance of government involvement to achieve the goal of a secure cyberspace.

### **Cyber Security Policy Making In Canada**

Canada's Cyber Security Strategy (CCSS) is Canada's first attempt at confronting this

new cyber threat. It is built upon three pillars: securing government systems, partnering to secure vital cyber systems outside the federal government, and helping Canadians to be secure online (Public Safety Canada, 2010). The federal government recognizes that private citizens have entrusted the government with personal and corporate information and it has a duty to protect this information, as well as protect cyber systems residing within Canada. Therefore, the government of Canada will put in the necessary structures and tools to meet this minimum obligation. In order to protect critical infrastructures and private firms, the Government of Canada will support their initiatives and encourage resiliency of the system. Public Safety Canada will be responsible for coordinating and implementing a whole-of-government approach for adopting CCSS. Within PSC, the Canadian Cyber Incident Response Centre will continue to monitor and lead all responses to cyber threats.

CSEC is on Canada's first line of defence when it comes to cyber security, through the mastery of electronic information. Created in 1946, the Communications Security Establishment of Canada (CSEC) is Canada's signals intelligence (SIGINT) and communications and information security (ITS) service (CSEC, 2008). Its mandate is three-fold—to provide foreign SIGINT according to the Government's intelligence priorities, to safeguard Canada's security by providing advice, services, and protection of infrastructures of importance to the government, and to assist law enforcement and security agencies in their duties. Its IT Security program (ITS) is a leading edge organization for cyber protection and is an essential component in helping to fulfill all pillars of CCSS. Through collaboration with a variety of federal departments and the private sector, ITS is working to create new programs, services, and strategic insight to ensure critical infrastructures and private organizations are secure (CSEC, 2008). SIGINT agencies are experts at detecting weaknesses in a target computer, and this knowledge will be invaluable for CCSS because of CSEC's ability to spot a foreign intrusion on our own systems. CSEC can also support CCSS through its international alliances. CSEC can utilize its FIVE-EYES alliance to combat potential adversaries in cyberspace. This alliance, if managed effectively, could present a strong deterrent against solitary, belligerent states. Within this forum, Canada should work with our allies to develop new

offensive cyber capabilities, as well as share best practices for effective defence.

However, a limitation of CCSS is that it does not provide new processes or greater authority for CSEC to protect the security of process control systems or critical infrastructures. The CCSS created the Cyber Incident Response Centre to monitor and lead all responses to cyber threats, however it is housed within the PSC, a department with no expertise in information security or cyber threats. This is a challenge as the protection of these systems is of vital importance to Canadian critical infrastructures, such as traffic lights, transportation of oil in pipelines, and electrical grids. Currently, critical infrastructures under private control are outside the jurisdiction of direct protection from CSEC. A recent attack on similar systems happened in Iran with the Stuxnet virus, which resulted in significant damage on their nuclear program (The Economist, 2011). Considering the vital importance that critical infrastructures play in the Canadian economy, greater authority must be given to a government agency to ensure that their security systems are capable of preventing cyber intrusion or attack.

Moreover, CCSS aims to mitigate the effects of lesser threats, such as cyber crime and cyber terrorism. Yet effective mitigation of lesser threats does not mean that more consequential threats, such as cyber war, are also mitigated. Certainly, a limitation of CCSS in regards to CSEC is that it neglected to outline clear procedures to combat cyber aggression or exploits by foreign states. While a cyber attack from a foreign nation would be considered an act of war, CSEC has documented activity that could be considered cyber aggression, and this activity has been escalating (Adams, 2008). The strategy does not outline how Canada will promote cyber war concerns on the international stage or create a framework to help address the possibility of cyber war escalation.

### **Considerations and Issues**

Cyber security is highly complex and there are many stakeholders, issues, and concerns to consider. There are several key issues that must be addressed in order to build a comprehensive government approach.

*Civil Liberties*

Cyber crime is attractive to criminals because it allows them to remain anonymous. This also raises serious concerns for civil liberties, especially when these cyber attacks come from within Canada. Many active defence measures that Governments can employ may infringe on certain civil liberties enjoyed by many Canadians that have been enshrined in the Charter of Rights and Freedoms. Governments may need to readjust “traditional understandings of the right to privacy, the right to protection against an unreasonable search, and the right to due process, given the practical necessity of responding to a cyber attack” (Condrón, 2007). These problems do not arise from passive defence mechanisms, such as firewalls, but from active defence of systems that could include gathering information off of a personal computer, altering information on a computer, or destroying an infected computer system. Moreover, cyber attacks often utilize the computers of unsuspecting victims, through Trojans and Bot-nets, which makes attributing the source of the attack problematic and raises the possibility of government infringing on the liberties of innocent bystanders.

Canada takes pride in its Charter of Human Rights and Freedom and its protection of fundamental human rights. However, these rights are not absolute and have been suspended in times of great stress or war. Many academics were outraged at the introduction of Bill C-36, the Anti-Terrorism Act, after 9/11 and the imposition of the War Measures Act during the FLQ Crisis. These government actions were taken in response to an armed attack by foreign agents or home-grown terrorist cells. Indeed, cyber attacks would exist outside this paradigm, as the culprit could be unknown and would not represent a physical threat. Many nations disagree on whether cyber acts constitute an act of war. Russia signed a declaration condemning cyber attacks as acts of war, yet Iran did not view Stuxnet, the state-sponsored computer virus attack on its nuclear facilities, as an act of war. While cyber attacks may use different means than armed conflict, they are no less threatening to national security and will require policy makers to balance concerns of security and civil liberties in order to properly address the issue (Condrón, 2007). In keeping this balance in mind, policy makers should reflect on US Justice Goldberg’s statement: “While the Constitution protects against invasions of individual

rights, it is not a suicide pact” (Condrón, 2007).

#### *Internet Freedom*

The recent toppling of Tunisian and Egyptian autocrats has demonstrated the liberating power of a free and open internet. It allows citizens to circumvent state run media and laws banning opposition groups and public gatherings. During the uprising, Egyptian officials recognized the destabilizing power of the internet and were successful in shutting the internet off in their country for 5 days. At the same time, US legislatures were trying to pass a bill that would provide a “kill switch” to the internet for the President to use in times of emergency (The Economist, 2010). The events in Egypt provided opponents to this bill some powerful arguments and forced other western countries—Germany, Austria, and Australia—to preemptively announce that they would not seek similar powers (The Economist, 2010). As well, Estonia and France have made internet access a fundamental human right. A popular slogan on the web is “if your government shuts down your internet, it’s time to shut down your government!”(The Economist, 2010). The free internet movement has many stakeholders to consider, including a prominent Toronto based think-tank called The Citizen’s Lab, and governments cannot ignore the concerns that are put forth by this segment of the population.

Yet, the “kill switch” has merit as a means of protecting against a cyber attack.

Proponents of the bill insist that the new powers to the President would not be used in the same fashion as in Egypt. These new powers would be needed if, for instance, hackers took control of a critical infrastructure. While these laws would provide extensive authority to the executive, they would also outline and clarify the limits of these powers. Similar to civil liberties, policy makers need to balance the public desire for a free and open internet that is not subject to arbitrary shut-downs, and government’s need for greater authority to protect national security in times of crisis.

#### *Public – Private Relations*

When faced with a problem that needs solving, a common and oft used tool for governments is regulation. And, when faced with a problem as new as cyber security, the inclination to reach for this familiar tool is very strong for policy makers. Yet, muddled

and creeping regulation can pose an even greater threat to internet freedom than a government “kill switch”. Moreover, the private sector and public opinion are strongly against increased regulation of the internet. A recent Globe and Mail survey showed that only 35.8% of Canadians supported the question “Should the Canadian Government Try to Regulate the Internet” (Freeze & Curry, 2011). In the water/sewage sector, a survey of executives showed that 77% believed that law and regulations have “diverted resources from improving security” (Baker, 2010). They cited the need to satisfy multiple regulations from many different authorities rather than planning for security in a coordinated fashion as the main problem. An interview by the author of this paper with an executive from Defence Intelligence, an Ottawa based security firm, reinforced this complaint from the private sector (Murphy, 2011). He was concerned that the government had not supplied a central authority to respond to a cyber attack and worried that there was no readily available phone number to call if you are a victim. The dispersion of responsibility created by the CCSS meant that separate agencies were concerned with different aspects of cyber security: the RCMP was focused on child-pornography and needed the victim to cite quantitative losses; CSEC was reluctant to share its expertise and is only mandated to assist the investigation of other agencies; and CSIS is concerned with cyber terrorism and terrorist financing via the internet (Murphy, 2011). The private sector is wary of intrusive and clumsy regulations, but is also in need of greater coordination and direction from the government.

In the area of security, there is a market failure because there is insufficient demand and poor price signals for private firms to have incentive to supplying more secure software. The public buys products based on price and has yet to show a willingness to pay more for a more secure product (Brenner, 2010). In the case of identity theft or fraud, the bank absorbs 100% of the loss so the customer has little incentive to spend more on security of their own personal computers (Brenner, 2010). Firms are reluctant to disclose the extent of the security problem to the public because it might mean consumers will be less willing to buy products online. These firms would therefore rather hide the cost of cyber crime within high interest rates and user fees. Moreover, it is difficult to determine whether consumers or corporate customers would pay more for more secure

products if they had more information about the problem. Currently, consumers are not knowledgeable enough to determine between secure and unsecure software, therefore the market prices these different products the same (Brenner, 2010). The car industry had a similar problem of information asymmetries between producer and consumer, and this was solved through Consumer Reports (Brenner, 2010). However, consumer groups and software developers have not organized to create a similar public service, to the detriment of security for firms, consumers, and the greater public good.

Indeed, policy makers must consider the concerns of the private sector when drafting a cyber policy. This includes striking the proper balance between regulation for safety purposes and a hands-off approach to encourage innovation and growth. Increased regulation could place high costs that discourage entrepreneurs from entering the market or large firms from introducing innovation to current services. Private operators have incentives to maintain continuity of service to their customers, but without some government intervention they may not be willing to commit resources to protect the wider interests of society (OECD, 2011). Moreover, governments have a role in intervening in the market when market failures arise, however public demand for greater government involvement is not present. The landscape of cyber security is fraught with complexity that demands careful consideration when drafting a comprehensive policy.

#### *Federal – Provincial Relations*

The level of government that should take the lead on cyber security is the federal government. Defence is the purview of the federal government and the agencies that will be instrumental in enhancing cyber security—CSEC, RCMP, CSIS, DOD—are all under the direction of the federal government. Moreover, the Department of Industry, another federal department, will be an important actor in bringing the private sector on board with any regulation that might be put into place. This should not suggest that the provinces do not have a role to play in securing government networks. Many of the government services that citizens interact with most often, whether it is health care or getting a drivers license, are supplied by the provincial government. The delivery of these services depends on safe and secure cyber systems. The provinces have an important

role to play in raising awareness about the need to protect cyber information and personal computers. A close partnership is needed between the federal and provincial governments to ensure people are safe online.

#### *International Community*

The international community lacks a clear definition of what constitutes cyber warfare, and there have been no attempts to date to define international mechanisms that could prevent the escalation of cyber aggression. A proper definition of cyber warfare must be formulated in order to create a common understanding of what constitutes a cyber attack and how to respond to such an attack. This deficiency has been noted by President Obama when he stated that “the Nation needs a strategy for cyber security designed to shape the international environment and bring like-minded nations together on... acceptable legal norms regarding territorial jurisdictions, sovereign responsibility and use of force” (White House, 2007). Moreover, no current international institutions—Interpol, Cybercrime convention, NATO’s CyberCentre of Excellence—are properly established or mandated for the exchange of ideas and best practices needed in this area (Kanuck, 2010). Without a proper institution to facilitate the flow of information concerning cyber security issues, the prospects for escalation will increase. A proper forum is needed that can allow for dialogue on cyber security concerns, or else escalation of minor skirmishes in cyber space might result in full-blown war.

Moreover, there have been no treaties aimed at restraining the proliferation of cyber weapons, or outlining the proper use of such weapons. A United Nations group of governmental experts attempted to reach a consensus on possible cooperative measures to address potential threats in the sphere of information security. This attempt failed, stating that “given the complexity of the issues involved, no consensus was reached on the preparation of a final report” (UN Secretary General, 2005). Furthermore, there has been a lot of debate about whether cyber warfare falls under either the Law of Armed Conflict or the Geneva Convention. Some academics and policy makers believe that cyber warfare falls neatly under these categories, while others believe that there is a need for an entirely new set of international laws and treaties (Hughes, 2009).

## **The Way Forward – Suggestions for a Comprehensive Cyber Security Regime**

### *Domestic*

A comprehensive cyber security regime would need to include considerations for different stakeholders, an appreciation of the variety of issues, and the complexity of the problem. A problem with judging the current CCSS is that it is possible that many of the measures that government has put into place are secret. However, from what the government has made public, the CCSS does not address the many issues and concerns of the various stakeholders. It disperses responsibility and diverts accountability to a plethora of departments and fails to create a central command centre for cyber operations. The closest thing to a coordinating body is the Canadian Cyber Incident Response Centre, however, it only provides advice and monitors cyber threats. Finally, this is only cursory acknowledgment of the need for international dialogue with no concrete plans to further Canadian interests internationally. Essentially, the existing national strategy has neglected to address any of the core concerns that this essay argues are necessary. Canada needs to find a balance between the current CCSS and an approach similar to the US policy.

First and foremost, the Canadian government needs to empower CSEC to have more authority to improve the security standards of Canada's critical infrastructures and information systems. Classified government networks are generally run well and have been able to detect intrusion quickly and respond. Recently, Minister Day confirmed that suspected Chinese hackers attempted to infiltrate government financial records, but their attempts were thwarted before any harm could be done (Freeze & Curry, 2011). This is encouraging news, however, more needs to be done. Currently, the systems under private control are outside the jurisdiction of direct protection from CSEC. Considering the vital importance that critical infrastructures play in the Canadian economy, greater authority must be given to a government agency to ensure that their security systems are capable of preventing cyber intrusion or attack.

It is recommended that Canada mandate CSEC to lead the whole-of-government efforts

to secure its cyberspace by transforming its ITS division into a cyber command, with increased responsibility and budget. This would be following the US model of Cyber Com, but it would be housed within CSEC and report to the Minister of Public Safety, rather than in a military headquarters under the direction of the Minister of Defence. Placing the coordinating authority within an intelligence agency will take into account the nuances of national security considerations and public safety that must be considered for cyber security. Moreover, CSEC has existing links with the private sector and it could leverage these relationships to improve public-private partnerships.

Yet, there is only so much that governments can do in this area due to the scope and complexity of the issues. To mandate one agency to protect all of Canada's systems would be an exercise in futility. Private citizens and firms must take some responsibility for protecting themselves and governments can encourage this through incentives, not regulation. By procuring and operating more secure systems and setting standards on acceptable levels of security for government systems, the federal and provincial governments can "incentivize companies to produce more secure products that could be sold to the private sector" (OECD, 2011). Making these standards public will improve public knowledge about the difference between secure and insecure software. This will help address the market failures that exist in the cyber security market.

There is a possibility that these incentives could fail to convince all firms to secure their systems. Therefore, governments should change some laws surrounding privacy and individual freedoms to ensure the greater public good is protected. This could include legislating minimum levels of security protection for critical infrastructures and changing liability laws so consumers take on greater responsibility for internet fraud if they fail to protect their personal information. A common exercise in the financial industry is to conduct "stress tests" on banks to ensure they have an acceptable minimum level of capital to weather a financial shock. Similar tests should be conducted to ensure a minimum level of resiliency for a system to withstand a cyber attack. These regulations would put costs on consumers and firms, but are a needed, if unpopular, measure to protect the public.

*International*

The internet is in need of peacekeepers and Canada should adopt this role internationally. This role would require Canada to leverage its membership in a number of international organizations—such as the UN, NATO, and the G20—to persuade governments to sign a treaty, similar to the Nuclear Non-Proliferation Treaty (NPT), as a response to the possible proliferation of instruments of cyber warfare. The experiences during the Cold War have taught many lessons for future statesmen about the potential successes and pitfalls of such treaties. When arms control is successful, it is capable of reducing uncertainty and can create a more stable and predictable international environment. By classifying some actions as illegal and others as legitimate, arms control negotiations can establish what another state's intentions may be. However, arms control treaties are not valuable when they are “largely hortatory, or when negotiation is seen as an end in itself or a platform for propaganda, when its limitations are vague and also when violations are without cost to the violator” (Clark, 2010). If a state is capable of moving from compliance to violation with no warning time, then the qualities of stability and predictability are lost (Clarke, 2010). Creating arms control treaties for cyber weapons faces all of these problems. For example, a recent Russian suggestion for an international treaty was largely for propaganda's sake. Their proposals go as far as banning cyber espionage, which is, in fact, neither a desirable nor reasonable end state for them. They propose stopping something that they really want to keep around and the proposal is a deceptive means of attempting to constraining their adversaries in an area they feel they might be outclassed (Clarke, 2010). Moreover, inspection and verification of compliance are impossible and, even when states are in compliance, they are capable of violating the terms of the treaty in seconds and without warning. Therefore, unlike other arms treaties that destroy weapons, a cyber weapons treaty could not ban capabilities and would be more successful at focusing on constraining actions.

Espionage was an effective tool of statecraft during the Cold War and will continue to play a prominent role in any state strategy, Banning cyber espionage would hurt a state's national interest, be nearly impossible, and it is extremely doubtful that other states would

stop their cyber espionage activities. It is, however, important to proceed with caution as cyber espionage can have detrimental effects. A former NSA director said that states “are conducting warfare activities without thinking that it is war” (Clarke, 2010). This can be dangerous, harmful to diplomacy, and have potentially destabilizing consequences. Without an understanding of mutually agreed upon boundaries, countries could be engaging in provocative actions that could destabilize the entire international system. However, there are other ways to address these concerns that do not require banning the activity all together.

Governments claim that they do not know the identity of those who attack or infiltrate their systems. They are capable of tracing the IP address of an attacker to a country, however hackers can use computers as proxy relay points. An attack from a Chinese IP address could really be a hacker in Africa using a Chinese computer to stage the attack. If they are not able to further investigate within that country the trail goes cold. This allows hackers to carry “false flags” and disguise their nationality. Mechanisms need to be put in place to allow citizens to rely on their governments to investigate attacks and for governments to demand of each other to investigate when attacks arise from within their borders. In circumstances in which evidence of the source of an attack is deemed sufficiently reliable but not substantive enough to justify military retaliation, states can use other forms of retaliation. Tactics such as “reputational damage to an attacker’s soft power may contribute to deterrence” (Nye, 2011).

Creating international norms takes time and requires a starting point of shared interests. In order to determine the success of an arms control treaty, it is important to first determine if all parties have an interest in limiting their own investments in the area. Chinese, US, and Russian doctrines all insist that net-centric warfare and cyber weapons are an integral part of their military capabilities. Therefore, a full-out ban of using cyber weapons in military campaigns is against the interest of all parties involved. However, banning cyber attacks on civilians, especially if the focus is initially placed on banks, could be considered an area where all parties have an interest in limiting their development. Virtually every state has an interest in maintaining a stable financial

system. Therefore, a central aspect of a state's diplomatic efforts should be the creation of a Cyber War Limitations Treaty (CWLT) that would ban attacks on the international financial sector and civilian networks (Clarke, 2010). This would not ban the actions of national intelligence agencies, nor would it ban their usage in conventional military operations. It would, however, begin to formulate an international understanding of what constitutes a cyber attack. Therefore, international treaties that deal with cyber weapons need to also include cyber espionage capabilities. It would be counter-productive to exert efforts trying to ban the activity without any idea of how to detect or prevent it. As well, a central aspect of this treaty should also be to place the burden of responsibility for criminal acts originating from a state on the state itself. Russia and China should no longer be considered a safe haven for cyber criminals and they should be held responsible for the criminal activities of their citizens on foreign states. While this treaty would be a substantial accomplishment, it would still be possible for cyber attacks to occur against a state's citizenry, and should therefore not replace the need to take defensive steps to protect infrastructure or lead states to ignore other aspects of a full strategy.

To date, there is no publically agreed upon consensus of the proper application of cyber weapons and cyber warfare. Rather, international norms on cyber weapons are emerging through state action, without open debate or public consultation. Indeed, this emerging consensus is happening without common understanding on what constitutes a state-sponsored attack. Stable international security requires an understanding to exist between states. The recent British offers to host an international conference on norms in cyber space are a good beginning, but more needs to be done to include academics, the private-sector, and the public (Foreign & Commonwealth Office, 2010).

### **Conclusion**

The threats and vulnerabilities to a country as highly connected as Canada are numerous and complex. Moreover, there are serious domestic and international hurdles that must be overcome in order to build robust cyber warfare preparedness. For this to be accomplished, CSEC needs to be mandated as the leading force on Canada's cyber

initiative. It has the technical expertise, existing infrastructure, and strong international alliances that are imperative to creating a comprehensive cyber program. However, they cannot do this alone and law makers need to place greater regulations on the Internet, as well as work actively to create an international regime to manage developments in cyber space. The stakes for failure are high and it is important that Canada take the lead on this front, through international and domestic leadership.

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## Post-9/11 Security Policy and the Canadian State

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*The events of September 11th, 2001 have presented significant challenges to global security. Suddenly the world, North America in particular, was trusted with the responsibility of securing citizens against pervasive and unobvious threats. Citizens began demanding their governments offer real policy solutions to address their security. The level of regional economic, societal and cultural ties that extends beyond national borders in North America, however, is unprecedented. People, goods and services move almost freely across many national borders, often several times a day. In this sense, 9/11 presents a paradox of globalization: the ability to facilitate ever increasing levels in the movement of goods and people while at the same time controlling transnational threats, whether it is terrorism or more conventional warfare. It is the purpose of this paper to argue that despite close cooperation between Canada and the US on issues of security post-9/11, Canada has continued to maintain a functional cooperation, not a formal integration in defence and security policy, which has allowed Canada to address the paradox of globalization while still retaining its sovereignty.*

### Introduction

The events of September 11th, 2001 have presented significant challenges to global security. Suddenly the world, North America in particular, was trusted with the responsibility of securing citizens against pervasive and unobvious threats. Citizens began demanding their governments offer real policy solutions to address their security. Whether security concerns post-9/11 are real or perceived is beyond the scope of this paper; what is of importance is the global policy environment such security measures must operate within. What makes security policy particularly difficult following 9/11 is the level of interdependence between sovereign states. The level of regional economic, societal and cultural ties that extends beyond national borders is unprecedented. People, goods and services move almost freely across many national borders, often several times a day. In this sense, 9/11 presents a paradox of globalization: the ability to facilitate ever increasing levels in the movement of goods and people while at the same time controlling

transnational threats, whether it is terrorism or more conventional warfare (Therrien, 2003, 63). Therrien's paradox then, offers an interesting framework from which to analyze the relationship between security policy and globalization post-9/11.

Interestingly, this paradox of globalization is particularly apparent in Canada-US relations. Following 9/11, Canada has worked closely with the US to assure Americans that Canadian security policy is committed to the cooperative security of the continent. Integrative pressures, most notably economic interdependence, have further enhanced regional pressures for the free flow of goods and people across the border. As noted by sociology scholar Saskia Sassen, "state sovereignty, nation-based citizenship...central banks and monetary policies – all of these institutions are being destabilized and even transformed as a result of globalization and integrative policy" (Sassen, 1996, xii).

