

CHAPTER ONE: GOVERNMENT



"CANADA HAS NEVER BEEN A MELTING-POT; MORE LIKE A TOSSED SALAD."

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I. TYPES OF GOVERNMENT (IDEOLOGIES)

A. DEMOCRACY

The term **democracy** comes from two Greek words: the word *demos*, which means "people", and the word *kratos*, which means "rule". So when the two words are put together, "democracy" means "rule by the people".

Democracy in its purest form is a kind of government in which the people rule themselves. Of course, we all know that this is not literally possible in a large, modern, and complex society. Simply put, the populations of modern countries are simply too large for each person to have a direct say in the everyday affairs of the government. Imagine every single person in Canada (all 32 million of us) going to Ottawa to make decisions for the country. It would be chaos! So, in today's world, democracy means that the public are ruled by representatives - representatives are people especially chosen by the public to speak and make decisions in government on behalf of the citizens.

Democracy is an ideal. In this context we can view an ideal as an attempt at achieving perfection. By Grade Eleven surely you have observed situations related to government and democracy when you would like to scream, "this is not the way its supposed to work", or "that's not fair". Ideals in any context are seldom entirely achieved. Does this mean we should abandon ideals? By no means! Winston Churchill, the famous Second World War Prime Minister of Great Britain and defender of democracy against Nazi aggression, once said: "Democracy is the worst form of government I know - until I consider the alternatives".

A modern democratic system has the following elements:

1. The most fundamental aspect of a democracy is the **constitution**. A constitution is a set of rules that represent the essential principles (the ideas and values) of the nation that both the government and the public must follow. In reality, the constitution severely restricts what the government can and cannot do. One of the most important functions of a constitution is to limit the powers of all levels of government. The government cannot violate the rules set out in the constitution. Should the elected government overstep its authority the courts can rule that decision is a violation of the constitution and the decision is revoked. In summary, the constitution is so important to the function of a democracy because between elections the people have given their government much power. Without a constitution that power could be abused.
2. Human rights are enshrined (protected) in the constitution. Human rights are also often referred to as civil rights. In a genuine democracy, citizens may go about their daily lives without having to worry about whether their rights are protected. Some of the most important human rights in a country like Canada are:
 - a) Basic freedoms like the freedom of speech, the press, religion and a long list of other freedoms protecting citizens from various forms of discrimination. These freedoms must be in the constitution (as opposed to just a set of laws passed by parliament) because laws are easily changed, while the constitution is very difficult to change.
 - b) In Canada, citizens' rights are protected in that portion of the Constitution called the Canadian Charter of Rights and Freedoms, commonly referred

to simply as the "Charter." In a multicultural country like Canada, one very important role of the Charter is to protect the rights of minorities. Because in a democracy we vote, and the vote of the majority is then accepted, it is possible that the rights of the minority could be abused. Many aspects of the Charter were written to prevent this mistreatment. The philosophers who defined democratic practices referred to this type of neglect as the "tyranny of the majority."

3. In a democracy, regularly scheduled, multi-party (known as bi-partisan) elections are held. Without giving the voters a real choice between at least two political parties in the electoral process, democracy cannot function.
4. Universal **suffrage** (the right to vote) is practiced. This means that all adults can vote.
5. The judicial (courts) and the political (parliament) roles of government are separated. For example, judges in Canada cannot be removed from office unless they commit a criminal offence. This prevents the government from dismissing a judge if he/she rules against the government.
6. A country like Canada is known as a federal union. This means that we have several levels of government (i.e., national, provincial and municipal). An important role of the constitution in countries such as this is to carefully define the powers of each level of government.

In order for a country to be considered democratic, all of the items in the above list must be present. Some so-called democracies do not have all of these items and are thereby known by various other names. These 'partial' democracies are often referred to as "strong-man governments." They usually have a constitution and elections, but the government does not follow all the aspects of that constitution.