Given the desire for an open border, in the post-9/11 world there has been increased pressure for a formally integrated security system between the US and Canada to address the paradox of globalization caused by 9/11. Canadian government officials however, continue to assert and defend Canadian sovereignty publically. This has created a perpetual push-and-pull between separation from and integration with the US (Roach, 2003, 167). If Sassen is correct that the sovereignty of nation states is being eroded, Canadian security policy post-9/11 provides an interesting case study with which to view tensions between formal integration and Canadian sovereignty. It is the purpose of this paper to argue that despite close cooperation between Canada and the US on issues of security post-9/11, Canada has continued to maintain a functional cooperation, not a formal integration in defence policy, which has allowed Canada to address the paradox of globalization noted by Therrien while still retaining its sovereignty.

The paper will begin by offering a brief background of the paradox of globalization within the context of Canada-US bilateral relations. Focussing primarily on trade policy, it will be shown that the level of economic integration between the two countries is quite high. This highlights the difficulty of an autonomous Canadian security policy by recognizing that other factors have strong influences on the formation of defence policy. Following a

brief contextual background, key joint-security initiatives between Canada and the US will be analyzed for their level of formal integration through joint-operations between the two countries. While several initiatives exist with varying levels of cooperation, the case studies of the “Smart Border” Declaration and Northern Command will be examined because of their direct relation to 9/11. It will also be shown that aside from a lack of formal integration in security policy within key joint-initiatives following 9/11, there are a number of challenges to any type of formal integration between the two countries. Despite Sassen’s insistence that globalizing forces are eroding national sovereignty, formidable resistance can be seen both in Canada and the US to an integrated security policy. Finally, upon clarifying the current bi-lateral security relationship as one of functional cooperation, next steps will be presented for future research and discussion.

#### Background – The Paradox of Geographical Proximity

The Canada-US border is one of the longest and most important border crossings in the world. It consists of 130 land crossings along the longest unfortified boundary in the world at 8,890km. Two hundred million crossings take place every year, and traffic is expected to grow at a rate of 10% annually over the next decade (Therrien, 2003, 60-61). Given the open nature of the shared border, there had been increasing pressure for both countries to work collaboratively to ensure the negative effects of tighter security policy do not spill over into more restricted travel of goods and services. As noted by Canada-US relations expert Donald Cuccioletta, it may be that Canada ultimately has a choice. If Canada seeks to retain a national security policy it may jeopardize its prosperity if the US decides that Canada’s border policies present unacceptable risk to American security. On the other hand, if Canada takes a more domestic or even widely international approach to security, it may be that Canada preserves its sovereignty from pressures of formal integration with the US (Cuccioletta, 2003, 141).

Prior to an examination of security policy, then, it is important to outline why Therrien’s paradox is particularly apparent in the Canadian context. One of the main factors, separate from security policy, that enhances the paradox is the level of trade between Canada and the US. Drawing on the work of Sassen, it could be that the interdependence

in trade could be creating a policy environment that is not only conducive to, but supporting the formal integration of border security. In this sense, this section will aim to set the agenda of some of the key border issues that must be addressed aside from security.

### **Trade**

Economically, the volume of two-way trade between Canada and the US is unprecedented. Together they form the largest trading dyad in the world (Nevitte, 1996, 14). Importantly, even prior to 9/11, trade policy has been a central concern for Canadian officials. As noted by Professor of political science within the Canadian-American Center at the University of Maine, Howard Cody, “even before September 11, the security of trade and investment was already trumping Canadian policymakers’ other concerns” (Cody, 2003, 9). Trade under the North American Free Trade Agreement (NAFTA) increased by 95% from 1993 to 2001, with only \$15 billion of the \$580 billion in North American trade going to Mexico (Cody, 2003, 9). In this sense, the US represents by far Canada’s largest trading partner and source of economic growth.

This dependence of Canada on the US for economic growth is important to any analysis of formal security policy integration between the two countries. Even prior to 9/11, the importance of keeping goods and people flowing freely over the border was vital to Canadian prosperity. Although \$1.2 billion worth of goods were crossing the border every day prior to 9/11 (Therrien, 2003, 60-61), asymmetries existed in the trading relationship. Canada’s exports to the US accounted for 86% of Canada’s global exports at the time, whereas US exports to Canada accounted for only 25% of America’s total exports . Moreover, Canadian exports to the US accounted for 37% of Gross Domestic Product (GDP) in 2000, whereas US exports to Canada accounted for only 2.4% of US GDP (Lubin, 2003, 26). This demonstrates a profound asymmetry in the trading relationship between the two countries. Canada, then, has the most to lose if the free flow of goods and services was restricted at the border. This can clearly be observed in the trade data on September 11, 2001.

With the closing of the Canada-US border for twenty-four hours due to security concerns after the terrorist attacks on the World Trade Center and Pentagon, cross-border trade came to a halt. Although the impacts on trade for that day are obvious, closing the border for even twenty-four hours had significant effects on the Canadian economy. Given the open nature of the border, Canada and the US depend on what is called just in time production. That is, since goods can flow freely across the border, many goods are produced just prior to consumption. This decreases the need for inventories and therefore reduces costs to firms. Since much of the manufacturing sector in Canada is built around just in time production, some Canadian firms had to quickly cut output because a tight border meant there was nowhere for production to go.

Such cuts are most apparent in the auto industry. For example, between September and October of 2001, Canada was forced to produce 47,000 fewer cars because of border closures and slowdowns, compared to 153,000 in the US (Roach, 2003, 135-6). Although the US had a larger overall reduction, the impact on Canada was much higher because Canada's auto industry is much smaller. Therefore, the events of 9/11 demonstrate how significant an impact changes in border policy can have on key sectors of Canadian economic output.

Canada also experienced some longer-term consequences of the US reformulating border security following the events of 9/11, particularly related to transportation. Tighter border checks caused large backups in the transportation of goods across the border. Between October 2001 and December 2005, George Tanguay and Marie-Christine Therrien of the University of Toronto conducted a study of the impacts of 9/11 on shipping costs to Canadian freighters. They found that during that time, 43% of transporters noted a higher average cost of 2.65% above inflation associated with freight (Tanguay and Therrien, 2005, 10). Moreover, they found that the average number of people crossing the border each day fell from approximately 200,000 people to nearly 160,000 per day (Tanguay and Therrien, 2005, 13). Although the exact impact of these rising costs of freight and restricted flow of people on the Canadian economy is unknown, it is evident that this restricts tourism and business transactions in a way that negatively affects

domestic GDP.

Given the importance of an open border to the Canadian economy even prior to September 11, 2001, the events of 9/11 have only increased pressure on Canadian and American agencies regulating the cross-border flow of goods and people to cooperate. Canadian officials, then, must always “look at border issues through the lens of trade” (Lubin, 2003, 26). If economic pressures are pushing for an integrated border policy to facilitate the free flow of goods and people, then under Therrien’s paradox of globalization the best way to ensure this may be an integrated security policy. While a normative analysis of formal border integration is beyond the scope of this paper, the impact of 9/11 on trade has prompted key sub-national agencies to advocate for such a policy. Key economic figures in Canada, such as Tom D’Aquino of the Canada Council of Chief Executives, have been lobbying government for a more integrated border security policy with the US to facilitate commerce (Cody, 2003, 10). Perhaps most notably, however, were the remarks by David O’Brien, CEO of Canadian Pacific, following the events of September 11, 2001. Four days after 9/11, O’Brien was quoted as saying:

“Canada will have to adopt US-style border security policies if it doesn’t want the border between the two countries to become almost impossible to cross... we have to make North America secure from the outside. We’re going to lose increasingly our sovereignty, but necessarily so” (Roach, 2003, 135).

This is important because it highlights the relation between trade and border security. Canadian anxieties about cooperation with American efforts to create a continental security framework seem to be driven by economic concerns about keeping the border open for free trade between the two countries. To reinforce the point further, political scientist Karl Deutsch further tightens the relation between the pressures of trade and formal integration of the border. By examining European integration through the European Union, Deutsch notes that high levels of cross-border transactions, such as the movement of people, goods and communication, encourage greater similarities in what he calls “main values” (Nevitte, 1996, 15). That is, common values are established through trade because similar needs are mutually reinforcing. Economic cooperation requires coordinated decision-making, and hence is conducive to greater integration over all policies (Nevitte, 1996, 15). If the strong trade relations between the two countries can

prompt greater formal integration, including policies related to security, what then has Canada's position towards these pressures been?

### **Canadian Security Policy in Context**

In 1951 Lester B. Pearson stated that the US is now the “dominating world power on the side of freedom. Our preoccupation is no longer whether the US will discharge her international responsibilities, but how the rest of us will be involved” (Cody, 2003, 4). Operating within the shadow of great powers and sharing the continent is nothing new for Canada. Scholars such as Stephen Clarkson argue that in light of the sovereign modern state's evolution, Canada has only been modern in theory. Canada's economy was linked by imperial control to Britain and France, and now it may be argued to the US. Canada has always required assistance in defending its borders, whether it is the British in the War of 1812, or the US during the Cold War. Even Canada's culture is largely generated from outside its borders. In this sense, according to Clarkson, “Canada may have been postmodern long before modernism” (Clarkson, 2002, 16). It may be that Canada is a prime example of Sassen's globalization as undermining state sovereignty in that Canada was “globalized” even prior to 1867. Sovereignty, at least in the Canadian sense, may be a myth beyond the political sense of bureaucracy, courts and the constitution.

The challenges to Canadian sovereignty posed by Sassen and Clarkson are not questions about whether the geographical space now known as Canada would survive (Clarkson, 2002, 11). Obviously, it would remain on the map, stretching over a vast terrain from the American border up to the North Pole. Their arguments do, however, call into question the ability of Canada to exercise its sovereignty. For the purposes of this paper, this critique is particularly challenging given the post-9/11 globalization paradox within which Canada has found itself. If it is the case that Canadian sovereignty is but an illusion wrapped in domestic political institutions, Canadian security policy may largely already be formulated outside of Canada.

It is important to remember that dependence does not entail integration. Although Canada has a complex history in its dependence for security from other sovereign states,

there is nothing particularly unique about it. Many countries have relied on others at some time for assisted protection, including other commonwealth countries such as Australia and South Africa.

More contemporary, through international security pacts such as the North Atlantic Treaty Organization (NATO), or to a lesser extent the European Union (EU), these supranational bodies represent multi-state agreements on security. While complicating domestic security policy by forcing state governments to, at the very least, acknowledge deliberative commitments within these international bodies, states still have the sovereign authority to declare their own security policy. For example, although the spring 2011 intervention in Lybia was sanctioned by the United Nations (UN) and military responsibilities transferred to NATO, Germany abstained from participation despite being a NATO member. If faced with a threat to its border security from a foreign military, however, it would surely rely upon NATO and the EU for assistance. In this sense, dependence on foreign states, particularly within complex international security pacts, cannot simply be regarded as undermining state sovereignty. Rather, it is a recognition that states now operate in a highly complex world; one which requires a tremendous amount of cooperation and coordination to mitigate risks from foreign threats. Shifting back to the Canadian context, it is evident that Canada has one of the largest, most difficult borders to secure from external threats. With three oceans, a large airspace, and a small population, Canada cannot defend its borders alone (McClelland, 2003, 169-170). The question that remains, however, is whether cooperative security measures between the US and Canada are a form of structural integration, or functional cooperation.

Historically, Canadian policymakers have had mixed feelings about major directional shifts in US security policy. Canadian reaction and policy responses to American foreign policy or security initiatives have often been irregular. That is, if it were the case that Canada has been moving toward formal security integration for quite some time, it would likely be expected that there would be some level of consistency in support of a joint-security policy. This simply is not the case. There has long been a debate between those

Canadians that argue that Canada should maintain an independent reputation in matters of security, who Howard Cody refers to as “nationalists”, and “continentalists”; those that support stronger integration of defence and border services to enhance economic productivity (Cody, 2003, 5). Likewise, scholars are predictably divided. They range from historians such as Jack Granastein, who suggest the need for an integrated continental security policy, to an array of critics such as Michael Hart who criticize almost any accommodation of US defence policy (Ross and Hira, 2008, 11).

In reality, Canada's official position is somewhere in the middle. It is not difficult to conjure up examples for either the continentalists or nationalists. Continentalists can draw on examples such as the creation of the North American Aerospace Defence Command (NORAD) in 1957 which gave a joint command to the aerial defence of the country, or the building of the Alaska Highway in 1942 which serves as a US military transit line through Canada territory (Brown, 2005, 38). Nationalists, on the other hand, can point to Canada's refusal to support American missions abroad such as Vietnam or Iraq, or the rejection of a continental Anti-Ballistic Missile (ABM) shield to defend against a possible Soviet nuclear attack during the Cold War (Ross and Hira, 2008, 163). Historically, then, there has never been a clear indication that Canada has been moving toward the adoption of a fully integrated security policy with the US.

As has been shown, then, Canadian integration and separation from US security policy represent the extremes of possibilities. Although it is difficult to properly gauge what a “tipping point” Canadian security policy would be toward either extreme, it is possible that 9/11 may have pushed Canada in one direction or the other. In this sense, the importance of 9/11 in relation to the paradox of globalization noted by Therrien cannot be dismissed. The next section will provide a brief overview of a couple of the key border security policies in response to 9/11, and whether they seem to take the form of structural integration, formal divergence, or a third reality, what this paper will refer to as functional cooperation with the US.

### Case Studies

Regarding issues of border security, there has been much congruence in the two national approaches post-9/11. Both Canada and the US have expressed their commitment to effectively tackling the paradox of globalization: facilitating the free flow of goods and services across the border while at the same time making it secure from external threats. To this end, both Canada and the US are committed to a secure yet economically viable border security framework. Despite this common objective though, divergences in policy still remain over key issues of sovereignty (Ross and Hira, 2008, 3). It need not be the case, however, that Canadian security policy in the post-9/11 context be framed as a dichotomy between continentalist integration with and nationalist separation from the US. Drawing on the work of Stephen Clarkson, there is a difference between structural and functional workings of the Canadian state (Clarkson, 2002, 12). It is possible that Canada maintain a strong sense of autonomous sovereignty in the structural sense of respected borders and an independent voice through Canada's governing institutions and agencies, while at the same time moving toward greater functional cooperation that achieves mutually beneficial outcomes for both countries.

Although a connection between these two possibilities in the sense that increased functional cooperation leads to structural integration cannot be ruled out in the long-term, there seems to be very little evidence that Canadian security policy in the post-9/11 context is anything but functional cooperation. As noted poignantly by Stephen Clarkson, "it seems like functional relations are changing, not so much structural" (Clarkson, 2002, 12). In this sense, despite pressures associated with the aforementioned paradox of globalization, at this time Canadian sovereignty does not appear to be in jeopardy. Below are two case studies of Canada's security policy response to 9/11 which highlight a move toward deepening cooperation, not integration. They include the "Smart Border" Declaration and Northern Command.

#### **"Smart Border" Declaration**

Following the events of 9/11, American fears of an unsecure border prompted almost immediate dialogue with their Canadian counterparts on how best to secure not

only the Canada-US border, but North America as a whole. The focus of US border security changed in the wake of 9/11. The Border Security website of the US Customs and Border Protection Agency in October, 2001 stated that “US Customs and Border Protection’s top priority is to keep terrorists and their weapons from entering the United States” (Globerman and Storer, 2008, 19). This served to bolster support for increased integration between the two countries through formal mechanisms of joint-security. A number of prominent American and Canadian military analysts were urging Canada to integrate its security policy with the US so that cross-jurisdictional security issues could be addressed by both countries (Roach, 2003, 141). Policies being floated around included a single border agency for increased efficiency, as well as allowing US federal agencies to operate within Canadian jurisdiction given the occurrence of a threat of “high enough proportion” (Hart, 2008, 202).

In reality, however, discussions between the two governments led to the adoption of a much more moderate joint-policy framework. Born out of careful negotiations between then Canadian Minister of Foreign Affairs John Manley and American Homeland Security Director Tom Ridge, the “Smart Border” declaration outlined a cooperative compromise. Signed in December 2001, the “Smart Border” declaration focussed on steps to allow low-risk people and goods to cross the border more efficiently, while at the same time increasing the security of both countries (Byrne, 2010, 170).

It is important to note exactly what type of threats the agreement was trying to address. Unlike historical precedents, 9/11 represented a new and much more complex type of threat to the security of North America. Preventative security measures to mitigate threats from terrorists depend on the proper screening of persons and goods crossing borders, not military prowess. Instead, the “Smart Border” declaration represented a thirty-point action plan organized into four main categories: 1) the secure flow of people; 2) the secure flow of goods; 3) secure infrastructure; and coordination and information sharing in support of the declaration’s objectives (Globerman and Storer, 2008, 4). Aside from the cooperative sharing of information between police, health and safety and border agencies, or increased cooperation of the maintenance of border crossings,

no framework was established for any formal integration between the two countries. Therefore, Canada's commitments under the "Smart Border" declaration only enhance cooperation between separate agencies such as the RCMP and the American Border Protection Agency.

In this sense, Canadian officials made it clear that they would be open to better utilizing technology and information sharing to ease border flows. By better utilizing techniques of risk assessment, licensing and scanning equipment, both countries were able to work cooperatively to promote the flow of goods and people while improving the ability to intercept security threats. Importantly, for the purposes of this paper however, Canadian officials quickly rejected the possibility of integrating within the Patriot Act in the US (Therrien, 2003, 141). That is, Canadian officials ruled out US counterterrorism surveillance within Canadian jurisdiction. As noted by John Doherty, spokesman for the RCMP in 2001, "Canadian security will be determined by Canadians working within Canadian institutions" (Cuccioletta, 2003, 47). While Canadian officials were willing to increase cooperative practices to enhance security in both countries, then, they were unwilling to formally integrate those agencies responsible for border security with the US. All things considered, however, the "Smart Border" declaration has largely been considered effective. Although every policy has its critics, the May 2003 State Department Annual Report on Patterns of Global Terrorism rated Canada as an "excellent model in establishing a cooperative framework of security" (Cody, 2003, 8-9). The report noted that Objective 2.1 of the declaration relating to the monitoring and sharing of information regarding potential threats was particularly effective (Ross and Hira, 2008, 19). Although a detailed discussion of the impacts of the "Smart Border" declaration is beyond the scope of this paper, the report demonstrates the adoption of a middle approach by Canadian officials to border security. Despite the economic pressures noted in Therrien's paradox of globalization, Canadian policymakers were able to enhance cooperation in the functional workings of border security between the two countries, while still maintaining structural autonomy of Canada's border agencies.

### **Northern Command**

Following the events of 9/11, officials within the American Department of Defence (DOD) were calling for an expansion of NORAD into a larger continental framework known as Northern Command. In October 2002, the American government began preliminary talks with its Canadian counterpart to mandate this new organization. Northern Command was to be a joint-command in defence by air, land and sea of all North America (excluding Mexico), including responsibility for working with civil authorities in the event of another September 11 (Cohen, 2003, 26). Northern Command, then, if adopted by Canada, would signal formal integration in security policy with the US.

Pressure was certainly mounting for formal integration by 2002, perhaps even more strongly since the “Smart Border” declaration shut US authorities out of Canadian jurisdiction. Reasons given for accommodating the US over Northern Command centred on NORAD and the important other side of the paradox of globalization, trade. Firstly, beginning with NORAD, DOD authorities argued that “Canadian opposition to US plans could lead to a severe marginalization or even termination of NORAD” (Ross and Hira, 2008, 18). This could have highly adverse and expensive implications for Canadian authorities to understand what is happening not only in times of conflict, but in peacetime since it is used to monitor civilian aircraft as well. Secondly, and perhaps more importantly, American diplomats noted that Canadian acquiescence to Northern Command might help to soften congressional attitudes on protectionist measures for Canadian goods such as softwood lumber (Ross and Hira, 2008, 18). In this sense, American officials attempted to pit the pressures of the two sides of the paradox against each other in the hopes that Canadian policymakers would acquiesce for economic gains.

Then Canadian Defence Minister John McCallum rejected the idea of Canada joining Northern Command on the basis that “Canadian sovereignty would be threatened” (Ross and Hira, 2008, 18). McCallum noted that such a functional integration would deny Canada autonomous decision-making, both in times of threat and peace. McCallum went on to note that “such a violation of sovereignty would deny the principles to which

defence of the country [Canada] are deemed worthy” (Roach, 2003, 155). In the case of Northern Command, then, Canadian authorities took a firm line against any type of formal integration. Economic and security pressures for an open border, then, were insufficient in prompting Canada to accept Northern Command.

It is worth noting, however, that McCallum did agree to a joint-planning group that will help increase readiness in both countries should there be another terrorist attack. The group is composed of fifteen senior Canadian military officials and fifteen senior American officials who meet bi-annually. This is important because the Defence Minister correctly points out that “neither terrorists nor biological agents have respect for the 49th parallel” (Roach, 2003, 155). In this way Minister McCallum worked to establish a functional cooperation between the two countries to increase preparedness. There is no reason to believe that such talks are anything more than cooperative efforts between allied states. Even Minister McCallum stated “it is only prudent, only common sense, for Canadians and Americans to plan together to protect the lives of our citizens” (Roach, 2003, 155). This is particularly insightful because it highlights the often overly complex analysis provided on this subject. Prudent planning and discussions between various levels of government through a functional cooperation can be a rewarding process, while still respecting the tenets of sovereignty as outlined in the Canadian constitution. As has been shown through these two case studies, Canadian sovereignty remains alive and well despite increased functional cooperation between the two states.

### **Other Challenges**

Aside from the case studies addressed in this paper, there remain key considerations that cast doubt on the possibility of any formal integration within security policy between the two countries in the near future. To provide a more comprehensive analysis, each factor which will briefly be presented below.

#### *1. Ad-hoc Coordination*

The events of 9/11 required a rethinking of both domestic and international institutions in terms of the nexus between security and economics. Concerns for domestic civil

society protection, sovereignty, and an independent foreign policy must be balanced with concerns regarding terrorism, smooth economic commerce, and security cooperation. Thus far, however institutional changes have included ad hoc efforts with no particular level of coordination between Canada and the US, despite the new reality of security-economic linkages (Ross and Hira, 2008, 26). For example, although some American and Canadian policymakers have urged for greater integration, Canada has had difficulty centralizing even its own agencies under Public Safety Emergency Preparedness Canada (PSEPC), similar to the Department of Homeland Security in the US. PSEPC is a coordinating agency covering a wide array of different partners, from the RCMP to emergency management of health threats. In practice, PSEPC has had great difficulty centralizing long-standing agencies with a “strong sense of bureaucratic turf protection” (Ross and Hira, 2008, 26-27). In this sense, the idea that Canadian and US agencies can integrate, at least in the short-term, is problematic given Canada is having difficulty centralizing them domestically.

## *2. Regionalism*

While the term regionalism is very broad, for the purposes of this paper it refers to the difficulty in facilitating cross-national security integration given local resistance. Simply put, the ability to establish a unified position within the Canadian Federation on integration with the US would be extremely difficult. Although the US currently serves as Canada’s most important ally and reference society, as noted by Neil Nevitte, “for generations, the one consistent thread within Canada’s policy toward the US was resistance to judicious management of the forces of continental integration” (Nevitte, 1996, 13). Canada was established in a decentralized fashion, with regional concerns offering a rather strong resistance to any form of continental integration.

The Canadian political context, then, provides a unique challenge to integration. Provincial-Federal relations in Canada make the centralization of authority in Canada difficult, let alone with another country. For example, Alberta’s independent concerns over the oil sands, in combination with the inherent split with Francophone Quebec, prevented the development of a consistent national trade and investment strategy in the early

2000's (Foreign Affairs and International Trade Canada, 2002, 3). In this sense, although national security is within federal jurisdiction, it is unlikely that any formal integration of security policy with the US would be met with anything less than intense provincial scrutiny as it would undermine not only federal autonomy, but provincial as well. Regardless of constitutional divisions of power, democratic polities in North America have come to speak abroad with regionally nuanced voices (Lubin, 2003, 27). Consequently, as practitioners of democracy and federalism, Canadian and American officials would have a particularly difficult job aligning the various positions held by states and provinces within North America.

### *3. Political Resistance*

By political resistance, here it is meant as the opposition to the integration of security policy as presented by Canadian political figures following 9/11. When asked about the possibility of a more integrated security framework with the US Jean Chretien curtly replied "the laws and policies of Canada will be passed by the Parliament of Canada" (Roach, 2003, 135). Such sentiments were further reiterated by then Foreign Affairs Minister Bill Graham through his criticism of American border personnel fingerprinting Arab-born Canadians crossing the border.

Likewise, the idea of creating a joint-security framework was met with scepticism by the Canadian Senate Committee on National Security and Defence. In comparing it to the European Union, the Committee noted a stark difference in the North American context. Given the large borderlands surrounding North America and the large imbalance of military prowess between the US and Canada, the Committee argued that a joint-security initiative would "almost certainly involve a greater sacrifice of policy sovereignty by Canada" (Globerman and Storer, 2008, 23). In this way, the importance of individuals working in government appearing strong on Canadian sovereignty is important. Canadian political figures must constantly espouse respect for the institutions for which they are responsible. Further integration with a foreign country, then, is complicated by pressures of sovereignty on individuals operating within the Canadian political system.

#### *4. Public Opinion and “Canadian Values”*

By 2002 most Canadians were becoming uncomfortable with the implications of a strategy that would tie Canada’s visa and border policies to American policies in a joint security perimeter. In a February 2002 poll conducted by Simon Fraser University, 85% of Canadians said they would be unwilling to trade sovereignty for security by joining a North American security perimeter (Roach, 2003, 139). This may represent one of the most difficult challenges to any formal integration in security policy. Without public support, continentalist legislation will be met with harsh criticism from the public not only because it challenges Canadian sovereignty, but because it calls into question Canadian values that are often deemed as separate from the US. When Minister Bill Graham was asked whether American security policy may amount to racial profiling of Canadian minorities, he responded “a Muslim is a terrorist? What’s that? That’s clearly not the Canadian way and I have to look for answers here” (Roach, 2003, 139-140). This reinforces Canadian values as somehow more inclusive and therefore distinct from American values. Whether real or perceived, they present a formidable challenge to enhanced integration. The Canadian public seems reluctant to support such an initiative.

To reinforce the point, the perception of Canadian values being inclusive of sub-national narratives is important. When debating support for Bill C-36, Canada’s anti-terrorism law, in 2002, sub-national groups came to speak with competing narratives to proposals for restricted civil liberties in the event of a terrorist threat. Through anecdotes and personal narratives, groups such as Arab Canadians, Muslim Canadians, the Canadian Civil Liberties Organization and even the Canadian Council for Churches called into question the aims of Bill-36 as counter to Canadian values of multiculturalism and respect for sub-national groups (Byrne, 2010, 170).

While not able to stop the law from passing, pressure from sub-national groups did produce some significant amendments. Upon listening to such counter-narratives, then Privacy Commissioner George Radwanski asserted that it “simply not be acceptable... for Bill C-36 to contain provisions that would strip Canadians of all legally assured privacy rights...people who come to Canada come because of its freedoms and diversity of

society. We have to make sure these strengths are protected” (Roach, 2003, 64). In the end, amendments were made to the Bill that changed the definition of terrorism, enacted a non-discrimination clause, and required Parliament to monitor the implementation of the Bill (Byrne, 2010, 170). Therefore, citizenry pressure for the maintenance of autonomous Canadian values may represent a formidable challenge to any continental security initiative. Security policy is no longer the sole domain of nation states. As nations become more complex, political institutions have had to contend with an evolving and engaging civil society (Cuccioletta, 2003, 55). Anti-globalization concerns from sub-national groups, whether they are ethnic organizations, trade unions, women’s groups or environmental groups, must now be taken into account when planning security policy.

##### *5. Internationalism*

Finally, it must be recognized that Canadian security policy operates within a much larger context than simply North America. Canadian security policy is complicated by international commitments and relations with a variety of sub-national, national and supranational organizations and governments. While Canada may have a functional cooperation with the US on border security, so too does it have security commitments through international agreements such as the Nuclear-Proliferation Treaty, to which the US is not a part.

Perhaps most notably, however, is Canada’s position on Arctic sovereignty. Although being part of the North American border perimeter, Canada has made it very clear that the Arctic is sovereign Canadian territory. In fact, Canada is going to great lengths to enforce this by spending \$3 billion on military ports and icebreakers in Resolute Bay and Nanivik (Ross and Hira, 2008, 25-26). Despite American pressures to integrate the Arctic into a continental security perimeter, or at the very least leave it navigable to international shipping, Canada has appealed to international bodies such as the Arctic Council to discuss issues related to Canadian sovereignty in the Arctic. In this sense, Canadian security policy does not in any way center solely around the US. There are a myriad of concerns and international commitments to which Canada is a part that detract from the importance and feasibility of establishing an integrated security policy with the US.

### **Moving Forward**

Moving forward, our starting point in attempting to understand Canadian security policy under globalization should be to understand the changing quality of all states over time. States are dynamic – their functions and cooperative partnerships change and grow over time (Clarkson, 2002, 14-15). In this way, it may be that in the future Canada does move toward closer integration of security policy with the US, or perhaps not. Anything that far off, however, is purely speculation. For now, and into the foreseeable future, Canada has been enhancing a functional cooperation with the US with regard to security policy. This has served to at least adequately address Therrien’s paradox of globalization, while at the same time maintain Canadian sovereignty and autonomy over Canadian security policy in light of pressures for formal integration.

Although the scope for cooperative action stretches across the full range of issues that threaten the security and well-being of Canadians, it is most crucial in the area of immediate security threats: terrorism and rogue states. In the post-9/11 world, Canada has two choices: it can react defensively, in an effort to project difference and independence and thus fuel American concerns, or it can engage the United States, putting forward initiatives and ideas of its own to demonstrate that Canada is a strong and reliable partner (Hart, 2008, 263). Given the trend toward functional cooperation demonstrated in this paper, it would seem Canada should choose the later.

It is important to note, however, that Canada must remain vigilant by appealing to and engaging international laws and allies to maintain a voice that commands respect when negotiating joint-security policy. As noted by Professor of political science at the University of British Columbia Michael Hart, “sustaining Canada’s standing and interest requires active and astute management”, and, because of the asymmetries in the relationship, “it is Canada that has the most to gain from getting it right – and the most to lose from getting it wrong” (Hart, 2008, 202).

## Conclusion

In conclusion, the paradox of globalization as outlined by Therrien has and will continue to put great pressure on Canada to integrate its security policy with the US. Despite possible erosions of sovereignty noted by Sassen in other ways, particularly economically and technologically, Canadian security policy seems to be striking a balance between integration with and separation from the US. Through what this paper has referred to as functional cooperation, Canada has been able to enhance collaboration with the US over issues of security, while still retaining autonomy in decision-making and security policy formation. While the future of Canada-US security policy remains uncertain, given the challenges to formal integration noted in this paper, it seems unlikely that Canada is moving toward a more formal integration of security with the US anytime soon.

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## Envisioning a Contemporary Indigenous Curriculum in Ontario: Exploring Ways in which to Achieve Decolonization within the Restraints of Educational Public Policy

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Interactions with aboriginal communities and individuals, academic and extra-curricular, helped to inspire not only this article but the future research she will pursue.

*This article considers the prospective for emancipatory curricula regarding aboriginal youth in the province of Ontario. As such, the study is conducted with the use of two cases studies: one case study within the provincial education system, and the other study within the federal education system. The First Nations School of Toronto (FNST) provides an example of alternative educational practices within the Ontario provincial education system. The Anishinabek Nation's Education Act provides an example of alternative educational practices within the federal system. Analysis focuses on foundational aspects needed to achieve truly emancipatory education for aboriginal youth within both education systems and the cases' abilities to nurture these ideals.*

Colonization is not merely a political process affecting resource allocation and control over lands and people (Battiste 2005). It is also a social process tied to notions of power and knowledge (Weenie 2008), which results in physical, mental, and spiritual strains on nations and their people (Laenui 2001). This social process is one of the legacies of European settlement in Canada. As such, education has historically been used as a tool for the colonization of aboriginal populations in Canada and throughout the world. While explicit forms of educational colonial initiatives may no longer constitute the norm in Canada, colonialism is still present throughout Canadian educational structures and policy.

Colonialism informs Canadian educational structures through the acceptance of Eurocentrism, the placing of Western ideology, epistemology, and methodology at the top of a unilaterally determined hierarchy (Battiste 2008). Through the dominance of Eurocentrism within educational organization, aboriginal youths are faced with curriculum content and structure that does not inform or re-enforce their identity. Such youths are placed within a system in which their "aboriginality is naturalized as failure" (Gulson and Parks 2009). Initiatives by both Indian and Northern Affairs Canada (INAC) and

the province of Ontario in the last few decades have not accomplished enough to truly mitigate the dominance of Western ideologies and methodologies in curriculum, nor the effects of past colonial programs. This is because such educational initiatives have merely been added to established and maintained colonialist structures (Cherubini 2008 and Battiste 1998). It is instead necessary to question foundational structures and methods, which inform current realities, in order to consider how to implement meaningful aboriginal holistic epistemologies and methodologies. It is only when these structures are questioned and shifted that education for Ontario's aboriginal youth can become meaningfully transformed.

While education and colonialism affect all aboriginal youth throughout the nation, Ontario has been chosen as the focus of this study. This is because Ontario boasts both large urban and northern populations and, therefore, offers a broad diversity of cases for both federal and provincial education systems. Since aboriginal youth are affected by both provincial and federal systems, it is important to explore both systems when assessing the current status of education. According to a 2009 study, four out of every five self-identifying aboriginal youth attend provincially funded schools (Canada Policy Research Networks 2009). This is a result of both growing urban aboriginal populations, and a lack of on-reserve secondary schools (Tsuji 2000; Shawana 2011). While these are separately structured systems, affecting differently situated populations, there are lines of connection and dependence between them.

With the enactment of the British North America Act, 1867 Crown powers were divided between the federal and provincial governments. Under s.93 of this Act (Parliament of the United Kingdom 1867), education fell under the jurisdiction of the provinces. Under s.91 (24) of this Act (UK 1867), the federal government claimed jurisdiction over aboriginal nations and their lands, through this, claiming jurisdiction over on-reserve education. This led to the creation of two education systems, one administered by individual provinces and the other administered by the federal government. The federal government has never established significant legislation dealing with federal education outside of the bounds of Indian Act provisions, currently ss.114-122 (Parliament of Canada 1985). This

has meant that INAC is dependent upon provincial legislation in regard to standards for curricula, educational attainment, administrative training, and qualifications to inform on-reserve education (Agbo 2005). It is therefore necessary to look at both systems as being separate but complimentarily synonymous in order to provide a full picture of education in Ontario.

This research focuses on the potential to achieve emancipatory curricula through renewed educational ideals and alternative models within both federal and provincial systems. This is facilitated through largely qualitative research on two cases: the First Nations School of Toronto (FNST) and the Anishinabek Nations' Education Agreement. The FNST represents an alternative method by which to approach education and curriculum for a diverse aboriginal student body within a provincial structure. On the other hand, the Anishinabek Nations' Education Agreement represents an alternative structure to approaching education and curriculum for a culturally specific audience in place of the current federal structure. There is a difference in scale between these case studies; as such, it should be recognized that the intention is not to provide a comparison between systems. Rather, the intention is to provide a full articulation and exploration of education in Ontario as it affects all aboriginal youth. The study of alternatives within both systems is then necessary in order to understand where the current state of education is within Ontario and where it is, or should be, leading.

### **Current State of Education**

In the 1970s the Northern Indian Brotherhood (now the Assembly of First Nations) released a report entitled Indian Control of Indian Education. The report advocated for localized and parentally responsible control over on-reserve education (Abele, Dittburner, and Graham 2000) in response to what had become an alienating, and federally determined and maintained education structure. The release of the report led to the federal devolution initiative. Through this initiative local control was interpreted by the federal government to mean a transfer of select administrative aspects over education to local education authorities. The initiative was not meant to recognize local authorities' inherent rights over education. The policy was also rashly implemented and poorly

planned, leading to jurisdictional confusion within reserves, between reserves and with the federal government (Agbo 2002). As a result, devolution in many cases has resulted in poorly funded and administered education under the provisions 114-122 of the Indian Act (Parliament of Canada 1985), where it appears devolution is mainly symbolic (Young 2001). Many reserve-based schools still exist under this structure. While arguably some autonomy was gained, where it has been implemented, this structure is poorly funded (Shawana 2011), poorly upheld by legislation and secondary level resources (Young 2011), and sustains Western structures through the provincial standards employed.

Next, the Ontario Ministry of Education is laden with legislation. Historically, the numerous standards set through the ministry did not take into consideration aboriginal worldviews, methodologies, languages, or content (Godlewska, Moore, and Bednasek 2010). Furthermore, the very methodology of establishing rigidly conceptualized standards is contrary to holistic epistemologies, which are largely shared by aboriginal populations within Ontario. Standards set by the ministry therefore provide an implicit, and perhaps unrecognized, form of colonization that affects youths in both provincial and federal systems.

In the last twelve years, the ministry has made a concerted effort to provide more aboriginal-friendly education. In 1999, the ministry established a Native Studies course elective at the secondary school level available to all students, which introduced four optional native-subject courses (Ontario Ministry of Education 1999). Unlike the limited and mandatory elementary school credits, in which the most student engagement with aboriginal history is construed, in a highly historic nature portrayed through the lens of interaction in relation to European history (Godlewska, Moore, and Bednasek 2010), these credits are optional and aboriginal-focused. While the ministry has cited enrolment in these courses in the 2007-08 year at 2,000 students (Ontario Ministry of Education 2009), the 2007-2008 secondary school student enrolment for all of Ontario was capped at nearly 71, 6103 (Ontario Ministry of Education 2008). These optional credits are, therefore, only reaching roughly 0.3 per cent of the Ontario secondary student body. Consequentially, it appears these courses are optional and not wide reaching, which

raises concern as to how effective the policy has been.

In 2007 the ministry released its newest policy framework, Ontario First Nation, Métis, and Inuit Education Policy Framework, recognizing the need to support a disengaged aboriginal student body. The goals of the policy have been to facilitate a higher level of aboriginal student achievement, reduce gaps in student achievement, and achieve higher levels of public confidence by 2016 (Ontario Ministry of Education 2007). The policy provides strategies and performance measures for school boards and schools to support these goals. Strategies include building capacity for appropriate teaching and assessment practices, supporting improved literacy and numeracy skills, building supports for identity construction, and fostering the support of families and communities (Ontario Ministry of Education 2007). The most promising of these strategies contributing to a renewed emancipatory curricula is the building support for identity construction strategy. An application of holistic epistemologies in future curricula and teaching methods can be read into this strategy. Whether such an application of this strategy will occur remains to be seen.

While certain measures suggest positive methods of measuring performance, others are troublesome. One of the most troublesome methods of performance measuring suggested is a significant increase in the percentage of aboriginal students meeting provincial standards through provincial assessments in reading, writing, and mathematics (Ontario Ministry of Education 2007). This means the ministry believes that higher levels of aboriginal student achievement on standardized tests are indicative of progress. It has been argued, however, that standardized testing is not indicative of true progress as these standards are established by sources outside of the classroom (Adamowycz 2008). Furthermore, these standards uphold Western conceptions of intelligence and learning as the epitome of intellectual and personal success. In addition, the policy mandates school boards establish policies for voluntary and confidential aboriginal student self-identification on these tests (Ontario Ministry of Education 2007). While this mandate is established to provide a means of measuring the success of aboriginal students on these tests (Ontario Ministry of Education 2007), such a mandate segregates students racially.

If one considers the questionable credibility standardized test have in determining student progress, this mandate holds not only the potential to be damaging but is also potentially moot. There are much less harmful and accurate methods of tracking student progress. Ultimately, the methodology behind setting such standards does not reflect holistic educational values nor the reality of multiple aptitudes among all youths independent of their culture.

Current policy initiatives in place by both the federal and provincial governments are then failing aboriginal student populations. The structures and methods established by these policies have sustained the foundations of Eurocentric educational organization and ideals. These educational foundations threaten to alienate aboriginal youth because the structures and methods employed do not meaningfully seek to support or re-enforce aboriginal identities. In order to avoid further alienation and colonization, these foundations must be questioned and aboriginal voices and vision must inform educational methods and structures for Ontario's aboriginal youth populations.

### **Decolonization: New Educational Ideals**

The current educational system bases education in such concepts as the compartmentalization of subjects, standardization, and commodification of knowledge (Battiste 2004; Corson 1998; Weenie 2008). This in turn establishes an assimilative educational environment. In reconceptualising the current education system, new ideals must be sought. The term "ideals" is to be used flexibly in this analysis as it is important to recognize the diversity in aboriginal cultures, worldviews, and languages throughout Ontario. The goal is not to identify pan-aboriginal ideals of education. To do so would merely perpetuate colonial relations. Instead, it is important to establish flexible ideals that support curricula development for both diverse urban aboriginal populations and culture specific populations found on reserve in Ontario. In an attempt to avoid the promotion of pan-aboriginal ideals a shift in discourse to holistic epistemologies and methodologies is used since holistic worldviews pervade many aboriginal cultures throughout Ontario. Holistic discourse then allows the ability to discuss educational ideals while hopefully circumventing the concept of pan-aboriginality. This does not mean

that such discourse will not carry the risk of promoting such a conception. Curricula framers must be careful regardless of their approach to such reform.

Through research conducted three main flexible ideals, which are widely referenced through literature on aboriginal education, should be considered in the formation of emancipatory curricula development. These include the use of holistic knowledges and methodologies; the facilitation of a dual or multi system of knowledges and cultures (namely holistic and Western); and the reconceptualising of progress and achievement. Additionally, it is essential to mention the importance of community involvement and the inclusion of native languages when formulating curricula.

Holistic worldviews acknowledge the interrelation of all things, internal reflection, and the oral tradition (Smith 2001). Holistic education then incorporates interconnection of family, community, and the world both “animate” and “inanimate.” It also acknowledges the importance of developing the interrelated mental, physical, spiritual, and emotional dimensions of the self (Canadian Council on Learning 2007). Such education does not compartmentalize information into subjects. In recognizing the interconnection of all things, compartmentalization would be contrary to fundamental holistic beliefs. Holistic education is therefore not subject-based but learner-centered. Learner-centered methodology means education is subjective and is shaped by personal experiential engagement. A 2007 report by the Canadian Council on Learning (CCL) proposes flexible, holistic models for First Nation, Métis, and Inuit lifelong learning along these guidelines (Canadian Council 2007). Models such as those proposed by the CCL (Alaska Native Educators 1998) provide curricula framers with holistic guidelines for the development of emancipatory curricula for either diverse or culture-specific populations.

The models and holistic ideals the CCL proposed were established through community negotiations where participants recognized the importance of facilitating both Western and holistic ways of knowing (Canadian Council 2007). One of the suggestions from the CCL for a dual system of knowledge, acknowledges the importance of aboriginal youth being afforded greater resources to explore and affirm their identities. Additionally,

the proposal allows youths to engage with the Western world, ideally once youth have previously affirmed their identity largely independent of Western knowledges. Within this proposal, there must be room for instruction in native and English languages. Fostering such a “dual education” necessitates an appropriate mode of facilitation.

One possible method for facilitating space and dialogue for multiple views, languages, and articulations is the transsystemic method<sup>1</sup>. This method is currently employed by McGill’s law school (Jukier 2005). Transsystemia will also be the teaching approach taken in the University of Victoria’s Bachelor of Indigenous Law in September 2013 (Borrows 2011). The University of Victoria’s employment of transsystemia shows that a transsystemic structure is a feasible method for teaching Western and aboriginal ideas, methods, and worldviews in tandem. The Victoria program combines a traditional Western law degree, a Juris Doctorate, with an Indigenous law degree, a Juris Indigenarum Doctorate. While transsystemia is to be employed within a legal context, aspects of its employment can easily facilitate its use within a broader context to aboriginal youth. Through teaching Western and Indigenous thought in parallel, comparing them, using one language to illuminate the other, and through exploring points of similarity and connection (Borrows 2011), teachers can facilitate a meaningful education. Teachers can then provide an education which allows youth to explore their identity while still being provided with the tools to meaningfully engage within the larger Canadian system.

The meaningful incorporation of holistic worldviews and a dual system of knowledge delivery necessitates reviewing how communities wish to evaluate and measure student success. Current processes, as seen through standardized testing and grading hierarchies, encourage competition (Anderson 2002) and individualism at the sake of mutual guidance and understanding. Such processes are antithetical to holistic worldviews. From an holistic framework, communities might consider re-evaluating the teacher-student relationship to acknowledge the mutual guidance of both parties

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<sup>1</sup> While no concrete definition of “transsystemic” exists, at its most basic level this system can be explained as the interwoven study of two sets of knowledge bases.

(Anderson 2002), as well as longitudinal assessments that measure individual student progress over time (Adamowycz 2008) and training teachers to not only better facilitate learning environments for multiple aptitudes but also providing teachers with better foundations in holistic and aboriginal-Canadian epistemologies.

Overall, meaningful curricula for aboriginal youth can be facilitated through flexible holistic learning models that allow for learning both aboriginal knowledges and Western knowledges. The potential directions outlined above are not meant to provide final discussion on the matter of re-conceptualized educational ideals. Rather, these possible directions are provided as a basis to explore the following case studies and to act as points of further discussion regarding how communities might improve the education of aboriginal youth in Ontario.

#### **Case Studies: Methodology**

The following studies were facilitated through qualitative research methods. A number of interviews were conducted with key informants from the First Nations School of Toronto, the Anishinabek Nation, and the Ontario Ministry of Education. Interviews were conducted in person or by telephone. Observational study was also conducted at FNST. The qualitative research methods employed were chosen because they provided the best means possible of exploring the on-the-ground realities of the current educational systems, and the impacts of alternative educational initiatives within these systems.

#### **First Nations School of Toronto**

First Nations School of Toronto was originally established as an alternative school in 1977 and was named Wandering Spirit Survival School (Toronto District School Board 2010). In 1983 the school was symbolically recognized by the Toronto Board of Education (now the Toronto District School Board, TDSB) as a cultural survival school instead of an alternative school. In 1989 the junior kindergarten to grade eight school was renamed FNST. The current enrolment at FNST is approximately 80 students (TDSB 2010). FNST currently represents an Indigenous-specific alternative within the larger provincial system. As such, the ability of the school to thrive under provincial standards guides this case

study.

Historically, FNST has not received favourable publicity due to high suspension rates and low standardized test scores (Rowan and Alimi 2008). This led to FNST's mention in a 2008 report on school safety released by the TDSB Associate Director Dave Rowan and Superintendent of Education Andrea Alimi (Rowan and Alimi 2008). Within this report, recommendations were made concerning both FNST and the Toronto-wide system for the improvement of aboriginal education (Rowan and Alimi 2008). Few, if any, of these suggestions have come to fruition, specifically those that mention that FNST should be housed within its own building, and should be supplied a vice principal (Rowan 2008). While interviews with employees of FNST confirm the report's findings of past high rates of suspension, there was a hesitancy to put much weight into the report's findings regarding poor academic achievement on standardized tests (Evans 2011). This hesitancy was due to the belief expressed that these tests are not accurate indications of academic success (Evans 2011). Regardless, since 2008 suspensions have gone down substantially in number, grades have risen (Evans 2011). Moreover, cultural content within the school has become more fluid. Where cultural content was once compartmentalized into a single class, it now flows more freely through classes, school-wide art projects, teachings available to teachers, and extra-curricular programs (Gaudet 2011). Whether lower suspension rates and higher grades are related to greater access to cultural content is uncertain.