B. COMMUNISM

Karl Marx (1818-83) was the "father" of communism. He was certainly not the first communist, but he deserves this reputation because he was the first to unify the whole package of ideas that represent communism. He believed that it was the duty of the state to develop economic equality so that all the people would share equally the wealth generated in a country. This conviction led him to believe that the capitalist system must be overthrown. After the communist revolution, communism would be practiced in such a way that there would be no classes of people like the "rich", "the middle class", or the "poor". Everyone would have approximately the same amount of wealth.

First, it is important to understand the difference between capitalism and communism. **Capitalism** is an economic system in which individuals or companies are free to compete with one another to produce goods and services for profit. In this type of system, the government does not interfere very much in the economy. The market (supply and demand) determines prices, and individuals are free to buy and sell whatever they want. In the capitalist system there are no limits on the amount of wealth an individual can accumulate. In a capitalist system it is common to have "wealthy", "middle", and "poor" classes of people. On the other hand, **communism** is an economic system based on community ownership of all property and the means of production (the facilities that make things). This means that individuals and companies are not free to pursue business in any way they want; rather, the commu-

nity of workers makes decisions about how much can be sold, to whom, and at what prices. Karl Marx predicted that one day the *proletariat* (meaning the workers of the world) would unite and overthrow the *bourgeoisie* (meaning the managers and owners). This violent revolution would be followed by a new system, which would eventually result in a communist state. In theory, a true communist society would mean that there would be no more private property. In other words, individuals could no longer own anything—everything would be owned by the state and divided up accordingly. However, throughout this Social Studies Eleven course it will become evident that communist governments have not been able to live up to Marx's ideals. Communism is made up of the following elements:

1. In communist countries, the government is tightly controlled by a small group of people who are members of the Communist Party. Very few people have a say in what the government does. During elections, citizens can only vote for a member of the Communist Party because there are no other parties to vote for.
2. In addition, many of the freedoms we enjoy in a democracy do not exist in the communist system. For example, communist governments restrict all publications, radio shows, and television shows (this restriction is called censorship).
3. In reality, even though economic equality may be achieved in part through social programs such as education, medical care, and housing, there are often many examples of situations in which the rich (usually high-ranking party officials) get richer and the poor get poorer—the very situation that communism is intended to eliminate.
4. Essentially, in a communist system, individual liberty is sacrificed for what is supposed to be the good of the entire state.

C. SOCIALISM

The term socialism can be confusing. In what once were communist countries people used the term socialism interchangeably with the term communism. In North America we use the term quite differently. In general, we use it when we want to refer to a very mild form of communism. When you study the list below you should remember the key features of a communist state for comparison.

1. WHAT IS SOCIALISM?

a) The Economy

In a communist state the government runs *all* aspects of the economy. In a socialist state the government runs only some aspects of the economy, but free enterprise (that is, capitalism) still functions. Usually the government will own or operate public utilities (e.g., public transit, the phone system, electricity distribution). In British Columbia for example, the government owns the British Columbia Ferry Corporation, B.C. Hydro and ICBC. It runs these on behalf of the people of this province. Does this make British Columbia a socialist state? Only marginally. Socialism, as referred to in our culture, is a matter of degree. So it would be safe to say that we have a few elements of socialism, but on the whole our economy is capitalist.

b) Ownership

In a communist state the individual is allowed to own only the barest essentials. Diehard communists used to say somewhat with tongue-in-cheek

that the only things an individual should own is their toothbrush and their hair brush. In a socialist state the individual is allowed to own many things- these things are generally known as consumer goods. So it is safe to say that in a socialist state people can own a car, their house and an indefinite number of other items.

c) Government

Again we must remember that in our society socialism is a relative term. Some governments have only a few elements of socialism (e.g., Canada, British Columbia) while others have many more. Sweden is a good example of a country that has many elements of socialism. This brings us to an element of socialism that often confuses students. Communist governments allow only one political party and are generally known as totalitarian. (See the first page of Chapter Four for a definition of totalitarianism). Often we simply call such states dictatorships. Socialism, on the other hand, can function very well in democratic states, and in fact most of the time socialist states are democratic. People either elect a party that believes in socialism or they chose not to go that route and elect a party that does not believe in socialism. For example, when a socialist government faces an election and they lose, they then resign to be replaced by (often) a non-socialist party. They do this because they are not dictators, but believe in the democratic process.