In any case, greater cultural content is an important progression for FNST. Examples of greater cultural fluidity are seen through Friday afternoon drumming circles and school-wide art projects. Every Friday afternoon all students and teachers convene in the main hallway of FNST. Older boys and male teachers sit around the big drum, the younger boys, girls, and women sit around the outside in circle. There are songs, presentations by classes, announcements, and teachings by teachers and Elders, as well as a space for students to voice opinions and their own announcements. These circles facilitate community, culture, and voice among FNST students. However, the very formation of the drumming circle presents a cultural teaching that does not necessarily translate into all

aboriginal cultures found within Ontario. This, in and of itself, risks the promotion of pan-aboriginality, something which FNST teachers must always be aware of when dealing with a diverse aboriginal student audience.

While the current art project, which involves schools beyond FNST, has in some ways been successful, it too can be seen as problematic. The project has allowed FNST students the ability to interact with the oral tradition, and has enabled students at participating schools to self identify (Gaudet 2011). FNST students were given cultural teachings and songs about water to support the student-based creation of an interactive mural on the theme of water (Gaudet 2011). While such traditional teachings are important, it remains questionable just how much meaningful cultural support students received. Cultural support cannot be easy with a diverse student body; teachers must either choose the promotion of a single culture or multiple cultures - and the dominance of the Western tradition throughout curriculum is palpable. Regardless of the direction taken, if not implemented correctly cultural content can confuse impressionable youth minds, promote pan-aboriginal identity conceptions and even colonial models of holistic methodologies.

Ultimately, the school is stunted in just how far it can reach for emancipatory curricula. This is based in many different realities facing the school. One that has been explored is the challenge of providing cultural content and holistic education to a diverse urban aboriginal student population. Other areas include lack of appropriate resources and standards, funding and support, and the reach of the school itself.

Teachers are required, as a school receiving funding under the TDSB, to implement the full TDSB curriculum in their classrooms (which is informed by provincial standards). Teachers tinker with this curriculum as best they can; it is, however, difficult to find sufficient resources to do this. The grade 7-8 split teacher at FNST provided an example of teaching the war of 1812. Where the war is typically taught from a colonial perspective, the teacher tries to teach it from a mix of Anishinabek and Haudenosaune points of view. This is difficult because the teacher has to scavenge for most of the resources to

facilitate these points of view (Evans 2011). Although the province offers a teacher's toolkit for aboriginal inclusion in curricula, the only strategy it offers for grade seven and eight history has to do with aboriginal people in relation to the fur trade and the Red River Rebellion (Ontario Ministry of Education 2008). These are strategies previously incorporated into the curriculum. The toolkit may suggest a more nuanced exploration as to the role of aboriginal people in these events. It does not, however, provide an overall more inclusive resource base for incorporating aboriginal perspectives within courses. First Nations School of Toronto feels the brunt of this lacking resource base.

The FNST represents a step in the right direction. The school is, however, merely an elementary school within a much broader system. FNST is faced with insufficient funding which makes it difficult to provide resource material, extracurricular activities, and even basic classroom necessities (Evans 2011). In order for the school to be able to move beyond the confines it currently struggles with, there must be broad system change and greater resource support. This change must be more meaningful than what the Ontario Ministry of Education currently offers through its framework policies and toolkits.

Within the school community there is also a desire to expand the school to enable it to offer classes up until grade twelve (Evans 2011). Currently, the school has established a bridging program, which includes having a counselor to help fill out applications, and take students on local high school tours. Once students leave, however, the school can no longer support or track their success (Evans 2011). Students are unleashed into the wider system to float or sink, a system where current standards and curricula risk aboriginal student disengagement. There is much to be done to enable emancipatory curricula through the provincial system for aboriginal youth. Since more substantive support structures are not yet in place, the First Nations School of Toronto is limited in how much it can offer a diverse and urban aboriginal student body.

### **Anishinabek Nation's Education Agreement**

The Anishinabek Nation is composed of 39 Anishinabek First Nations within Ontario, representing approximately 55,000 Anishinabe people. There are currently 19 schools throughout these reserves, 3 high schools, and 8 adult alternative learning programs

with approximately 2,500 students attending on-reserve schools, and 2,600 attending school off reserve (Shawana 2011). Since 1942, the Union of Ontario Indians (UOI) serves as the political advocacy group for the Anishinabek Nation (Shawana 2011). In 2002, following the signing of a memorandum of understanding (MOU) between the UOI and the Crown for self-government, an Agreement in Principle (AIP) was signed between parties regarding the exercise of jurisdiction over education for First Nations, under the UOI, wishing to participate (Shawana 2011).

The signing of the AIP signified the intent of the parties to negotiate a Final Agreement. Negotiations for the final Education Agreement began in 2003 and completed September 23, 2010 (Shawana 2011). Prior to finalization, extensive negotiation through working groups with the communities, were conducted. These working groups began in 2002 regarding the final draft of the Education Final Agreement (Shawana 2011). The work groups allowed for the inclusion of community in negotiations toward the development of the Anishinabek Education System. The Ontario Ministry of Education has also participated in negotiations, as a consultant, since it is necessary that the Ontario government recognize the agreement as valid (Shawana 2011). This recognition by the Ontario government will facilitate the transfer of students between systems. This recognition also means that curricula and standards established under the agreement must coincide with provincial standards. The Ontario government was also needed in negotiations to fill in gaps of educational expertise for the federal government (Shawana 2011) regarding curricula standards, funding, and employment.

Negotiations for the final agreement are now complete; the only outstanding issues to be negotiated are funding and ratification. The issue of funding is being negotiated through the Fiscal Transfer Agreement (FTA). It is believed the new education system will be implemented by 2012 (Shawana 2011a). The agreement covers primary, elementary, and secondary education (Anishinabek 2010). The agreement requires participating Anishinabek First Nations to individually enact their own education laws within 120 days of the act taking effect. The federal government requires that each participating First Nation have a constitution ratified before, or at the time, the Education Final

Agreement is ratified (Anishinabek 2010). Successful ratification of the agreement will mean that sections 114-122 of the Indian Act will no longer apply regarding jurisdiction over education for participating First Nations (Anishinabek 2010). Jurisdiction, then, will ultimately rest within the individual First Nations. Currently, jurisdiction rests largely with INAC under the provisions of the Indian Act. This agreement is meant to acknowledge, not to transfer, First Nations' inherent right to and jurisdiction over education. Education laws established by the First Nations will be paramount however; with the exception of laws outlined within the agreement, federal and provincial laws will still apply to First Nations.

The agreement will establish the Kinomaadswin Education Body (KEB), five Regional Education Councils (RECs) and a Local Education Authority (LEAs) for each participating nation. This structure will replace the previous arrangement outlined in the Indian Act, a structure of separate and isolated schools under federal regulation. The three bodies, under this new form of governance, will become legal entities under the control of participating First Nations. The KEB will function as a central body and will hold the responsibility of developing standards, curriculum, assessment, and evaluation. The KEB will also transfer funds to participating First Nations from the federal government through internal funding arrangements (Shawana 2011a). While individual First Nations are to establish their own educational laws, the KEB is perhaps the most significant body regarding curriculum development. The KEB will be divided into four main departments: finance, curriculum, language and culture, and assessment in order to carry out its functions as a central body.

The authority over the system ultimately resides with participating First Nations, a grassroots authority that rises up from participating First Nations, to Local Education Authorities (LEAs), Regional Education Councils (RECs) and ultimately the Kinomaadswin Education Body (KEB). Where RECs act as a secondary service resource for LEAs and where the KEB functions as a final venue for discussion (Anishinabek Nation 2011). Positions in RECs are filled by appointment from LEAs and positions in the KEB are filled by appointment from RECs (Anishinabek Nation 2011). Reporting will

largely be provided on a “top-down” basis. Ultimately, the responsibility of reporting, one residing with the KEB, will flow down through the system to the participating First Nations (Shawana 2011a).

The Final Agreement for the Anishinabek Education System was drafted mindful of and established through community negotiations (Shawana 2011a). It considers the ability to establish curricula that promotes self-esteem and positive identity formation for its Anishinabek youth (Shawana 2011a). The ability to formulate new curricula while being mindful of the need to facilitate transfers between systems (Shawana 2011a) requires critical reflection of what the provincial government currently believes should be taught. The need to facilitate transfers (Shawana 2011a) also requires that curricula framers consider methods by which to attain parity with provincial standards. It is uncertain whether tenacious efforts to meet these standards will hinder the attainment of true emancipatory curricula formation, though. One priority concerns the holistic understanding of the Anishinabek and Anishinabe world (Shawana 2011a), which speaks specifically to the formation of curricula. Curricula formation has yet to be substantively addressed through the agreement, instead it will be an action reserved for the KEB and participating First Nations.

Although the KEB will formulate curricula, this does not mean that curricula will be unilaterally determined. The authority and discussion originates with participating First Nations. The KEB, as an aggregate representation of participating First Nations, provides a venue of final discussion and decision-making as it pertains not only to curricula but assessment methods and the role of language and culture. There is space for elders and parents via discussion through the LEAs (Shawana 2011). This speaks to a larger inclusion of community within education processes, allowing for accountability not only within the LEAs but communities more generally.

Current curricula goals include incorporating Anishinabe teachings and spirituality into provincial standards and setting independent teacher standards to enable hiring outside of provincial guidelines (Shawana 2011). Framers must be careful here: the goal should

not be to incorporate Anishinabe teachings into provincial standards – this implies an add-on approach. The primary concern should be basing curricula in Anishinabe worldviews and content before considering the still important provincial standards. On the other hand, independent standards of professional development would allow elders into the system; elders who are endowed with Anishinabe teachings and languages but who are not necessarily provincially certified teachers (Shawana 2011). Such standards would therefore allow more meaningful incorporation of elders' wisdom into the learning process.

The tools and perspectives to establish truly emancipatory and meaningful curricula are at the fingertips of the participating Anishinabek Nations. The structure of the agreement to be put in place further facilitates freedom to establish and employ such curricula. The one remaining factor is funding. Funding is currently being negotiated through a separate agreement between the UOI and the federal government. Currently the Fiscal Transfer Agreement (FTA) is being negotiated. The FTA will determine the fiscal transfer from Canada to participating First Nations for the delivery of school programs and services, and the establishment of operations for the entire school system. The Education Final Agreement sets out terms and conditions relating to members' exercise of jurisdiction in regard to education. The FTA will outline the cost to operate the system and the cost of implementing the agreement (Anishinabek Nation 2011). The FTA, therefore, has a huge impact on the resources available for establishing curricula, assessments, and standards for teacher training and development. It will determine how well the system can accommodate secondary level services. The terms of the FTA will be re-negotiated every five years (Anishinabek Nation 2011). This allows room for the re-evaluation and negotiation of terms that will have a huge impact on the quantity and quality of educational delivery.

### **Analysis**

Ultimately, both the federal and provincial systems have the ability to foster holistic, emancipatory ideals through curricula development. Through the exploration of these case studies it appears the mobilized nations under the federal system are in a better

position to facilitate such curricula. This is due to a chronic lack of substantive legislation and culturally specific populations at the federal level. These two realities provide greater freedom to culturally specific, education alternatives. Schools under the provincial system will have a much tougher time achieving this without large-scale reforms and ideological shifts throughout the Ministry. Still, provincially run schools are faced with the realities of providing education to diverse aboriginal student populations. Even in cases where communities are in a position to affect greater reform, curricula framers must tread respectfully and carefully to avoid colonizing their own ways of knowing and to avoid the promotion of pan-aboriginality. Truly emancipatory reform will include community participation, native languages, and holistic epistemologies, methodologies and worldviews.

Within both systems, a restrictive aspect is their dependency on external funding. First Nations School of Toronto currently faces inadequate funding, and on-reserve education is currently underfunded by INAC; the Anishinabek Nation is presently in negotiation regarding a new funding arrangement for its educational structure. Funding, in turn, qualifies the bounds in which each system functions. The continued success of these systems relies on funding from both federal and provincial governments. This fact composes part of the colonial monopoly over education. This tension, in and of itself, is an outcome of colonization. The funding strain is a current reality, and one that can change. Change, however, will take time, greater autonomy, education, and decolonization. Education then represents a step toward self-governance, autonomy, and decolonization. Ironically, truly emancipatory curriculum and education systems require a degree of autonomy to be established in the first place.

### **Conclusion**

The preceding models and methods as seen through the cases explored will not be ultimate solutions. They provide us with methods of tackling tensions and issues today, and will need to be reformed and altered in the future. They provide a current means to give youth greater confidence, knowledge, identity, and sense of future. While both systems have the ability to support holistic epistemologies and methodologies, they must

be careful in balancing aboriginal/holistic and Western knowledges. In providing dual systems of knowledges, curricula framers must avoid colonizing holistic knowledges, as seen with the Anishinabek Nation and their struggle to maintain parity with provincial standards. Only when alternative models can facilitate an uncompromised system of multiple knowledges and aptitudes, can framers begin to re-conceptualize progress and achievement in holistic-friendly terms. This will be achieved through greater awareness, autonomy and economic means.

Likewise, the educational alternatives, models, and systems we engage with now will determine outcomes and systems of the future. We need to demand broader system change, greater funding structures, and increased funding for aboriginal communities throughout Ontario. At the same time, truly emancipatory change must be based in community as a grassroots initiative; it can not be imposed from a top-down approach. This requires, in and of itself, educational achievement throughout communities to help mobilize initiatives. It is only when this is accomplished that true emancipation within the province can occur. In this sense the educational models and alternatives we engage with today will help pave the path to greater change and the establishment of more autonomous educational models in the future. This research has focused on Ontario but the current educational environment throughout Canada needs to be explored for aboriginal and non-aboriginal students alike. Canada needs large scale transformation on all levels if we ever want a decolonized and healthy society. This research marks a step in this direction but there is much more to be done.

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## Income Inequality: Framing the Issue

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*Income inequality has risen rapidly in Canada in the past decade. The growing income gap in Canadian society has implications not only for the country's economic efficiency and social cohesion, but also for the nature of Canada's policy making. This paper outlines why income inequality matters for Canadian policy makers and seeks to explain some of the underlying causes for why income inequality is not yet a policy priority. It also provides an overview of the global debate surrounding the framing of this issue and explores the role of think tanks and the media in driving political action on income inequality.*

### Introduction

The Occupy movement spread from New York to cities across the United States and the globe in the span of a month, propelled by the rallying cry of "We are the 99 per cent." Catchy yet vague, this slogan underpins the realities of growing income inequality, or the extent to which income is distributed unevenly in society. While income distribution is more unequal in the United States than in Canada, after 20 years of continuous decline both inequality and poverty rates have risen rapidly in Canada in the past decade, now reaching levels above the Organization of Economic Cooperation and Development (OECD) average. Perhaps even more starkly, income inequality, on both a pre- and after-tax basis, actually increased faster in Canada than in the United States between 1995 and 2005, according to an OECD study released in 2008 (Yakabuski 2009). Income inequality is a problem in Canada and it is quickly getting worse.

In the wake of the Occupy movement, high-ranking Canadian officials, such as Bank of Canada Governor Mark Carney and Finance Minister Jim Flaherty have acknowledged that income distribution is a growing problem in Canada. However, there continues to be a lack of consensus among opinion leaders and policy makers about the severity of the problem, its causes and consequences, and the recommended solutions. The

income gap is also a complex policy problem in that it is hard to isolate from other social problems. In particular, the challenge lies in differentiating income inequality from poverty. After all, while solutions directed towards addressing poverty may help the low-end of the income distribution move up, they ignore the ballooning of incomes at the very top and the shrinking middle-class. Engaging in a discussion on income inequality also necessitates a discussion on taxes, which has largely become a unpleasant word in Canadian political discourse. Irrespective of the difficulties in effectively framing the issue, this paper argues that not addressing income inequality will not only have an impact on Canada's social cohesion and economic efficiency, but will also have long-term implications on the nature of Canadian policy making.

This paper shall focus on defining why income inequality should be a priority policy issue, in addition to examining why it has not been a priority to date. The role of the media and think tanks in the issue-framing process is explored, along with whether the issue has neared a tipping point for political action in recent elections.

### **Why Does Income Inequality Matter?**

A common yardstick for income inequality is the Gini coefficient, which ranges on a scale 0 (meaning "equality:" where "everyone has the same income:") to 1 (meaning great inequality: "one person has all the income"). According to the OECD, Canada has seen a "significant increase" in its Gini coefficient, rising to 0.317 in the mid-200s from 0.301 in 2000 (OECD 2008). This is above the OECD average of 0.311, but still below the United States and the United Kingdom (OECD 2008). Another common method for measuring income inequality is to look at trends in real household income by quintiles, as well as by tracking the gains and losses of income shares by income quintiles. There is also the question of whether before- or after-tax income should be considered, or even income in terms of purchasing power parity.

Whichever indicator is used, they all point to one conclusion: the promise of meritocracy – get an education, work hard, and you will get ahead on your own merit – is breaking down in Canada. Although this generation of workers is better educated than any

previous generation, and are working more hours per household, the middle class has failed to see any significant gains from a decade of the most sustained economic expansion since the 1960s. In fact, the median pre-tax incomes in 2007 were just \$55,000 in inflation-adjusted dollars, essentially the same as in 1980 (Yalnizyan 2010b). It now takes two wage earners to get into and stay in the middle class, with the average couple raising children now working 200 more hours a year than they were a decade ago. This squeeze on the middle class is particularly problematic since it is considered to be the “conveyor belt of ideas, social norms, cultural expectations” (Yalnizyan 2009).

Indeed, according to the Conference Board of Canada, in the past decade, the majority of wage gains accrued to Canadians at the top of the income distribution, just as in the United States (Conference Board of Canada 2011). Michael Veall and Emmanuel Saez have used tax data going back to the 1920s to show the concentration of incomes at the top end of the spectrum, with the top 1 per cent of Canadians doubling their share of wages, from 5 per cent to 10 per cent of all wages since the early 1980s (Saez and Veall 2005). In fact, fully one-third of all income growth in Canada in the past 20 years went to the richest 1 per cent of Canadians (Yalnizyan 2010a, 3). In conducting an overview of the compensation of Canada’s top 100 CEOs, Hugh Mackenzie found that they made an average of over \$6.5 million in 2009, or 155 times more than the average Canadian worker’s income of less than \$43,000 that year (Mackenzie 2011, 3).

Whereas the 100 top-paid CEOs will earn a year’s worth of minimum wage work by 3:15 p.m. daily, the bottom half of the population of non-elderly Canadians are living on lower after-tax incomes today than their counterparts in the late 1970s (Mackenzie 2011, 3). What makes addressing this trend even more difficult is the fact that the greatest inequality is concentrated in Canada’s largest cities. For example, while in 1990 Canada’s Gini coefficient was 0.28, only slightly less than the 0.299 for Toronto, by 2006 the Gini of Canada’s largest city was at 0.452, or 42 per cent higher than Canada’s overall level (Miller 2010, 2). Although Canadian municipalities have thus far avoided the creation of ghettos that exist in many major American cities, David Hulchanski (2010) has shown that income polarization manifests itself in spatial polarization over time.

Polarization of incomes erodes social cohesion and makes it more difficult for policy makers to identify a shared public purpose. In a the January/February 2011 cover story for *The Atlantic* magazine, the global editor at large for Reuters, Chrystia Freeland, posits that the very rich today are different from the very rich of yesterday. In particular, they have an “ambivalent attitude” towards their countrymen back home and have more in common with other members of the super-elite (Freeland 2011, 2). The emerging plutocracy, which is increasingly composed of individuals who acquired their wealth through personal achievement rather than through inheritance, thus has little appetite for the trials of North America’s working and middle classes. It only matters that the global community they live in is thriving. One CEO quoted in the article epitomized this sentiment, saying “It is a problem for America, but it is not necessarily a problem for American business...American businesses will adapt” (Freeland 2011, 10). Back in Canada, Yalnizyan (2009) has suggested that if the richest of our society begin to feel as if they are not in the same boat as the rest of us, there will be too much temptation for them to shift the societal costs and risks, be they the risk of aging or joblessness, to those who are less able to shoulder the burden. A prominent American economist, Joseph Stiglitz (2011), has also been concerned that growing income inequality means an increasing reluctance by the wealthy to spend money on common needs and a heightened resistance to a strong government that could act to re-adjust the balance of wealth.

Even those that believe that concerns over income inequality are overblown, such as American economist Tyler Cowen, agree that the temptation of the rich to pass on the risk to the rest of society – or to tap “a hole in the social till and [...] drink from it with a straw” - has dangerous implications (Cowen 2011, 7). Cowen suggests that the cause of income inequality at the top can be traced back to risk-taking behaviour in the financial sector, which is dangerous from an economic point of view because it distorts resource distribution and productivity (Cowen 2011, 7). Stiglitz agrees that growing inequality means that we are not using some of our labour force in the most productive way (Stiglitz 2011, 3). Moreover, he argues that the distortions that lead to income inequality undermine the efficiency of the economy by creating new distortions – such as the

disproportionate amount of talented young people who pursue careers in finance, due to the excessive rewards in this sector, rather than going into fields that would lead to a more productive and healthy economy (Stiglitz 2011, 3).

While the financial sector benefits from an influx of money during the boom years, even in the bust years, such as the 2007-2008 recession, the losses that result from the sector's risk-taking behaviour is borne by other parts of society in the form of bailouts and job losses. In other words, the financial sector, as it exists today, functions as a mechanism that widens the income gap (Cowen 2011; Stiglitz 2011). This gap, Nobel Laureate Michael Spence argues, is "socially and politically disruptive and can threaten support for the policies and public-sector investments that in part sustain growth" (Christensen 2009, 10).

In a 2009 Massey lecture, Armine Yalnizyan summarized the challenge that these effects of income inequality pose for policy makers:

"If only the top get ahead, while the middle are stagnant and the poor are losing ground, it becomes harder to define shared objectives, or to pursue goals that benefit the majority. Public policy becomes increasingly mired in negotiated deals with the most effective lobbyists. "

Although the increasing concentration of wealth at the top is not inevitable, "it is coming to be viewed as normal" (Yalnizyan 2011). Therefore, the longer this issue languishes in problem invisibility, the less likely it is that it will be addressed at all.

### **Underpinnings of Income Inequality**

The amount of inequality that a society will tolerate before it is recognized as a problem can be traced back to its type of welfare stage regime. Looking beyond the welfare state as simply a range of policies targeted at improving social conditions through income transfers and social services, the broad view of the welfare state instead focuses on the macro-economic policies of capitalist society and the issues of employment and wages. According to Esping-Andersen (1990), capitalism brought about the commodification of labour and putting peoples' rights to survive outside of the market at risk. De-commodification, or the degree of market independence for an average worker, is thus

“a precondition for a tolerable level of individual welfare and security” (Esping-Andersen 1990, 37). Therefore, differences in welfare-state regimes reflect competing responses to the pressures of de-commodification and allow industrial economies to be divided into three types: Anglo-Saxon (e.g., Canada, U.S.), countries of Continental Europe (e.g., Germany, the Netherlands), and the Scandinavian/Nordic countries, such as Sweden and Finland. These categories are based on similarities in long-standing institutional and political traditions, as well as on broadly congruent patterns in the way families, markets, and states interact in the distribution of welfare.

In general, the level of de-commodification appears to parallel the extent of income inequality and relative low-income rates in the three country clusters. Anglo-Saxon countries tend to be the least de-commodifying, and generally have the highest relative low-income and inequality rates, whereas Scandinavian nations have the greatest level of de-commodification and the highest performance on the two indicators (Esping-Andersen 1990, 50; Picot and Myles 2005, 8-10). These differences are also indicative of the degree of income inequality that needs to be reached in a particular country before policy makers will recognize it as a problem. Scandinavian/Nordic countries promote the equality of status: all citizens have the same rights, regardless of class or market position. On the other hand, the Anglo-Saxon countries have means-tested benefits that are modest and are provided mainly to low-income dependents.

While Canada is classified within the Anglo-Saxon grouping of countries, empirical studies have shown that as compared to the United States and the United Kingdom, the country has a lower level of family income inequality and relative low-income rates, but significantly higher than those found in the European welfare states (Picot and Myles 2005, 27). However, it is important to keep in mind that Canada’s level of intergenerational income mobility has also been shown to be on par with the higher levels seen in the Nordic countries, indicating that it is less likely that Canadian children from low-income families will themselves be low-income as young adults (Picot and Myles 2005, 28).

Another reason why inequality has been allowed to grow without being recognized as a problem is due to the “marginal productivity theory,” long used by economists to justify disparity in incomes (Stiglitz 2011, 2). In essence, this theory associates higher incomes with higher productivity and a greater contribution to society. Although popular with the rich, Stiglitz points out that there has been little evidence to support this argument. After all, corporate executives who made massively negative contributions to their companies and society by helping bring about the recession still received bonuses. Moreover, as Mackenzie has pointed out, it is unlikely that Canada’s top CEOs are actually 155 times more productive than the average Canadian worker, although that is how much more they earn (Mackenzie 2011).

Finally, political realities and the nature of Canadian federalism have also limited recognition of income inequality as a pressing policy issue. Keith Banting has contended that the outcomes of the restructuring of programs under exclusively federal jurisdiction, such as Employment Insurance (EI) and pensions, tend to “faithfully reflect the electoral importance of different client groups,” with pensioners clearly emerging as the most powerful voting bloc (Banting 2007, 151). In contrast, the restructuring of child benefits has been more extensive, and EI has suffered the deepest and most frequent cuts from the federal government. The “virtually total abandonment of social assistance by the federal government” again highlights the perceived electoral unimportance of low-income Canadians (Banting 2007, 156). Moreover, Canada is one of the most decentralized states in the world and the downloading of control over spending and priorities from Ottawa to the provinces under the Paul Martin and Stephen Harper governments has turned the federal government into an even weaker partner in the federation. This has allowed the politics of regionalism to thrive in Canada, leading to growing regional variation in income inequality in different parts of the country and a lack of cohesion on this issue.

### **Global Debate**

Although the Gini coefficient has risen since the 1980s in some rich countries, such as the United States, the prevailing view for the past two decades among the world’s policy

elite has been that inequality itself was less important than improving outcomes for those at the bottom of the income distribution. Tony Blair, Britain's former Prime Minister, was perhaps one of the biggest proponents of this approach. In 2001 he rejected a call to raise the higher rate of income tax, while an MP in his party was famously quoted as saying: "We [the Labour Party] are intensely relaxed about people becoming filthy rich" (Adams 2008). In the same time period, the U.S. Congress cut taxes for the highest income earners.

However, in the wake of the global financial crisis, the debate surrounding income inequality has altered and gained in prominence. While Wall Street has been widely blamed for the recession, Hugh Mackenzie has found that it is also the rich that are rebounding the fastest from the economic slump (Mackenzie 2011). At the same time, the effects of austerity measures that will hit the poor hardest are now being fully felt. Consequently, everyone from Tony Blair's successor, Prime Minister David Cameron, to China's President Hu Jintao have expressed concerns about income inequality in society. At this year's World Economic Forum, the annual gathering of senior business figures in Davos, growing income inequality was considered to be one of the two main global risks over the next decade. According to Min Zhu, a special adviser at the International Monetary Fund and a former deputy governor of the People's Bank of China, "The increase in inequality is the most serious challenge for the world" and deserves greater attention (Conference Board of Canada 2011).

The issue might finally be reaching the tipping point in the United States as well. The focus of the economic discussion in the months preceding the onset of the Occupy Wall Street protests was on the reduction of government spending, taxes, regulations and the deficit. According to a senior White House official, there is now growing voter resentment towards the playing field being tilted so far toward the wealthy (Liasson 2011). This is the sentiment behind President Obama's populist message of asking wealthy Americans to pay more in taxes to reduce the deficit and to fund the jobs program. "Warren Buffett's secretary shouldn't pay a higher tax rate than Warren Buffett," said President Obama (Liasson 2011). In fact, Obama's plan to ensure that no household making more than

USD \$1 million per year pays a lower average tax rate than middle-class families has been dubbed the “Buffet rule” as a result of its support by America’s second richest man. While Republicans have charged that this policy proposal represents class warfare, an October 5 Washington Post/ABC News poll indicated that 75 per cent of Americans back a millionaires’ tax (Avlon 2011). Meanwhile, recent austerity budgets in France and Italy have also included taxes on the wealthy, while Britain’s Tories have faced backlash for wanting to remove a temporary “top up tax” on the top of the income bracket.

The growing prominence of income inequality on the global stage and how the problem is being tackled could have an effect on the problem definition process in Canada. On one hand, Canadian policy makers can look to how the issue has been framed by other countries as a case study to see what works, and what does not. As well, a consensus among global opinion leaders on the importance of resolving income inequality could give the issue greater credibility in Canada. However, the danger in this is that waiting for the rest of the world and the media to frame the issue will mean that Canadian policy makers might have less of an influence on public opinion. This may prove to be dangerous since the proposed solutions that work, or have broad support in other countries, might not necessarily be the right fit for Canada.

### **Influencing Public Opinion**

There is evidence to suggest that opinion change is an important, though not sufficient factor, in policy change (Blidook 2008, 356). However, policy researchers, such as Leslie Pal, have noted that Canada’s parliamentary system tends to be more closed to outside influences than the U.S. congressional system (Pal 2010, 340). In other words, parliamentary institutions provide a more stable platform for the development and maintenance of policy priorities because the parliamentary system gives “extensive agenda-setting powers to governments by, among other things, curtailing public and media access to information” (Pal 2010, 340). In addition, Canada appears to encourage less policy entrepreneurship and Canadian philanthropists do not contribute as much money to think tanks and foundations as compared to the United States.

The media also has a role to play in this process, acting as an important conduit of the most recent policy research and ideas from think tanks to the public. Several researchers have found evidence that indicates the media's framing, or the style of issue coverage, can alter public perceptions and preferences (Blidook 2008, 357). Press releases from think tanks help them to control this process to an extent, as it gives them an opportunity to encapsulate the problem, or their reason for dealing with an issue contained in the report or study being unveiled.

A question that has been raised is the extent to which think tanks, as unelected bodies, should influence the policy discourse (Williams 2010). While think tanks are not as well established in Canada as they are either in the United States or the United Kingdom, their reports and findings still receive considerable, albeit short-lived, attention from the Canadian media. The issue remains whether they have attained a level of credibility that is necessary to use framing successfully to influence public opinion. James Druckman has found the degree of source credibility is a "clear and systematic" limit to framing (Druckman 2001, 1061). In essence, elites can influence public opinion not because of undue manipulation but "because citizens delegate to credible elites for guidance" (Druckman 2001, 1061).

One Canadian think tank that has made the income inequality one of its major projects is the Canadian Centre for Policy Alternatives (CCPA), which is concerned with issues of social, economic and environmental justice. In a 2006 report, "Growing Gap: Growing Concerns," the CCPA noted that income inequality "is clearly an issue that's flying under the radar screen of Canadian political life" (CCPA 2006, 4). The think tank hopes that it can cure income inequality of its problem invisibility by pulling the issue "out of the dark corners of Canadian society and [setting] it right where it belongs: front and centre in Canadian public discourse" (CCPA 2006, 4).

For this purpose, the CCPA has commissioned four national polls over the last two decades to measure the Canadian public's opinion on income inequality. The most recent example is the interview conducted by Environics Research of 2,021 adult Canadians by

phone in the summer and fall of 2006, prior to the federal election. The results of this poll seemed to represent a strong call to action, with 86 per cent (61 per cent strongly and 25 per cent somewhat) of Canadians polled believing that the government should reduce the gap between the rich and poor, up from 82 per cent in 1999 (CCPA 2007, 5). Moreover, the poll findings show that the vast majority of Canadians interviewed believe that the gap between the rich and poor is growing, up by 6 per cent from 2003 to 76 per cent in 2006 (CCPA 2006, 10).

### **Exploring Policy Solutions**

What kind of policy interventions would Canadians support to reduce income inequality? This is an important question to ask because problem definition is a strategic process in which “groups, individuals, and government agencies consciously fashion portrayals so as to promote their favoured course of action” (Pal 2011, 109). Thus, knowing what solution Canadians would be most likely to endorse will help us define the problem. Luckily, in the 2006 nationwide public opinion poll on income inequality, the CCPA also asked Canadians what they believe the government could do to reduce the nation’s growing income gap. The most popular option, with the support of nine in 10 Canadians polled, is making post-secondary education more affordable by reducing tuition and providing more grants to those in need. Increasing the minimum wage was second, while creating more affordable housing and childcare was third and fourth (CCPA 2007, 3). The two options involving taxation, support for closing tax loopholes and increasing taxes on the wealthy, received the lowest amount of support (CCPA 2007, 4).

### **Political Action**

Despite the fact that CCPA’s report revealed strong support for political action on income inequality, just a few months prior to the 2006 federal election, the growing income gap was not the “sleeping issue” of the election as some advocates had hoped (CCPA 2006). Perhaps a part of the lack of political call to action has been due to the fact that the majority of Canadians polled, or 67 per cent, believed that social mobility was still a possibility in Canada in 2006 (CCPA 2006). Indeed, research indicates that Canada’s low-income children are less likely to remain in poverty as young adults, compared to

their American and British counterparts (Picot and Myles 2005, 28). As well, almost half of Canadians feel their standard of living has improved over the past 10 years, while 30 per cent say their circumstances are about the same, and 21 per cent say they are now worse off (CCPA 2006, 8). Whether they are worse off or not, most Canadians also tend to see themselves as middle class, with 75 per cent believing that their personal income is either above average or higher than the Canadian average (CCPA 2006, 8).

Election platforms, although not always abided by parties once they are elected, can be revealing in terms of the issues that political parties believe Canadians already do or should prioritize. Although the 2011 federal election was the fourth in less than seven years, income inequality, has yet to figure as a major electoral issue for any of Canada's three major political parties. Instead, the focus has been on relieving pressures on Canada's middle-class, in part by keeping taxes low. A similar sentiment carried the day in recent elections in both Ontario and Toronto. After all, as was seen in the CCPA opinion poll, targeting the middle-class is an effective strategy since this is where majority of Canadians believe they belong, whether their incomes actually fall into this range or not. Politicians of all stripes seem to believe that income inequality is not yet a policy issue for which middle-class voters could be mobilized to the ballot box.

If the Occupy movement fails to evolve into an effective mechanism for catalyzing political action in Canada, the danger is that income inequality might lose its current prominence on the public radar before substantive change occurs. In other words, the growing income gap in Canadian society might follow Anthony Downs' "issue attention cycle," wherein a policy problem "suddenly leaps into prominence, remains there for a short time, and then -- though still largely unresolved -- gradually fades from the center of public attention" (Downs 1972, 38).

### **Conclusion**

The debate over income inequality has recently achieved global prominence and top Canadian officials have started to take notice. Yet the transition from the problem recognition stage to problem definition and structuring has yet to occur in a successful

manner, despite efforts by the Canadian Centre for Policy Alternatives, among others, to frame the issue as one of growing urgency for the nation. The challenge can partially be attributed to the insular nature of the policy process in Canada thanks to the country's parliamentary institutions, which prevents think tanks from having as much of an influence on policy debates as compared to the U.S. or U.K. This is exacerbated by the income inequality's classification as an ill-structured problem, marked by high levels of uncertainty, as well as competing objectives and alternatives (Pal 2010, 115).

While opinion polls indicate that Canadians want the government to act to address income inequality, election after election shows that voters do not yet perceive the growing income gap as a problem that can affect them directly, unlike a policy priority such as healthcare. The aim should now be to capitalize on the growing global policy consensus surrounding income inequality and to determine how the problem can be framed in such a way that solutions directed at solving it can be seen as making all of society better off. Otherwise, the issue will remain invisible not only to the federal government and provincial governments, but to the country's policy process, which in turn will lead to Canadian society becoming increasingly polarized.

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## Sovereign Debt Crisis and the European Union: Leading to and post G20 Cannes Summit

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### Background

All eyes were on Europe, and all European eyes were inwardly focused on solving the current debt crisis, a dilemma with not only a possible contagion effect for the Eurozone periphery, but with implications for the entire global economy.

At the forefront of international news headlines, Europe's sovereign debt crisis was expected to have a sweeping presence at the Cannes summit. Given the urgency of the issue and its potential repercussions for the world economy, it is also expected to take precedent over financial stability and the path to stable and sustainable growth- the two most prominent issues of G20 summits to date.

The contemporary debt crisis, which was initially deemed a strictly 'European' problem, broke out almost two years ago when Greece, with its high levels of debt to GDP ratio, claimed to be incapable of servicing its debt, and received a bailout in May of 2010. It was revealed that Greece had 'cooked' its fiscal books and had underplayed its debt. The revelation sent Greece's bond yields to soaring heights (inversely related to Greek bond prices), thereby leading to the bailout.

### Challenges

Since May of 2010, the European leaders have prepared a series of 'patch-work' policy responses, better known as 'rescue' packages, first in bailing-out Greece and subsequently the ailing economies of Portugal and Ireland. As a result of these hastily assembled policy responses, sovereign debt issues resurfaced again in April of 2011.

The incremental responses so far have been interpreted as an inability or unwillingness of the European leaders and policy-makers to resolve the problem. They are also a testament to the inherent complexities in devising an effective and comprehensive plan, ranging from the question of debt restructuring, to bank recapitalization, to the size and functions of a rescue fund (European Financial Stability Facility, EFSF).

The cumulative policy responses to date also hinge on tensions of political systems and doubts over democratic institutions across Europe. At a recent gathering of key European politicians, Helmut Schmidt (former German Chancellor) restated that integrity and interests of the European Union are the interests of individual sovereign states. It seems, however, that the vision and the principles of the European integration, which started nearly 60 years ago, have now proved flawed given the social, economic, and political realities of current times.

From social unrest in Greece to the Indignados movement in Spain, one can deduce that what is in the interest of the EU is not shared by all European national polities. Principles of no-default, no monetary transfer, and no-bailout are no longer upheld. At the heart of the European Union, a professional bureaucracy with minimal connections to the democratic voice now suffers. Jose Manuel Barroso, the head of the European Commission, captures this 'democratic deficit' by recently stating that the current crisis "...is a financial, economic and social crisis. But also a crisis of confidence — in our leadership, in Europe itself, in our capacity to find solutions" (Erlanger, 2011). The crisis and its handling clearly shows a failure of governments, both at the EU and the national level, to engage with the public over political and economic decisions. A lack of real debate, choice and public agency are inherent (Hughes, 2011)

And so, despite the recent G20 officials' call to European leaders to "decisively [address] the current challenges through a comprehensive plan", a permanent solution to the current crisis is not within close reach. A long-term fix is said to be possible only through further EU integration and a fiscal union. This could also be inferred based on the direction Franco-German leadership has taken in managing the crisis.

Currently, a German coalition consisting of a wide array of interests/actors is in favour of an integrated Europe and a fiscal union through an overhaul of the European constitution. The wide spectrum of German interests includes different political parties (Christian Democrats, Social Democrats, and the Greens), the head of the Deutsche Bank, and BDI (German Federation of Industry).

It is therefore valid to argue that a repeal of EU constitution for further EU integration is in motion with prospects of rapid progress, but whether this change will phase in more democratic power for EU institutions is not likely.

The long term proposals favoured by Berlin so far are adjudication of budget rules at the European Court of Justice, the creation of a European finance ministry, shifting sovereign budget management to EU jurisdiction, and establishment of a European monetary fund with voting powers in proportion to degrees of financial contribution. At the same time, the proposed short-term solutions remain contradictory. The European Financial Stability Facility, the cornerstone of an immediate plan, has its size and its borrowing capabilities from the European Central Bank disputed, even amongst the Franco-German leadership. As apparent by Berlin's favoured solutions, current proposals lack evidence in favour of vesting more democratic decision making at the EU institutional level. One should bear in mind that in 2009, the German constitutional court ruled against European Parliament's decisions impinging on all matters concerning state sovereignty by arguing for its institutional democratic deficiencies. The march forward for an overhaul of EU constitution is also against the backdrop of Ireland's clear defiance of the move (in 2009) together with less than a lukewarm response on behalf of Finland and the Netherlands (two other creditors).

For now, given Germany's relative financial and economic power and its creditor position, it seems as if the road is paved for a German agenda. Based on the form and content of policy proposals advanced by Germany, it's obvious that the economic powerhouse of EU will opt for policies that guarantee leverage to exercise power (especially on national budgetary matters) at the will and discretion of the creditor nations.

On the one hand, there is a top-down process of change in response to the European debt crisis, but on the other hand there is a concurrent bottom-up demand for change. This process, in its most demonstrative form, is represented by the ongoing protests on the streets of Athens against austerity measures, and the march of Indignados from Madrid to Brussels criticizing the European Union for its incurred inequalities and high, sustained unemployment levels.

This leads to another observation: The European debt crisis is also the story of structural imbalances within the European Union and entrenched systemic inequalities – of export-driven manufacturing countries and service-driven economies, of the surplus versus deficit states, and of the poor and the wealthy. Although in the past the G20 has addressed global structural imbalances, whether it will frame the European debt crisis - perhaps even beyond the confines of Cannes - in terms of structural imbalances and if it will shape its response based, not only on a top-down but also a bottom-up demand for change, is yet to be seen.

Another aspect of the European debt crisis captures bank reforms. Some, such as Nicolas Véron of the Brussels-based think tank, Bruegel, have argued that a comprehensive response to Europe's sovereign debt crisis has been hostage to the precarious position of European banks and their exposures to sovereign debt. For instance, if European banks were properly capitalized, an early and systemic Greek default would have perhaps been underway from an early stage.

### **Prospects**

On October 27th, after the meeting of the European leaders, the European banks' core capital ratios were increased to nine percent — still set below their American counterparts. Arguably, the set target continues to ignore that the European banks remain undercapitalized, even at the nine percent Tier One capital ratio. However, this increase may be enough to discourage bank lending, when it is needed to boost investment and growth.

The less than comprehensive plan agreed on in Brussels on the morning of October 27th has set the stage for the Cannes summit. As the German finance minister Wolfgang Schäuble had hinted beforehand, the EU leaders did not deliver magic. The new plan increased the size of the EFSF to 1 trillion Euros, and raised the haircut ratios to 50 percent for voluntary private sector participation. The vision is to decrease Greece's debt to GDP ratios to 120% by 2020, but the plan also contained its own pockets of failure.

First, the private sector deal is not binding on banks. At a former 21 percent haircut ratio, a 95% voluntary sector involvement experienced difficulties. At a 50 percent haircut ratio, a voluntary private sector rally will be even more problematic; the game could change as 'voluntary' turns into 'coerced', and a Greek default is recognized.

Technically, through a voluntary participation, a Credit Default Swap (insurance against default) is not triggered. Having already invested and hedged against a default through CDS contracts, why should the private sector favour a higher haircut ratio, without being able to enjoy compensation on losses?

The experts have also expressed doubts over delivering a target of 120 percent debt to GDP ratio by 2020, assuming that a voluntary sector involvement at the aforementioned 50 percent level is achieved. Arguably, for a country like Greece with low domestic savings rates, 120% debt to GDP ratio is not necessarily a sustainable level. This is especially true when prospects of productivity and growth are bleak in a recession-struck Greece. Emphasizing the gloomy projections of growth and debt sustainability, a dilemma that is tacitly realized, though not explicitly lamented, is the uncertain prospect of structural measures that are already underway in Greece. The contested domestic political climate in Greece adds to this predicament.

This also accounts for why the so-called 'comprehensive' plan did not entail a lender-of-last resort, did not have the backing of the ECB, and did not involve issuance of Euro bonds. Leverage, and thus exposure (of creditor countries) is capped at the EFSF because there is no real guarantee that the Greek debt will reach sustainable levels,

with the foresight of Greece returning to debt markets. Ostensibly, no country is willing to leverage a rescue fund based on unlimited liability. In exchange, whether investors will leverage the rest of the one trillion EFSF funds through special purpose vehicles is not certain.

The recent EU package succeeded at calming the markets temporarily, but was not comprehensive enough in tackling fundamental issues. The Cannes summit needed the presence of a European Union that outwardly admits to the rudimentary faults currently jeopardizing its integrity (from the undercapitalized banks, to the strong likelihood of austerity measures failing to achieve sustainability and growth). After all, admitting your flaws is first right step in solving problems.

### **Post Cannes Summit**

As expected, the European debt crisis dominated the Cannes summit. George Papandreou's ill-timed call for a referendum in Greece struck the summit as a calamity, and was followed by an impromptu Franco-German press conference, where the possibility of Greece leaving the Eurozone was publically discussed.

Under political pressure, as the call for referendum retrenched, the summit turned to focus on threats of contagion and financial market tensions over Europe's sovereign debt problem. Attention to the issue however, created a 'summit fatigue', and helped to detract from concrete solutions, especially for the Euro crisis (Bootle, 2001).

The Cannes summit only acknowledged the existing European comprehensive plan in resolving European woes. In precise G20 languages it 'welcomed' the European plan put forward on October 26, 2011 (G20 Communiqué). As a result it only reinforced the shortcomings of the October plan, without accounting for gaps and weaknesses. Rhetorically attending to the acuteness of Europe's crisis could only serve as a way of persuading the Europeans to solve their own issue. The G20 Communiqué clearly states:

We welcome the euro area's comprehensive plan and urge rapid elaboration and implementation, including of country reforms. We welcome the euro area's determination to bring its full resources and entire institutional capacity to bear in restoring confidence and financial stability, and in ensuring the proper functioning of money and financial markets.

The onus is clearly on the EU resources and institutions. No complementary G20 initiatives follow.

Provisioning the IMF greater funds, and welcoming its monitoring of Italy's policies, was the closest the G20 got in devising a meaningful policy response to the European debt crisis. The latter is in line with IMF's mandate of surveillance to ensure Italy's austerity measures are effectively implemented. The former, is to provide liquidity where needed, when Europe is unwilling to do so.

Commentators and academics have criticized liquidity provisioning by the IMF or alternative non-European sources, such as the emerging markets and sovereign wealth funds. For instance, Michael Pettis at the Tsinghua School Management in China has teased out the irrationality behind Europe's importing capital/liquidity, when the region continues to be a net exporter of Capital. He effectively couples current and trade accounts, concluding that importing capital to Europe has to be matched with an export of demand (Pettis, 2011). Deterioration of Europe's trade balance results in decreased employment and growth. This is when Europe actually enjoys an available stock of capital, and requires growth as a remedy for its dilemma.

The irrationality only takes us back to the issue of politics. Call it lack of political will or political deadlock, but it has obscured the vision of leaders and resulted in dysfunctional policy responses. The Cannes Summit did not facilitate EU's political problems.

Yet there was a lot of politics surrounding Cannes, and a great deal of arm-twisting by the French and the Germans to revert the potential disastrous effects of a Greek

referendum. And so, democracy's relevance to the current woes was once again questioned. Democratic practices were reduced to mere 'traditions', when Nicholas Sarkozy responded to a Greek referendum by stating 'he respects Greece's democratic traditions, but is more concerned with EU's integrity' (Globe and Mail, 2011). Silvio Berlusconi's resignation post-Cannes further underpins democracy's irrelevance, this time by the markets. The New York Times succinctly suggested, public outrage over scandals and corruption did not break Berlusconi's back, but markets finally did (Donadio and Povoledo, 2011).

At a closing press conference at Cannes, the French president claimed both Euro and the Eurozone would be defended (BBC News 2011). Post Cannes, what is clear is that that Europe is bound for a partial fiscal union through treaty change; a fiscal union that commits to budgetary discipline but is in defiance of fiscal transfers. A shift to fiscal austerity has paved the way for fiscal union, but politically and institutionally no meaningful debate connects different national polities; Both Brussels, the EU summits and legislative processes remain opaque and bureaucratic; and finally EU treaties remain technical and complex. Economically, real fiscal solidarity is negligible across Europe; the banking systems are still fragile, and competitiveness is divergent. For now Europe enjoys the calm, but question remains as to how precisely will Europe's woes be cured?

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## Home Away From Home:

### International Tax Avoidance and Corporate Residency *A Law and Policy Discussion*

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The next few years are going to prove difficult for fiscal policy makers across the developed world, as their focus is drawn increasingly to reconciling declining government revenues with an aging population whose need for state-provided services is growing. Coupled with a political aversion to increased taxation, every government revenue source is becoming more precious and important to Canadian society. In light of this reality, the issue of tax avoidance is concerning for the Canadian government and for Canadian citizens by whom its social and economic effects are felt. For example, in addition to comments to this effect by Canada's Auditor-General,<sup>1</sup> a recent study by the University of Québec in Montreal concluded that "the five major Canadian banks avoided \$16 billion in Federal and Provincial taxes through offshore affiliates between 1991 and 2003" (Gillespie 2010). Further, according to Canadian economist Jim Stanford, Canadian corporations have received \$745 billion in after-tax cash flow since 2001, which they did not then reinvest in capital projects in Canada, to the Canadian economy's significant detriment (Stanford 2011).

Though countries have at their disposal a number of policy tools to combat tax avoidance, one of the more heavily debated policies is what is commonly referred to as the residency requirement. In Canada, specifically, corporate residency is the subject of much recent debate, as the size of the tax burden placed on corporate residents and, indeed, the very definition of corporate residency, both begin to be called into question by

<sup>1</sup> According to Peter Gillespie, *infra*, note 2, in his discussion of tax avoidance for the Canadian Centre for Policy Alternatives, the Canadian Auditor-General said in 2002 that corporate "tax arrangements with foreign affiliates have eroded Canadian tax revenues of hundreds of millions of dollars over the past ten years."

policy makers and commentators alike. This analysis will approach the question in three parts: first, by briefly discussing the definitional issues surrounding corporate residency in Canada; second, by discussing several relevant judicial decisions that speak to those definitional ambiguities; and, third, by evaluating two proposed reforms to Canadian residency requirements.

One of the central problems that needs to be tackled by Canadian tax lawyers and fiscal policy makers is the definition of corporate residency. According to Julie Bouthillier, Canadian corporate residency policy has developed in such a way as to result in a curious reality; she suggests that the law contains enough ambiguities that a corporation can establish residence in a country other than Canada without actually having any operations there (Bouthillier 2005, 179). Bouthillier argues that, since Canada's tax laws are still effectively governed by principles about the nature of the corporation developed by The House of Lords in the late 19th century (Bouthillier 2005, 182) they do not account for the modern corporate multinational's ability to move capital from state to state in an efficient, rapid, and virtually instantaneous way (Bouthillier 2005, 183). The problem, for Bouthillier, is that

[it] is now possible for a company to hold assets in a foreign jurisdiction and control them from another location, or to advertise and render services in a foreign jurisdiction, without an employee or any representative ever setting foot in that jurisdiction. (House of Lords 1897, 183)

As a result, from a policy standpoint, the closer relationship that residents have with Canada, as compared with those who only carry on business here, is a partial explanation of the larger tax burden placed on residents. Indeed, residents are taxable on their worldwide income, whereas non-residents are taxed, in Canada, only on their income earned in Canada - a reality that can make it exceedingly important for a corporation to define itself as a non-resident.

But how do corporations do that? According to Toronto-based corporate lawyer Scott Wilkie, it is UK case law that "orients the significance of the formal aspects of corporate direction as a factor in determining the "real" owner of income and the location in which the income-earning activity should be considered to substantially occur" (Wilkie 2003,

1583). The case to which Wilkie refers is *De Beers Consolidated Mines Ltd. v. Howe*, in which Lord Loreburn held in 1906 that "...that a Company resides, for purposes of Income Tax, where its real business is carried on...and the real business is carried on where the central management and control actually abides" (House of Lords 1906, 213). The main concern, then, for policy makers and judicial decision-makers, is the definition of 'central management and control', and it is to that question that this analysis now turns.

Lord Loreburn and the House of Lords, though providing a modicum of guidance, led the courts to struggle for quite some time after 1906, as the meaning of their expression 'central management and control' was still unresolved. What was established was that the place of central management and control must be determined on the facts of each case, and that, by themselves, articles of incorporation indicating the location of the head office or the seat of the corporation do not properly indicate where the corporation carries on its real business. What was not established, however, was what do to with the concept of multiple corporate residences, which was not discussed or even contemplated by Lord Loreburn and the House of Lords in *De Beers*. Although ultimately rejected by the House of Lords in 1928 (House of Lords 1928) for several years the U.K. courts took the view that, if a company's actions were "vital organic operations incidental to its existence as a company" they would then be sufficient, subject to incorporation in the jurisdiction, to establish residence (House of Lords 1923, 353). Where the courts ended up, however, was at an understanding that 'central management and control' typically happen at the highest levels of the organization; according to Bouthillier, that is generally where business policy and financial decisions are taken (Bouthillier 2005, 185).

In Canada, for instance, in *Bathurst Assessors v. The King* (Supreme Court of Canada 1951), the Supreme Court of Canada (SCC) case determined in 1951 that, although a company conducted a significant amount of business in a particular parish,<sup>2</sup> the location of its head office was the deciding factor in determining the parish in which it was to

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<sup>2</sup> According to the headnotes of the case, in *Bathurst Assessors v. The King*, the respondent had a head office the Parish of Lancaster, but built a road through the Parish of Bathurst to Douglastown, and built 38 buildings on 59 acres of land in Bathurst Parish, hiring 20 employees for maintenance and repair.

be assessed for taxation. Although a case surrounding domestic residency issues as opposed to those of the international variety, it speaks to the notion that, in Canada, the courts had begun to use what was to become the “pinnacle test” - the concept that the top-level decisions of a company constituted central management and control and, by extension, the location in which those decisions were taken was where the company would be considered a resident.

That may be helpful in situations in which it is clear where a company is headquartered, or where a company’s directors all take decisions together in a single location. When both business policy decisions and business operations take place in disparate locations and neither can be definitively located, courts have had more difficulty with determining corporate residency. For example, between 1987 and 1989, a Canadian corporation named Crown Forest rented barges from a company incorporated in the Bahamas by the name of Norsk. The latter only filed income tax in the U.S., which is also where its only office and place of business was; however, in the U.S. Norsk was considered a foreign corporation and as such was exempt from U.S. income tax, paying no U.S. tax on its barge rental income. Under Article XII of the 1980 Canada-United States Income Tax Convention (International Legal Materials 1984, XII) Crown Forest was required to withhold tax on the rental payments, but did so at 10 percent instead of the 25 percent deducted from non-residents, based on the understanding that Norsk was a “resident of a Contracting State” (International Legal Materials 1984, IV).<sup>3</sup>

The Federal Court Trial Division agreed, and the Federal Court of Appeal (FCA) upheld this decision. In 1995, however, on appeal from the FCA, the SCC disagreed, determining that liability for taxation on the basis of residence stems from the fact that a given corporation conducts a trade or business which is effectively connected with the country in question and has income arising from that business which is also effectively connected with that same country (Supreme Court of Canada 1995). As such, although

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<sup>3</sup> A ‘resident’ is defined by Article IV as “any person or entity who, under the laws of that state, is liable to tax therein by reason of domicile, residence, place of management, place of incorporation or any other criterion of a similar nature.”

one factor contributing to the finding that Norsk's trade or business is connected with the U.S. is that its place of management is located there, that factor does not constitute the basis for Norsk's tax liability in the first place. Iacobucci, J., for the Court, held at para. 68 that "[t]he parties to the Convention intended only that persons who were resident in one of the contracting states and liable to tax in one of the contracting states on their 'world-wide income' be considered 'residents' for purposes of the Convention" (Supreme Court of Canada 1995), and, in so holding, provided Canadian policy makers with at least one other definition of what it means to be a resident of a state for the purposes of taxation.

However, a definition of residency that essentially says that a person or corporation is a resident if it is liable on its world-wide income does not do much to mitigate the ambiguity of the definition of residency; it simply shifts the ambiguity and the question to what it means to be liable for world-wide income. As a result, since 1995, Canadian courts have continued to grapple with the question of residency, and how to determine whether a corporation is or is not resident (and therefore whether a corporation is or is not liable for world-wide income); a more recent Federal Court of Appeal case attempted not to revolutionize the definition but to reframe *De Beers* by applying the 'central management and control' test for corporate residency to trusts.

In that case, *St. Michael Trust Corp. v. Canada* (Federal Court of Appeal 2010), Sharlow J.A., for the Federal Court of Appeal, held at para. 55 that "[w]here a corporation is actually managed and controlled by its directors in the manner contemplated by its governing law, the residence of a corporation usually will be determined as the place where the corporate directors exercise their management and control responsibilities" (Federal Court of Appeal 2010) Sharlow J.A. was not expressing anything particularly revolutionary in this holding but, in mentioning at para. 56 a 1961 U.K. Court of Appeal decision, made an interesting legal move:

If significant management decisions are in fact taken by a person who is not a director, the place where that person resides or operates may be determined to be the residence of the corporation. Thus, for example, if it is established that management and control is exercised in fact by a shareholder operating out of another country, the corporation may be found to be resident where the shareholder resides (Federal Court of Appeal 2010).

Ultimately, in *St. Michael Trust*, the FCA held that, for reasons beyond the scope of this analysis, a trust can be treated similarly to a corporation for the purposes of determining its residency and, in that light, that the test for corporate residency can be extended to determine the residency of a trust. What the Court adds to the discussion is that, in terms of residency, management and control does not always have to be exercised by directors or officers; because of that, the head-office approach taken by the SCC in *Bathurst* and the resulting “pinnacle test” may not be the most effective.

Where has this case law left the Canadian definition of corporate residency? Ultimately, the notion of ‘central management and control’ remains the central concept behind the determination of a corporation’s residency, and it remains substantially contingent on the facts of each specific case. Because of this, the test is subject to manipulation by taxpayers from one year to another.<sup>4</sup> According to Brian Arnold, another Toronto-based tax attorney, “the intensely factual nature of the test and control of the essential information by taxpayers” (Arnold 2003, 1564) put the Canadian tax authorities in a no-win situation. Arnold elaborates by suggesting that “[i]f it is beneficial for a corporation to be resident in Canada, the necessary information can be marshalled to show that the required decision-making activities took place in Canada. If, however, it is disadvantageous for a corporation to be resident in Canada, the tax authorities have enormous difficulty collecting the necessary information to prove the case” (Arnold 2003, 1565). Whether this is true or a slight exaggeration, this analysis will now turn to two possible solutions to the problems arising from the test, and will attempt to evaluate them in terms of their likelihood of success given the Canadian social and political context.

It seems that a significant hurdle to progress in Canadian corporate tax policy is the fact that a new test - to replace the *De Beers* test - has yet to be developed or, indeed, even discussed in the courts. A number of jurists, lawyers, and academics, however, have begun to take up this cause, not the least of whom is Toronto-based tax lawyer

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<sup>4</sup> In contrast, another test that the Canadian government occasionally uses, which is called the place-of-incorporation test, is subject to manipulation only once, when the corporation is created.

and consultant Robert Couzin. In his continuing discussion of tax policy in the *Canadian Tax Journal* (Couzin 2003, 1595) Couzin points out a number of different commentators' recommendations vis-à-vis the reform of the De Beers test, the most drastic of which involves the development of a completely new test. One commentator suggests that tax policy should focus on "more meaningful geographical links than the place where the directors meet: where the chief operating officers actually work, where the stock is traded, where the controlling shareholders reside, and where the corporation began its rise to international prominence" (Couzin 2003, 1595).

At first, these recommendations seem to be a remarkable improvement on the De Beers test, in part because they move sharply away from the 'pinnacle' test and instead focus on the operations of a given organization. The problem, however, is that many of these recommendations confuse corporate residence with shareholder residence - especially the suggestion that tax policy focus on where the stock is traded and where the controlling shareholders reside. The issue with confusing corporate residence for shareholder residence is that, if the result is shareholder taxation, we could see a tax system that ultimately taxes foreigners on foreign income, which is an outcome that would essentially give the Canadian government a significantly longer reach vis-à-vis taxation than any theory of domestic taxation would recommend.

Another potential solution to the problems surrounding the De Beers test involves the creation of an international tax avoidance framework - similar to the foreign accrual property income (FAPI) rules<sup>5</sup> - that holds countries accountable for the robustness of their anti-tax-avoidance legislation. The OECD, in its study of harmful tax competition (OECD, 1998), has focused on circumstances in which foreign income is subjected to unreasonably low levels of taxation. According to the OECD, such circumstances are typically in contravention of the international tax principle that, "as a quid pro quo for relinquishing tax jurisdiction, tax to some measurable degree will be imposed elsewhere" (Wilkie 2003, 1593). The central issue, according to Scott Wilkie, is that the OECD hopes

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5 FAPI rules, in brief, work to tax foreign earnings, regardless of tax treaties, if the Canadian government deems the source of earning to be "investment activity" only.

to reduce the incidence of corporations using tax planning constructions to situate their income in jurisdictions to which the income does not have an intrinsic connection (Wilkie 2003, 1593).

Although an honourable aim, and a worthwhile experiment, it is very likely that, similarly to the experience of the OECD itself, such an international body would lack the required enforcement ability and mechanism to ensure the cooperation sufficient for successful standardization or universality of international tax rules. Although the OECD has a number of monitoring instruments at its disposal it lacks the kind of ability that organizations such as the IMF or, indeed, the G8 and the G20 have in terms of encouraging compliance and cooperation. Whether one of the latter organizations could play a role in standardizing international tax avoidance rules remains to be seen, but without enforcement they will be destined to fail.

While both potential solutions have promise, two problems remain: first, that the definition of residence is unique to each state or respective domestic government and, second, that each case in Canada is determined on the facts and not on a principled basis beyond the De Beers test. In order to account for an economic system that may be no more international than it was in 1906 but that facilitates international transactions far more efficiently and frequently than was possible one hundred years ago we need to develop a more effective definition of corporate residency. That achieving such a goal will prove difficult is an understatement; with corporations striving more and more to shield income from tax and countries striving more and more to attract a corporate presence, any tax regressivity could be fatal.

One possibility that the author of this analysis has considered is the possibility of increasing the tax rate on income earned on business operations within Canada for both resident and non-resident corporations while, at the same time, reducing the rate of taxation on worldwide income substantially for resident corporations. While not perfect - similarly to the solutions proposed above - such a policy move could serve to increase the number of corporations that decide to reside in Canada because of the relatively

lower tax burden on worldwide income than may be imposed elsewhere. A significantly higher tax on income earned in Canada may be politically difficult to justify, but could be made more palatable given a correlative decrease in worldwide income; that said, a number of small and mid-sized Canadian corporations - which employ a significant proportion of the Canadian workforce - with no international presence may be put at a distinct disadvantage with such a policy. One alteration, to account for this disadvantage could simply involve corporations with no international income being excluded. Although, understandably, this could leave the system more complicated and complex than it is even now.

Ultimately, no solution is perfect and, without complete international cooperation, no policy will entirely eliminate international tax avoidance. What is clear, however, is that the De Beers test is no longer as effective as it once was; moving forward, Canada must seriously consider tax policy reform if it is to continue to provide for its citizens, many of whom would be seriously affected by an erosion of the corporate tax base without which the welfare state that underlies Canada's reputation may cease to function.

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## The International Intervention in Libya

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### Introduction

Since the end of the Cold War, the world has been characterized mostly by intrastate rather than interstate conflicts. Yet, and despite the “outlawing” of the use of force in international law, we are still witnessing wars and aggressions in the international arena. While few classical wars have been conducted, the new “trend” for intervening is by gathering support through a coalition of states willing to get involved for a “superior” or “justifiable” cause. Such was the situation for the war against Afghanistan in 2001 where the armed operations were launched by the United States and the United Kingdom following the events of 9/11. The operations were later carried on by the International Security Assistance Force (ISAF), a North Atlantic Treaty Organization (NATO) led security mission that was authorized by the United Nations (UN) Security Council (UN 2001). While Afghanistan was considered as a legitimate war and as an example of multilateral cooperation – where more than a dozen countries participated – that was not the case for the invasion of Iraq in 2003. Indeed, the Iraq war was the target of substantial amount of criticism from the international community, some critics considering it to be a unilaterally preemptive American war. It was also judged as illegal (BBC 2004) and lacking solid justifications (unlike the intervention in Afghanistan which was based on the self-defense argument).

What about the current intervention in Libya? On March 19th 2011, France was the first to intervene and to strike Gaddafi's military forces under the international military operation in Libya, operation “Odyssey Dawn” (France Info 2011); and was later followed by the British and the Americans. The operation is currently under the command of NATO. But

why Libya in particular? It is true that after the successful events in Tunisia and Egypt in early 2011, Libya also started witnessing some domestic upheavals and revolts. Fearing an “Arab Spring” that might overthrow his forty-two-year rule of the country, Gaddafi chose to crush the unrest by the use of violence. Facing this situation, the UN Security Council adopted resolution 1973 to protect civilians (UN 2011) and consequently, allowed the launch of Operation Odyssey Dawn in order to enforce and support this resolution.

This intervention succeeded in gathering strong international support. However, and as was the case for Iraq, there was no direct act of aggression from Libya against any of the intervening countries. Therefore, what makes this intervention different from the highly criticized war in Iraq? If the reason is purely in order to protect the population, one cannot help but ask why we are intervening in Libya when we failed to intervene in Darfur or even Rwanda, where genocide was committed? In light of the recent events, these questions entail others. As a matter of fact, the events occurring in Libya were considered as matters of internal sovereignty and within the authority of the Libyan authorities. And yet, the intervention occurred. Which international norms and values allow a violation of the national sovereignty of a state? Furthermore, with the UN-backed resolution, it can be said that the intervention was legal, but it is uncertain whether it was legitimate. Finally, if the coalition was intervening to protect civilians and on the plea of humanitarian intervention; can this kind of intervention really be free and independent from states’ national interests?

To answer all these questions, my argument will be divided in four parts in order to underline the importance of issue framing and international agenda-setting for such interventions. First, I will explore the legal grounds of the intervention to understand through which means the intervention was allowed and made legal. This section will mostly be an analysis of relevant articles within the UN Charter. Second, I will go through the concepts of “Humanitarian Intervention:” how it emerged, and how it led to the doctrine known as the “Responsibility to Protect” (or commonly called R2P). I will further analyze how this doctrine became embedded in the mentality of international diplomacy, as well as its importance for framing the current military intervention. Third, I will analyze

the role of the media in shaping public opinion and perception. I will try to understand how media coverage of the Libyan events influence how people think about a topic and how it affected decision-making and agenda-setting. Finally, I will examine the political will and international leadership that emerged through the crisis and whether domestic politics play a role in shaping international policies. This section will be divided in two parts, which will mainly focus on the French President and his tenacity and perseverance to secure an intervention, and on the American rationale and Barack Obama's reticence in engaging his country in another war.

### **Legal Grounds of the Intervention**

The UN Charter was drafted after World War II to promote world peace and security as well as economic and social cooperation, as well as guidelines for the settlement of disputes, among other objectives. The main purpose of the establishment of the UN was to guarantee world order, and avoid the events that led to the outbreak of World War II and its atrocities.

The purposes of the organization are stated in the first two articles of the Charter. Indeed, Article 1 stipulates that "the purposes of the United Nations are: to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which lead to a breach of the peace" (UN 1945). However, to constrain member states from interpreting broadly the terms "threats to peace," and from using the collective security clause extensively or when they see it fit, Article 2 forbids member states to intervene in "matters within the domestic jurisdiction of any state", except for the "application of enforcement measures under Chapter VII" (UN 1945). Moreover, the term "aggression" was purposely used by the authors of the Charter: by using that broad term, they were ensuring that any act or use of force would be outlawed, without playing on the semantics.

Chapter VII of the Charter was considered the core that would give the Organization – especially the members of the Security Council – the power and the tools to guarantee the objectives of the Charter. Articles 39 to 51 indicate the measures to be implemented in situations of breach of peace and acts of aggression. The two most important articles are article 41 and 42. The first indicates the measures not involving the use of armed force and refers largely to the use of time to economic and diplomatic sanctions. As for article 42, it stipulates that in case of failure of measures adopted under article 41, the Security Council “may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations” (UN 1945). This article has usually been translated as the authorization of the use of force in cases of breach.

Looking at these legal foundations, the upheavals happening in Libya can be categorized as matters of internal and domestic affairs, which would legally exclude any intervention. Moreover, examining the Libyan crisis, pre-intervention, nothing indicated an act of aggression against another state or a direct threat to international security that would justify an exception to the aforementioned Article 2. Yet, the Security Council adopted under article 41 the Resolution 1970 to impose non-military measures on the Libyan regime. It condemns the use of lethal force by the Gaddafi regime against protesters and civilians, and imposes international sanctions such as travel bans for members of the regime, and assets freezings of Gaddafi’s family (UN 2011a). Shortly after, the Security Council adopted under Article 42, resolution 1973 and authorized member states “acting nationally or through regional organizations or arrangements, to take all necessary measures to protect civilians and civilian-populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of the Libyan territory” (UN 2011).

Hence, while the legality of the intervention has been established thanks to both resolutions, the reasons invoked for such an intervention do not fall in any of the categories stated in the Charter. Indeed, the actions committed against civilians are

serving as basis for intervention. Therefore, are actions against civilians becoming the justification for this new interpretation of Chapter VII? The following section will explore the legitimacy of the intervention and the concepts that helped achieve this legitimacy. The principle of humanitarian intervention and the Responsibility to Protect “Never Again!” That was the international consensus in the 1990s following the events in Somalia, the Rwandan genocide and the Srebrenica massacre in Bosnia (Evans and Sahnoun 2002, 99).

After these events, a debate started to emerge about whether interventions should be allowed on human rights and humanitarian grounds. Indeed, too little too late was done to prevent these events. They also highlighted the “inability of the community of states to prevent these horrors. In this new century, there must be no more Rwandas” (Evans and Sahnoun 2002, 99). Consequently, the concept of “humanitarian intervention” started emerging in international debates and referred to a military action against a state to protect its people and end human rights violations. Indeed, human rights began to gain more and more importance on the international scene as well as the concept of human security, which challenges the Westphalian concept of an international system where states are the only actors. At the same time, the Canadian government established the International Commission on Intervention and State Sovereignty (ICISS) that published in December 2001 the “Responsibility to Protect” report. This report was a keystone for the formulation of the Responsibility to Protect doctrine.

This doctrine, in the words of Evans and Sahnoun, two of its founding authors, “implies a duty to react to situations in which there is a compelling need for protection” (Evans and Sahnoun 2002, 99). It also allows the use of coercive measures and military action to protect populations in four situations: genocide, war crimes, ethnic cleansing, and crimes against humanity (International Coalition for the Responsibility to Protect 2011). However, Evans and Sahnoun further argued that six core principles must be satisfied to justify a military intervention: a just cause, the right intention, the intervention must be a measure of last resort, it should be authorized by the right authority, it must be undertaken in proportional means, and it must have reasonable chance and prospects of

success (Evans and Sahnoun 2002, 99). But how did this doctrine become embedded in international diplomatic mentalities? In his article on the UN, NGOs and women's rights, Jutta Joachim argues that it's all a question of "issue framing and seizing opportunities." According to her, there are three phases for the agenda-setting process at the UN level: "the problem stream in which unacceptable situations are identified; the policy stream, which contains solutions generated not necessarily in response to a particular problem; and the politics stream carrying motivations and justifications for political action" (Joachim 2003, 250). Moreover, she stresses the importance of access to international institutions, the presence of powerful allies and the mobilizing structures they have at their disposal (Joachim 2003, 248). With regards to R2P, the events of the 1990s helped identify and define the problem. Furthermore, the role of the ICISS was crucial. Indeed, thanks to its report and its extensive consultations with NGOs, the ICISS managed to mobilize civil society organizations in order to politicize the issue, and "strengthen both the capacity and political will of the international community to respond more effectively to newly emerging crises involving the potential for large scale loss of life" (World Federalist Movement Institute for Global Policy 2003). R2P managed to catch the attention of then UN Secretary General Kofi Annan who understood the seriousness of the issue and the efforts needed in order to avoid further inaction. Consequently, the ICISS and various civil society actors managed to mobilize a very powerful ally on the international scene who also wanted to "include protection from genocide as part of his UN reform agenda" (International Coalition for the Responsibility to Protect 2011). For that purpose, he formed a high-level panel in 2005 that led to the organization of the 2005 World Summit and the unanimous adoption by the UN General Assembly of a resolution embodying the principle of the Responsibility to Protect. Thus, being approved by all member states of the UN, this resolution helped the Responsibility to Protect emerge as an international norm (Joachim 2003, 248).

The adoption of such a resolution would not have been possible without the engagement of the Canadian government and the advocacy work undertaken firstly by the ICISS and NGOs, and secondly by Kofi Annan. Being the Secretary General of the UN, he helped convince and commit member states to this principle, and proved to be an

invaluable resource for the pursuit of such a normative change at the international level (Joachim 2003, 251). This political opportunity provided by Annan helped the issue gain acceptance and legitimacy.

But what about Libya? The UN resolution 1973 is considered as an embodiment of the Responsibility to Protect. Indeed, the resolution stipulates that member states are authorized to “take all necessary measures to protect civilians,” and states the “responsibility of the Libyan authorities to protect the Libyan population” (UN 2011). Hence, it is a clear illustration of the integration of R2P into the collective conscience, and of how Chapter VII of the Charter can be invoked for the protection of civilians. It also explains how domestic abuses within a state’s jurisdiction can allow the exception mentioned in Article 2, Paragraph 7. Hence, in Michael Doyle’s words, “in passing RtoP, the Security Council helped bridge the gap between the so-called legitimate (ethically justifiable) and legal (legally authorized) intervention” (Doyle 2011). The Security Council also broadened the scope of “acts of aggression” to include aggressions against civilians. Consequently, with the international media broadcasting the events, with Ban Ki-Moon – the current UN Secretary General – reporting the deaths of civilians on a large scale (UN Centre d’Actualités de l’ONU 2011), and with the embedment of the Responsibility to Protect as a legitimate norm and value, the current intervention in Libya succeeded in being both legal and legitimate, and in gathering international support.

As previously mentioned, six principles must be satisfied to justify a military intervention under humanitarian grounds. In the case of Libya, some experts argue that five are met: first, civilians faced serious threat of large-scale loss of life through a deliberate state action. Second, the purpose of the intervention was intended to end human suffering. Thirdly, a military intervention should have been the last resort. Indeed, after the sanctions of resolution 1970 proved to be ineffective in stopping Gaddafi’s attacks on his own citizens, military intervention became justified. Next, the intervention had to have been authorized by the right authority: the UN through the Security Council. Fifth, the proportional means principle was guaranteed due to the imposition of the no-fly zone and absence of ground battle forces. As for the sixth principle, the prospects of success: at the outset, the situation indicated nothing else than uncertainty (Patrick

2011), and the prospects of a long war given the intervention's vague objectives (Presseurop 2011). Nevertheless, and despite the presence of the required elements and principles, the ultimate source of legitimacy was international support (Patrick 2011). The next section will look at the role of the media in gathering international support and in shaping public opinion.

### **The Role of the Media**

Since the beginning of the Arab Spring, news channels and networks broadcasted the events occurring in Tunisia, Egypt, Libya, Bahrain, and many others, and globalization made the dissemination of information easier than ever before. The most recent example was the live broadcasting on the internet of Hussein Mubarak's (Egypt's ousted president) final speech on Al Jazeera live.

Without a doubt, the media have been a major actor in the Libyan crisis. It has continuously reported the events since the beginning, broadcasting Gaddafi's sons' speeches as well as Gaddafi's public appearances and interventions. Every step of the intervention has been relayed by the media. According to Bernard-Henri Lévy, the French philosopher who successfully convinced President Sarkozy to react to the Libyan events (Willsher 2011), acknowledged the importance of mediatization for transparency purposes (Le Monde 2011). Nevertheless, mediatization is a double-edged sword that not only helped report Gaddafi's actions, but that also recognized and highlighted the coalition's mistakes and states' ulterior motives as we will see in the next section.

It is true that this war is considered by many to be a "just war," (Presseurop 2011) and the media significantly contributed to this consideration. In a study on international agenda-building and agenda-setting, Kiouisis and Wu write that "media concern with objects in the news is a key determinant of their perceived salience in public opinion" (Kiouisis and Wu 2008, 59). Indeed, they argue that news and media coverage of an issue can influence "how people think about a topic by selecting and placing emphasis on certain attributes and ignoring others" (Kiouisis and Wu 2008, 59). Since February, the media reported Gaddafi's regime as orchestrating massacres and assassinations, as using torture

and mercenaries, as well as launching systemic attacks on the population. Gaddafi's infamous pledge, "No mercy, no pity" for rebels went around the world and portrayed Gaddafi as a ruthless tyrant. Even Gaddafi's son, Saif al-Islam, who is also known to be the reformer among the Gaddafi family, became infamous thanks to his televised speech in which he said "the regime would fight to the last man against the uprising" (al-Ameri 2011). It should be noted that the Libyan leader has often attracted the press' criticism with his well-know outrageous behaviour and for his responsibility behind the Lockerbie bombings.

These pejorative portraits of Gaddafi further prove Kiouisis and Wu's findings about the effects of the tone used in news reporting (Kiouisis and Wu 2008, 60). Gaddafi has historically been a subject of negative coverage. Moreover, Al Jazeera became the reference in reporting what is happening in the Arab world. It has been explicitly supporting the Arab revolutions and the Libyan rebels. Nonetheless, due to its financial dependence on the Qatari regime, it has been more silent regarding the uprisings in Bahrain and in Syria (Talon 2011). Therefore, by covering certain events more than others, the events in Libya became more salient to the international community and later helped promote the way in which the intervention was framed. That was especially done by calling the attention on this particular country, by adding some moral evaluation to it, and above all, by spreading the rebels' call for an international intervention. Consequently, framing the Libyan situation as a humanitarian crisis helped agenda-setting thanks to the salience of the issue in the media.

An additional argument to the support of the intervention is the findings of Wanta et al. In their study on media influence on public perceptions, they found that media coverage of nations affects individuals' perceptions of these nations. They concluded that greater negative media coverage about foreign nations is associated with greater negative attitudes and perceptions towards those nations (Wanta et al 2004, 372). In consequence, the availability of negative information combined with the accepted moral value of the protection of civilian helped generating unfavourable public opinion about Gaddafi on one hand; and compassion as well as the need to "save" the Libyan

population from its dictator on the other. Polls conducted in France at the time of intervention showed that 63 per cent of the French and 55 per cent of Americans approved the intervention of the international coalition (Courtois 2011).

The media had and continues to have an important role in making an issue salient and in gathering support to legitimize the action. But the media can also be used for instrumentalist purposes. As stated before, two of the core principles of the Responsibility to Protect doctrine are the presence of a just cause and of the right intention for intervening. The members of the coalition have met these two requirements but one cannot help and wonder whether the “right intention” is masking other intentions. In that case, the media would be painting a picture of heroes fighting a villain, without considering other calculations happening behind the scenes. Or, as Evans and Sahnoun noted, “these days good international citizenship is a matter of national self-interest (Evans and Sahnoun 2002)”

### **An Altruistic Intervention?**

In their formulation of the Responsibility to Protect Doctrine, Evans and Sahnoun argued that the six principles might be present in certain situations, however, an intervention will always be contingent on states’ and global players’ will to act. The most important risk for humanitarian violations is inaction: it is one thing not to be allowed to do something (despite the fact that it does not always impede states from acting unilaterally as was the case in the 2003 invasion of Iraq); it is another not wanting to do it. Hence, the “Never Again!” formula becomes irrelevant: the Security Council could authorize collective measures but that does not guarantee that any action will be taken or implemented (Evans and Sahnoun 2002). Accordingly, leadership becomes a condition sine qua non to ensure states’ commitments to the humanitarian actions. Logistical and financial constraints might put a significant strain on states’ capacity and capability to act. But the one of the major obstacles remains domestic politics and the national political environment of a country. This section will firstly examine the reasons behind the French President, Nicolas Sarkozy’s strong leadership in securing the UN Resolution. Secondly, it will analyze the US President Barack Obama’s policy, and the motivations behind his

discreet voice and presence regarding Libya.

### **A Quest for Grandeur?**

France has incontestably played an important role in the decision-making process of the intervention in Libya. Indeed, the Franco-English couple has been advocating for an intervention before any other country. After thorough diplomatic exchanges and negotiations, it managed to secure their allies support in order to adopt resolution 1973, without the risk of any veto from any of the three other permanent members of the Security Council. As soon as the resolution was adopted, the French were the first to intervene and bomb targets to secure the no-fly zone over Libya. They were also the most virulent opponent of a handling of operations to NATO.

For many observers, the Libyan intervention was above all “une guerre à la Française,” that seeks to re-establish France as a Great Power, and to restore the country’s prestige in the world, and, more specifically, in the Arab world (Presseurop 2011). As a matter of fact, Sarkozy is in line with General de Gaulle’s ideology in the “pursuit of grandeur, the primary *raison d’être* of a head of state” (Goldhammer 2011). But his push for the adoption of the resolution can be seen as a reaction to both external and internal forces. From intermediating in the Russo-Georgian war in 2008, to the release of Ingrid Betancourt from the Colombian FARC guerrillas, Sarkozy has been avid, from the beginning of his term, for diplomatic successes, especially personal ones. Another example goes back to 2007, when he succeeded in negotiating the release of the Bulgarian nurses who were accused of infecting Libyan children with HIV. Following this success, and despite criticism from his close circle, Sarkozy invited Gaddafi to Paris and tried to convince him to join his project, the Union pour la Méditerranée, but without any success. Although Sarkozy was disappointed by the failure of the Union, one of the motives for sponsoring military action against Gaddafi was less a personal vendetta. Rather, it could be perceived as more a desire to save face following some of his Cabinet members’ scandals regarding their close ties and links with the ousted Tunisian president, Zine el-Abidine Ben Ali (Goldhammer 2011).

The other motive is France’s upcoming presidential election in 2012. His party had

been crushed in the cantonal elections and his popularity was at its lowest: around 30% approved him as president (Le Nouvel Observateur 2011). According to Goldhammer, “a leader who takes his country to war will always be suspected of seeking advantage at the polls” (Goldhammer 2011). Playing with French values and patriotism, especially with regards to human rights, might have revived French pride, for which Sarkozy will certainly take credit.

Despite all these motivations, Sarkozy’s official motive remains the perfectly legal and legitimate humanitarian one. However, the reality is that France and Great Britain would not have engaged in a military intervention without the agreement and the support of the United States. Even though the French took the leadership position that is usually occupied by the U.S., the reality was that they did not have the full military capability for the whole intervention.

### **Obama the European?**

The American government was silent during the preparatory phases for the intervention in Libya. Rather than meeting with his French and English counterparts, President Obama visited Latin America to promote and reinforce ties between the two Americas. It was at the last minute, and with the increasing urgency of the situation that the US gave their approval for an intervention. To most observers, even the American public opinion, the White House stance on Libya was unknown, or even uncertain. The media depicted this war as a war for oil. In the face of such a mystery, the media can only speculate and shape the issue as it appears to them. However, Libya supplies little hydrocarbon to the United States. Additionally, Robert Gates, the Secretary of Defence, stated that the U.S. does not have any real interests in that region (Landler 2011). So why did the United States tiptoe into this intervention? Obama’s considerations can be broken down in both domestic and international terms, like Sarkozy’s.

The US initial nonchalance on Libya had domestic roots. First, the United States was still present in Afghanistan. Indeed, it is now one of the longest wars in American history, and nothing seems to indicate a near end for the conflict. Next, Iraq post-invasion was

not faring much better: suffering from civil strife and rises in insecurity. So engaging in another war did not appear to be a rational decision, especially when vital interests were not at stake. Furthermore, the United States continues to face one of the most important public deficits in their history. Latest numbers estimate the American debt to be around 14, 400 billion dollars, which is more than a hundred per cent of their Gross Domestic Product (Le Monde 2011a). These numbers show that the United States is on the verge of debt spiral that might severely affect its economy and that might drive it back to recession. Moreover, the presidential elections are approaching, and if Obama wants to have a chance in being re-elected, his focus must be firstly on what's happening in his own country. Consequently, going for more defence spending does not really look like a viable political option for President Obama. He "can no longer afford to play global policeman alone" (Landler 2011).

On the international scene, Obama, since the beginning of his term, rejected the interventionist and unilateral policies of his predecessor. But with the international community urging action and with French and British willingness and determination, Obama finally decided to step in. President Obama's entourage may also have played a role for the U.S. involvement. Such women as Susan Rice (the UN ambassador), Samantha Power, Gayle Smith (two national security advisers), and Hillary Clinton are believed to be "haunted" by the Rwandan and the Bosnian massacres since they also held senior positions during these two episodes. Pushed by the "Never Again!" motto, journalists argue that these women diplomats – or the "Valkyries" as they are being called – are the "hawks" of the Administration, and the ones "urging President Obama to man up against the crazy Gaddafi" (Landler 2011).

Nevertheless, before participating in the coalition, the United States wanted to ensure that the intervention was as multilateral as it could possibly be, and that no ground troops would be sent. This could be seen through the control of commands of the operations being held by NATO as a way of ensuring further multilateralism, and of sharing the burden and the costs with the rest of the international community (especially reluctant countries such as Canada who would not intervene without NATO's involvement).

Indeed, the U.S. involvement was highly criticized and a fear of engaging in a long and costly war was among the main concerns. But the situation in 2011 is different from 2003. Firstly, the intervention has the Arab countries' support (which was done through a condemnation of the Libyan actions) (UN 2011a) and countries such as Qatar and the United Arab Emirates are even participating in the operations (Le Monde 2011b). Gaining that endorsement from the Arab League was a key point for the American engagement. Secondly, live broadcasting, especially by Al Jazeera, as well as the clear evidence of massacres made the intervention even more necessary. Furthermore, the US concerns were overarching across other Gulf countries, including Bahrain (Landler and Cooper 2011). The Gulf region, where U.S. military bases are widely present, has been an important region for the U.S. national interest since the early 1900s, especially in regards to energy security.

But the most important consideration remains the American image and the considerable Anti-American sentiment in the Middle East. Obama, by stepping down from the leadership role and by ensuring both UN and Arab League endorsement, sought to avoid the perception of an American-led intervention, going to war for the third time against a Muslim country (Bergen 2011). However, it is worth noting that if the United States had not intervened, it would have shown the international community a very selective way of promoting democracy and human rights, and would have negatively affected the U.S. image. Consequently, the relationship between the United States and France proved to be a "marriage of convenience" (Landler 2011) where a reluctant Obama was followed Sarkozy as he stepped into the leader's role regarding Libya. Both were partly driven by political calculations and by a desire of re-establishing a certain image on the world stage.

### **Conclusion**

The international intervention in Libya is different from the invasion of Iraq in 2003. While both fighting dictators, the current intervention succeeded in gaining legality and legitimacy due to the UN resolutions, Arab countries' support, the Responsibility to Protect Doctrine, and strong international support. This intervention also highlighted

the importance of framing. On one hand, the role of the ICISS and civil society seized the window of opportunity that opened after the Rwandan and Bosnian episodes, and succeeded in mobilizing support from senior officials and influential world figures to put the concept of Responsibility to Protect on the UN agenda. These organizations clearly contributed in the emergence of a new norm and of “internationally shared understandings” (Joachim 2003, 268). Framing of that concept, as well as the process of framing it, were essential in legitimizing humanitarian interventions: state sovereignty was no longer “a licence for a dictator to murder his citizens” (Patrick 2011). On the other hand, framing the Libyan campaign itself as a commitment to the principle of the Responsibility to Protect proved to be the key element, if not the only one, gathering support and authorization from the right moral authority, that is, the UN, the institutional body representing the international community.

Nevertheless, the escalation of events in Libya display how framing can easily be manipulated and modified. The original intent of the intervention was to help civilians but declarations from the French, British and American governments are increasingly and subsequently hinted at the ousting of Gaddafi – a complete regime change – for the success of the intervention, thus stepping outside the original mandate of the UN resolution (Le Monde 2011c). Responsibility to protect was intended to save civilians but it increasingly seemed that it took a political aspect and stepped aside from the main objective of helping the Libyans take control of their own affairs without foreign intervention or presence. Consequently, this begs the question, is the Responsibility to Protect opening the door for a new kind imperialism, the “Humanitarian Imperialism?” (Wente 2011). Additionally, are we going to see more interventions on humanitarian bases? Does it mean that the international community will increasingly intervene on the grounds of RtoP? Not necessarily. Securing a UN resolution is not simple considering the omnipresent chance of a veto vote by one of the five permanent members of the Security Council. Moreover, guaranteeing both the legality and the legitimacy of an action is difficult. But still, two things are certain. First, as Doyle noted, “the intervention in Libya is sure to shape how RtoP is applied in the future” (Doyle 2011), and second, there is no such thing as impartial intervention (Betts 1994) free from states’ selfish interests.

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## Instability in the Northern Triangle of Central America:

### Drug-Trafficking, Organized Crime and Canadian Foreign Policy

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*The current political instability and drug related violence in Central America is a global security concern. The Northern Triangle – El Salvador, Guatemala and Honduras – are gripped by weak institutions, poverty, violence, organized crime and drug trafficking. This report examines the origins of Canadian involvement and US-Canada relations in Central America, the current predicament in the region and Canadian national interest in the Northern Triangle. The purpose is to explore current national policy engagements in the Northern Triangle and to address the role of the Canadian government in effectively addressing this hemispheric challenge.*

#### The Shifting Central America

The epicentre of drug violence and instability in the Americas has an increasingly fatal grasp in Central America. While Columbia and Mexico have traditionally represented the hub of cocaine trafficking, recently the Northern Triangle of Central America—El Salvador, Guatemala and Honduras—have become the latest casualties of organized crime. The growing instability in the Northern Triangle and the capacity of organized crime to transcend borders presents a deteriorating security dilemma for Canada and the Hemisphere.

The origin of Canadian engagement in Central America coincides with the rise of the Central American crisis of the 1980s. National interest in the region was based on factors such as security, immigration, aid and domestic pressures. Canada pursued multilateral institutions as a forum for restoring peace which created tensions with US policies of interventionism in the region. During this decade Canadian foreign policy began to actively engage in the Hemisphere and to formulate a vision for the Americas. This pace of greater Canadian involvement in Latin America would fade throughout the 1990s and into the early millennium.

Since 2007, re-engagement in the Americas has become a priority in Canadian foreign policy and coincides with the rise of instability in the Northern Triangle. Canadian interests in the region have a domestic component, but are ultimately driven by a concern for larger and far-reaching destabilization in the Americas. Thus far the Canadian approach to the region has been through multilateral institutions and collaborative regional initiatives that support increased state and judicial capacity. The instability in the Northern Triangle is likely to intensify without long-term, sustainable policies for building state capacity; a coordinated international effort that will leverage effectiveness and the development of a broader hemispheric strategy that addresses consumption and demand in drug-trafficking.

### **The Central American Crisis of the 1980's**

Before the Central American crisis of the 1980s, Canadian foreign policy in Latin America was traditionally imparted to the United States, with the exception of engagement in Chile, Cuba and Commonwealth Caribbean states. The 1980s mark a particularly brutal and violent period for Central America, which was homogenous in its low levels of industrialization, underdevelopment, skewed economic structures and weak, undemocratic political institutions. The victory of the Sandinistas in Nicaragua in 1979 initiated the breakdown of old regimes in region, but violence, instability, civil war, intrastate conflict and extra-regional involvement precipitated the Central American crisis.

By 1986 in the “the five ” Central American nations—Costa Rica, Honduras, Guatemala, El Salvador and Nicaragua— more than a third of labour force was unemployed, real wages had decreased, inflation soared and the economy had contracted by 28-percent. (CEPAL, 1987, 3). The Canadian government became increasingly engaged in the region with assistance through aid programs, providing \$3.16 million provided to Canadian NGOs and food in the first half of the 1980s (CIDA, 1984, 91). Overall aid for Central America more than doubled from \$22.5 million in 1981 to \$55.4 million in 1987, and reflected the ongoing commitment and investments in the region (CIDA, 1987, 51). The increasing violence and poverty in the region precipitated the exodus of refugee claimants and by 1987, 18-percent of the Central American population was internally

displaced or forced to flee. From 1983-1988, 17,000 refugees entered Canada and from 1983-1986 approximately 3,000 refugees a year were claimants from Central America (Molot, 1990, 238). The predominance of Central American claimants was important in fostering Canadian interests in the region. This occurred in conjunction with increasing calls to action by domestic NGOs and unions that insisted the Canadian government address the issues of aid and US military interventionism in Central America.

Given that Central America had never figured prominently in Canadian foreign policy, it is critical to explore the nature of this unprecedented interest in the 1980s. As mentioned the domestic non-governmental sector had strong interests and relentlessly attempted to influence Canadian foreign policy. The first high-level trade and investment mission to Central America occurred in 1979, but in the 1980s Canada did less than 2-percent of total annual trade with all of Central America (Haglund, 1987, 796). The focus of the Canadian economy in the Americas was geared towards Commonwealth Caribbean nations and the US, therefore engagement in the Central American crisis was not founded on economic interests. The impetus for Canadian foreign policy in the region during the 1980s is best deliberated through the lens of security.

Both the Canadian and US government considered security as a fundamental reason for engagement in Central America. Security interests could be framed in the context of East-West, North-South and West-West conflicts (Haglund, 1987, 811). The E-W conflict was favoured by the US as the logic for involvement in the region, whereby Central America was the breeding ground for the escalation of Soviet and Cuban power and necessitated military intervention. Canada under both the Liberals and Tories largely rejected the view that the conflict was an extension of the Cold War. Instead the roots of crisis were understood as N-S conflict, caused by disparity and inequality. Accordingly, security threats were mitigated through aid policies, diplomacy and the promotion of human rights. An underlying security interest throughout the Central American crisis of the 1980s was that of mounting W-W tensions. The Atlantic Alliance was threatened, given that Western European nations openly criticized US policies in the region. Fallout between the Western powers had a destabilizing potential by threatening to strain NATO relations. De-

escalation of the crisis was a prominent international focus, expressed in a resolution of the UN General Assembly in November 1986, supporting the decision of the International Court of Justice on Nicaragua's case against the US. The court ruled that the US had broken international laws by training, equipping, financing and supplying the contra forces and mining Nicaragua's harbours (North, 1990, 56). The US Reagan administration used its power to actively sabotage the ability of the U.N. to fulfill its agenda in Central America and this threatened irreversible harm to institutional authority of the UN. For Canada as a middle-power the UN was an important forum for influence and the fact that the US could single-handedly disrupt attempts by the international community to resolve conflicts was a major source of W-W tension (Keating, 2002, 4).

Central America represented serious points of W-W tensions between Canadian and US given the divergent policies. Each nation differed on the cause of the crisis and were more fundamentally at odds on how to achieve a mutually desired outcome—a region with a peaceful, liberal, capitalist government. The foreign policies of the two nations diverged on the manner in which to accomplish this outcome, Canada attempted to use diplomatic means and the US exercised military actions. US policies and military interventionism in Central America violated the fundamental tenants of Canadian foreign policy which rested on; respect for international law, peaceful resolutions, self-determination and the use of multilateral institutions. Canadian criticisms of US actions in the region were framed as condemnation of all “outside intervention”. Structuring Canadian foreign policy criticism in this manner was purposely vague; as such a broad statement could also apply to the Soviet Union and Cuba. Throughout the 1980s the Canadian government frequently upheld the long-standing practice of framing policies in terms of international institutions and obligations. While outright criticisms were rarely made of U.S. policies, in the instances where it occurred the UN was the preferred forum. Canadian actions in Central America were conducted in a manner that acknowledged the potential escalation of W-W tensions, while upholding fundamental principles of national foreign policy.

Canadian involvement in the peace process was its clearest divergence from U.S. policy

in Central America. The Contadora Process was the initial attempt towards peace in the first half of 1980s and laid the groundwork for the more substantial stages of the process, the Esquipulas negotiations. Esquipulas was composed primarily of Central American nations and was a regionally led process to peace. Canada remained involved in roughly the same capacity as it had during the Contadora portion of the negotiations, providing advice primarily on areas related to border patrols and peacekeeping. In 1988, the Esquipulas countries asked Canada to assist, in conjunction with the UN to set the “verification and control follow-up machinery” and framework for peacekeeping (Government of Canada, 1988, 13) In 1989 Canada was instrumental in the organization and dispatch of reconnaissance and observer operations, ONUNCA and ONUSAL, for the UN in Central America (Graham, 1988, 40). Quiet diplomacy through aid programs, peacekeeping and the use of multilateral institutions was often utilized to oppose the military intervention and uphold the tenants of Canadian foreign policy.

The end of the 1980s marked a shift in Canadian foreign policy and its role in the Americas. Since the inauguration of the Organization of American States (OAS) in 1948, Canada had displayed no interest in becoming a member and seemingly eluded hemispheric engagement. In 1989, as the peace process in Central America and Canadian involvement intensified, Prime Minister Brian Mulroney announced that Canada would seek membership because “Hemispheric cooperation is integral to Canada’s interests and the OAS holds the key to that co-operation. Canada’s presence here today signals a new departure in our relations with Latin America. We recognize that our interests are directly engaged here. We will no longer stand apart” (Government of Canada, 1989, 4). Membership in the OAS was consistent with Canadian history and experience in multilateral forums, mediation, pragmatism and its non-imperialist image. Canada entered the final decade of the century signalling that it identified as a nation of the Americas and was transitioning towards a more engaged foreign policy in the region.

#### New Disorder in the Northern Triangle

While the 1980s marked an unprecedented engagement in Central America by the mid-1990s, Canada was heavily distracted from the region. The withdrawal from hemispheric

activities was in part due to increasing peace and stability in the region. The shift was also due to competing crisis in other global regions and specifically a greater focus on development, health, human rights and poverty issues in Africa. In terms of security concerns, the post-9/11 years resulted in unparalleled focus on the US-led ‘War on Terror’ and an increasing preoccupation with terrorism as a destabilizing force. During the late 1990s and at the turn of the century many of the economic policies, based on free market principals, envisioned to promote development in Latin America were falling short or were rejected. An increasing distrust for international financial institutions such as the International Monetary Fund and ensuing economic instability in the Latin America resulted in Canadian economic disengagement in the hemisphere. While Canada focused on other competing priorities and commitments, the hard sought peace and stability in Central America was beginning to falter.

Unlike the 1980s, when Central America was in the midst of conflict with an ideological-political tilt and interventionist practices, the current instability is due escalating drug trafficking and organized crime. Throughout the 1990s, South American drug traffickers routed North American bound narcotics, specifically cocaine, through the Caribbean. With increased anti-trafficking measures implemented in the Caribbean, with major engagements from the US, Mexico soon became the new route. While controversial but touted as effective, Mexico launched its version of the “war on drugs” at the end of 2006, mainly through better surveillance of major air and sea arteries. This in no way eliminated the grips of organized crime but created a more restricted and unfavourable environment for operations. Not to be deterred, the hub of the cocaine trade relocated to three neighbouring nations, referred to as the Northern Triangle— El Salvador, Guatemala and Honduras.

This part of Central America has become the new frontier for drug trafficking; where 84 percent of cocaine that reaches the U.S. passes through the region (Archibold, 2011). In the Northern Triangle, Guatemala now transports 60 percent of drugs in transit from South American-drug producing countries to the US, and the homicide rates have increased in conjunction with the accompanied growth of organized crime (Beaubien,

2011). The nation has largely ungoverned border with Mexico and is a prime location for the drug trade and the advance of cartels, namely Los Zetas and the Sinaloa cartel. Guatemalan security forces lack the capacity to confront traffickers, the judicial system is increasingly unable to enforce the law where only 1/20 homicides are prosecuted and the state continues to be weakened by the encroachments of organized crime (The Economist, 2011). The growing instability in Guatemala indicates the growing capacity of organized crime and drug-trafficking to continue to threaten the Northern Triangle.

The severity of the situation in the Northern Triangle is perhaps best echoed by the homicide rate, which are measured per 100, 000 of the population. Globally the average homicide rate is 6.9 and while the Canadian rate is well below that average at 1.8 the average homicide rate for the Americas is 15.6. The steady decline in homicide rates in Central America from 1995 to 2005 has reversed and increased sharply since 2007. Traditionally the topic of drug related violence and homicide in the Americas conjures thoughts of Columbia and Mexico. While the average homicide rate in Mexico is 18.1 and 33.4 in Columbia, these nations do not represent the highest figures for the Americas. Unfortunately this is bestowed to Honduras with a rate of 82.1, followed by El Salvador with a rate of 66 and Guatemala –surpassed only by Jamaica—with a rate 41.4 which has long been contested to be artificially low (UNODC, Global Study on Homicide, 2011). These alarmingly high homicide rates have also encroached into other nations in the region and serve as an indication that Central America is not nearing a crisis point but has arrived. The ‘mano dura’ (strong-arm) tactics that are implemented to fight the increasing lawlessness, violence and organized crime often fall short of addressing other underlying causes of the crisis

The situation in the Northern Triangle is a reminder that the rising levels of violence, homicide and corruption will continue to cause the deterioration of state-run institutions and loss of governmental control over national territory. Drug-related violence and corruption impact Central American economies with a loss of 8% of its GDP (Economist, 2011). Systemic poverty, decreasing GDP and low educational attainment exacerbated instability, increase the vulnerability of communities and hastens the encroachment of

organized crime. Events such as the global economic downturn may further exacerbate instability, as economies slow down and remittances bound for Central America decrease. The economic profits from the cocaine trade are great and seriously undermine the ability of the nations in the Northern Triangle to overcome such a profitable industry. In 2008 the amount of cocaine shipped through Central America carried a street value of more than half the per capita GDP of Honduras and roughly 20 times Panama's and Guatemala's combined 2007 defence budgets. It was also more than 100 times the amount allocated by the United States under the Mérida Initiative to assist interdiction efforts by Central American nations (World Bank, 2011, 12). Strengthening weak states and counteracting the organized crime related to drug trafficking is essential for economic and social development to occur. The declining situation threatens not the nature of democracy in the fragile states of the Northern Triangle, but has the capacity to destabilize Central American and create a larger hemispheric security dilemma.

#### Canadian National Interests in the Northern Triangle

During a tour of the Americas, in July 2007, Prime Minister Stephen Harper stated that "Canada's government has made it clear that re-engagement in the Americas is a critical international priority for our country...Canada is committed to playing a bigger role in the Americas and to doing so for the long term" (DFAIT, 2009). The focus of the new strategy was to promote prosperity through greater economic ties, support for democracy and enhance security in the region. As the strategy was unveiled, violence and instability were gaining strength in the Northern Triangle and presented a key engagement opportunity. The volatility in Central America falls within Canadian security priority and is an issue of national interest.

There are however distinctions in the hierarchy of national interests, broadly defined in three categories: vital interest, major interest and other interests (Rempel, 2006). Vital interests are those necessary for Canadians and directly related to prosperity, security and independence. The Canadian national economy is largely carried by its trading relationship with the US, which accounts for 78.9 percent of Canadian exports and 54.1-percent of imports (Global Finance, 2011). Canadian economic interests are

shaped by its interconnectedness with the US; therefore instability in the Northern triangle does not directly impact vital Canadian economic interests. Vital Canadian security or sovereignty interests are also not directly impacted by the instability in the Northern Triangle given the lack of state to state threat. At the foot of the hierarchy are “other” interests which refer to desirable policy outcomes that are only remotely linked to Canada’s national objectives. In this context the Canadian position would perceive instability in the Northern Triangle as a region where there is little at stake in terms of deciding to engage or stand by. While this would enable Canadian foreign policy to select priorities deemed relevant and appropriate in the region on an ad hoc basis, it appears this is not the desired strategy.

Given the severity of instability in the Northern Triangle and the implications for larger scale impact, it is more conceivably a major interest—which are those that contribute to the most immediate national security and prosperity objectives—for Canadian engagement. The proximity of the Northern Triangle to the US and the potential for progressive regional instability presents real concern for Canada’s major ally in terms of economy and security. As violence spills over the borders, the security threat posed to the US and the potential for greater destabilization in Mexico have implications for the Canadian economy in terms of NAFTA and regarding the ability of the US to focus on mutually beneficial economic interests. Combating organized crime and drug trafficking in the Americas remains a US based initiative but impacts Canada as a major defence ally to the US, especially if violence spills northward. The Northern triangle carries legitimate security concerns for the nation due to Canadians traveling abroad and the potential influx of refugees or illegal immigration. The ability of this crisis to transcend borders elicits real concerns that the exportation of violence, trafficking in narcotics or small arms and other activities associated with organized crime will impact Canada, especially in national Diaspora communities and in urban centers. National priorities and commitments to democratic governance, economic prosperity and security are impacted by destabilization in the Northern Triangle and therefore represent a major interest for Canadian foreign policy.

### The Existing Canadian Approach

Given the importance of the Canada-US relationship, the fact that the war on drugs is historically a US initiative, the potential for W-W tension is reminiscent of those that existed in Central American in the 1980s. Previous US strategies in the war on drugs, such as militarization programs, increased criminalization of drugs and controversial reforms, have often diverged from the use of multilateral institutions more commonly implemented in Canadian foreign policy as a means of addressing drug-trafficking. Combating the spread of cocaine and related organized crime in the Americas—including a long history and conflicting relationship with key nation such as Columbia—has provided the US with lessons on the more effective approaches. A major shift in US foreign policy towards drug trafficking in the Americas occurred with the Mérida Initiative in 2008, an agreement between the US, Mexico, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Haiti and the Dominican Republic. The intention was to fight the threat of drug trafficking and transnational crime in the Western hemisphere. A three-year, \$1.4-billion program with Mexico receiving \$400 million per year in aid and a significantly smaller amount of \$65 million per year divided amongst the nine remaining nations (Lowell and Mines, 2011). Some prominent outcomes have been the success in increasing the capacity of Mexican institutions to disrupt transnational criminal organizations, greater sustainability in rule of law, reforms to Mexico's police and security forces and a new collaborative U.S.-Mexico partnership. Essential to the Mérida Initiative is that US engagement occurs in a supportive and facilitative role through third-country technical expertise and equipment that maximize benefits for Mexico. While this initiative is by no means flawless, it is responsive to priorities set by Mexico and is a regionally based program that signals increased willingness of the US to collaborate in the quest for greater stability in Central America.

In many respects the Canadian foreign policy response to the current instability in the Northern Triangle has pursued a path similar to that taken during the Central American Crisis of the 1980s. Once again Canada has approached the region implementing non-interventionism, multilateral forums and assistance through the provision of aid or expertise. The main multilateral groups through which Canada co-operates for

international drug control are the United Nations Office of Drugs and Crime (UNODC) in an active role in the central policy-making bodies of the Commission on Narcotic Drugs (CND) and the Commission on Crime Prevention and Criminal Justice (CCPCJ). Canada has also responded to growing instability in the Northern Triangle through the OAS under the Unit for the Promotion of Democracy (UPD), which has a regular presence in the electoral processes and political crises in the region and in the Inter-American Drug Abuse Control Commission (CICAD), the drug-fighting body of the organization. Canada has taken the situation in Central America seriously, through the OAS, by pressing for democratic initiatives that are essential for strengthening the capacity of the region to combat organized crime and drug-trafficking.

Canada continues to engage the growing crisis in the Northern Triangle through the UNODC and recently provided \$430,000 for the creation of a network of Central American anti-organized crime and drug units that will strengthen the capacity of the region's investigators and prosecutors to handle complex, transnational cases. This will provide a safe forum for sharing information and intelligence on trends, organizations, routes and methods with counterparts. Canada is also contributing \$743,000 to the Santo Domingo Pact and Managua Mechanism which will fight drug trafficking and transnational organized crime by preventing criminal activity through an establishing information-gathering mechanism and the provision of technical assistance and training. Over \$542,000 was recently contributed to crime prevention and criminal justice reform efforts in the Americas by providing technical expertise, conducting needs assessments and developing and disseminating knowledge tools in support of technical assistance. Canada is also supporting an asset recovery network, contributing over \$530,000, in Central America assists in convictions and confiscation of assets in cross-border criminal cases (DFAIT, 2011). Additionally support is provided for larger international security efforts through funding and equipment for the Comando Regional de Entrenamiento de Operaciones de Mantenimiento de Paz (CREOMPAZ), a regional peacekeeping training school in the region (Government of Canada, 2009). The UNODC has provided an essential multilateral forum in which Canadian foreign policy is able to engage in promoting stability in the Northern Triangle.

Fundamentally, Canada is also supporting regionally based initiatives, contributing over \$5.2 million to help address security challenges and implement institutional reforms through the Central American Integration System (SICA ) (DFAIT, 2011). The seven member nations— Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama— commit to cooperate in order to develop and implement a joint security strategy. In part SICA is designed to “set up a new model of regional security based on the reasonable balance of forces, the strengthening of civilian authority, the overcoming of extreme poverty, the promotion of sustainable development, the protection of the environment, and the eradication of violence, corruption, terrorism, and drug and arms trafficking” (SICA, 2011). Regionally based initiatives are essential stability in the Northern Triangle and continue to be encouraged in Canadian foreign policy.

Canada’s contribution is funded by the Department of Foreign Affairs and International Trade through the Stabilization and Reconstruction Task Force’s (START’s), Global Peace and Security Fund (GPSF) and the Anti-Crime Capacity-Building Program (ACCBP). The Global Peace and Security Fund is managed by START, which leads Canada’s coordinated approach to assist fragile and crisis-affected countries. The fund provides financial and operational resources that contribute to conflict prevention and peace building, including justice and security system reform initiatives. Since START’s creation, \$113 million have been contributed to initiatives in the Americas that promote peace and security, human rights, democracy and the rule of law. Established in 2009, the ACCBP provides up to \$15 million a year to enhance the capacity of beneficiary states, international organizations and non-governmental entities to prevent and respond to threats posed by transnational criminal activity throughout the Americas (DFAIT, 2011). In Central America and the Caribbean, funding is focused on preventing illicit drug trafficking, reforming the security sector and preventing crime. Recently Canada has focused on strengthening the judicial and security sectors in Guatemala with a contribution of \$7.1-million, including \$4.6 million from the GPSF and \$2.59 million from the ACCBP. This will support a number of projects being implemented by a variety of international and Canadian organizations that will reform and strengthen security and justice institutions in Guatemala.

Canadian defence actions, through the Department of National Defence, against organized crime and drug trafficking are undertaken through the rationale of human security as a vital component to Canada's security agenda, as outline in the Canada First Defence Strategy (DND, 2011). Actual defence commitments to interdiction of drug trafficking in the region have been modest and occur in collaboration with the US. The department of national defence has increased its commitments to the region such as through the Military Training Assistance Program where budget allocation to the Americas have risen from 18-percent of its total budget in 2005-2008 to 25 percent (DFAIT, 2009). CIDA also has a role in the Northern Triangle and as part of the 2009 Aid Effectiveness Agenda; the Government of Canada announced that 80 percent of bilateral resources would be focused on 20 countries, among which was Honduras (CIDA, 2011). While CIDA programs are not designed to directly impact organized crime, programs in Honduras have focused on children, youth and food security and thereby have indirect impacts on promoting stability. By addressing poverty issues in the Northern Triangle, CIDA funded programs help mitigate the weak capacity and limited resources of the state and can diminish the lure of organized crime. Canada has clearly become increasingly engaged in the Northern Triangle, selecting to support a wide range of bilateral programs of cooperation and through the use of forums in multilateral institutions.

#### Continued Efforts: Mitigating Organized Crime and Drug-Trafficking

Despite increased commitments in the Northern Triangle, success is not easily obtainable because of the nature of organized crime which is mobile, vicious and quick. Canada has continued to focus on bilateral and multilateral initiatives the barriers that exist to this approach are that "Multilateral co-operation has a restricted capacity to face these threats because it has been based on the principle of sovereignty. Consequently, the measures proposed are limited by the institutional strength of every state" (Chabat, 2011). The structural institutional weakness in the region prevents the enforcement of laws and is a barrier to success in the Northern Triangle. Multilateral arrangements that provide financing or equipment are not a quick-fix since the issues of organized crime are further complicated by corruption because "in order to target the profits of criminal organizations they need effective institutional tools and they do not have them precisely because of

the immense economic power of organized crime that corrupts the state itself” (Chabat, 2011). Initiatives that attempt to address criminal organizations in Central America must account for the fact that the states have limited capacity and that reforms are easily hindered by corruption.

In Central America, Canadian foreign policy has a standing tradition of international co-operation, reinforcing national public institutions to fight organized crime and contributing to initiatives that build state capacity. This by no means will ensure the desired outcome but are essential components to success. In an environment of fiscal conservatism the potential for financial contributions are increasingly finite. Effective use of funds will be paramount to stability in the Northern Triangle in finding; therefore investments should continue to be heavily implemented on initiatives that have proven capacity to bolster the capacity of the state. A long-term Canadian commitment and vision to support democratic endeavours and facilitate institutional strength in the Northern Triangle is needed.

The creation of a well defined, sustainable policy approach will be essential for future engagements in the region and will provide a standardized approach that most effectively uses funds.

Drug trafficking and organized crime now impact most of Central America and a more integrated regional approach is necessary. This must be undertaken with South America and the US, for Canada this will require collaborating with nations that share common interests of multilateralism and state building. Mobilizing support will also require a strong partnership with agencies, individuals and civil society in the Northern Triangle. While widespread cooperation and integration have been lacking in Central America, developing a harmonized approach will be complex but necessary for success. Increasing coordination efforts that engage the Northern Triangle can enhance effectiveness in tackling security threats, leverage capacity-building expertise, prevent the duplication of similar initiatives and efficiently employ resources.

Instability in Central America which is perpetuated by organized crime and drug trafficking does not thrive without the demand for consumption. Of the roughly 440 metric tons

of cocaine available for consumption, around 63-percent is consumed in the Americas and 29-percent in Europe (UNODC, 2011 Drug Report, 121) The single largest cocaine market is the US with an estimated consumption of 157 metric tons of cocaine, equivalent to 36-percent of global consumption. Almost 37-percent of all cocaine users worldwide are found in North America and is the sub region with the largest number of users, accounting for more than a third of all cocaine users' worldwide. The prevalence of cocaine users among the population is 2.4-percent for the US, 1.4-percent for Canada and .4-percent for Mexico (UN Drug report, 2011, 89). It is this demand that sustains the Latin American drug industry and results in the increasing instability in the Northern Triangle. Strategies that address supply-side tactics are essential but without addressing demand the issues in the region will perpetuate. Policies and laws related to the consumption and distribution of cocaine can impact the chain of supply and demand.

Given the high level of drug-related corruption in the criminal justice systems and the vast resources of organized crime in the Northern Triangle, many drug enforcement efforts may not be particularly effective in reducing instability. The policies and laws of major consuming nations have the potential to impact the manner in which drug trafficking and organized crime function within the Northern Triangle. The responsibility falls to major consuming nations to identify the implications of domestic drug policies and laws in Central America and collaborate to find practical resolutions. National policies that address local drug control methods can have serious implications for other state, especially if they are democratically weaker. This is exemplified by the trend of domestic interdiction measures that have propelled organized crime into weaker nations and in the end fail to address the problem on a larger scale. Effective policies that address the issues of the demand for drugs are vital since organized crime has proven its ability to transcend borders. Without this approach cartels will continue to be rapidly moving targets, thereby diminishing the ability to have long term, effective policy options for addressing drug trafficking and organized crime. At the core of the debate regarding demand is legalization versus criminalization, such subjects are rife with controversy and neither end has proven particularly effective in addressing the demand for cocaine. Despite these differing approaches to curbing demand there is a need for a broader

international approach for combating drug-trafficking in the hemisphere that goes beyond interdiction and instead strategizes to reduce demand. In particular this should include prevention and rehabilitation programs aimed at the reduction of violence, drug use and risky behaviour in youth in order to prevent the cyclical and generational nature of this crisis in the Northern Triangle.

### **Final Reflections**

The complex past and dark legacy of Central America— a region marked with poverty, violence and civil war—has positioned the region to be susceptible to drug trafficking and organized crime. The shifting epicentre of drug violence and instability to the Northern Triangle presents a growing challenge to Canadian and Hemispheric security. Canada has a history of commerce, investment, development, military assistance, immigration and the promotion of democratic values in the Americas. By examining the establishment of Canadian engagement in Central America policy makers gain a more comprehensive understanding the nature of this relationship, best described as cyclical intensity in terms of interest and awareness.

Since the 2007, re-engagement in the Americas has become a priority in Canadian foreign policy and the Northern Triangle is a region well suited for spotlight given the reaffirmed interest of security in the Americas. Canadian interests in the region have a domestic component, but are ultimately driven by the greater concern for larger destabilization in the Americas. Canada should continue to approach this issue with capacity building, security sector reform and support for justice institutions. There is also a new sense of urgency for stabilizing the Northern Triangle and this requires a fast, responsive and broader approach.

To utilize financial resources with maximum efficiency Canadian foreign policies should approach engagement in a coordinated international effort that will leverage effectiveness. The instability in the Northern Triangle is likely to intensify without long-term, sustainable policies for building state capacity and the development of a broader hemispheric strategy to address the consumption and demand for cocaine. Canada

should look ahead for opportunities to collaborate with Central American nations and broader global partners to combat organized crime and drug trafficking in the Northern Triangle, in order to promote security, democracy and prosperity in the Americas.

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