One of the most important things you can remember about socialism is that it is a relative term. Relative in this context means that this word is used in comparison with something else or in proportion to something else. A state, therefore, can be mildly socialist all the way to extremely socialist. Communism, on the other hand, is not used as a relative term. A state is either termed 'communist' or not.

D. FASCISM

Fascis is a Latin term, which refers to a bundle of rods, tied firmly together, with an axe coming out of the centre. This image was originally intended to symbolize the absolute authority of the state in ancient Rome. The word "fascism" was first used by Benito Mussolini (1883-1945) during his reign as the leader of Italy from 1922-43. **Fascism** as witnessed in Italy and Germany was made up of the following elements:

1. A belief in action over thought. This notion is also called pragmatism. Put in everyday language we would say, "If it works, do it." This belief rules out any decision-making based on moral convictions or principles. (This is in direct contrast to a democracy, where the constitution lays out the convictions and principles the nation must follow.) This belief was responsible for many of the unsavoury aspects of life in a fascist state.
2. A belief in extreme nationalism (love of country and willingness to sacrifice virtually everything for it).
3. A belief that the purpose of the individual is to serve the state, and that obedience and service are the ultimate duties of the citizens. In a democracy this relationship between the individual and the state is reversed, where at least in theory the state is to serve the individual.
4. A belief that all economic and intellectual resources of the state are to be directed towards the building of a proud, united country with a very

strong military. The ultimate goal of a fascist state was an imperial war of conquest. In such a war the fascist state would conquer another country and then enslave the people to benefit the conquerors. Largely, it was this aspect of fascism that led to the Second World War in Europe.

It is important to note that the type of fascist government found in Italy and Germany in the 1930s no longer exists. You may encounter the term, however, in reference to governments that maintain strict control over intellectual and economic life, and emphasize the development of strong militaries.

II. THE CANADIAN FEDERAL GOVERNMENT

The primary function of government is to ensure the well-being of its nation and citizens. It is important to note that laws and regulations alone cannot accomplish this feat. Although most people think of government primarily as a system of rules, its role is actually quite complex. In Canada, the government does maintain order in society through laws and policing services; but it also provides us with services such as health care, education, welfare, employment insurance, and pension plans. In addition, it maintains our rights and freedoms, such as the right to speak freely, the right to an education (in English or in French) and the right to a certain standard of living. You will find out more about these rights and others in the section on Canada's Charter of Rights and Freedoms. First, let's look at some of the basic terms that will help you to understand how the Canadian government functions:

A. DEFINITION OF TERMS

1. GOVERNOR GENERAL

In Canada, the monarch (King or Queen of England) is represented by the **Governor General**. The Governor General is chosen by the Prime Minister, and appointed by the Queen. He/she "governs" for a term of approximately five years. Although the Governor General announces many government decisions, he/she acts almost entirely on the advice of the Cabinet Ministers in the House of Commons. That is, the Governor General only very rarely makes decisions. He/she usually makes formal announcements of decisions that have already been made by others in government.

2. HEAD OF STATE

In Canada the **head of state** is the nation's supreme representative, but has no political powers. In Canada, the Governor General is the head of state. As mentioned above, in Canada, this is largely a symbolic position.

3. HEAD OF GOVERNMENT

The **head of government** in Canada is the **Prime Minister**—the political leader of the government of Canada. The Prime Minister is the head of a political party and has the responsibility of governing the country. Because the Prime Minister controls the Cabinet and thereby the House of Commons he/she has much power in the Canadian political system.

4. PARLIAMENT

Parliament is the name given to the group of representatives who govern the country. Parliament is the branch of government that makes laws. A **Member of Parliament (MP)** is elected for each **riding** (an area containing approximately 100,000 people). Other terms used in place of riding are constituency, electoral district, or seat. The Prime Minister is the top executive of parliament. Below

the Prime Minister is the Cabinet (see p.9). Below the Prime Minister and Cabinet is the collection of regular MPs who are often referred to as backbenchers. The Governor General and the Senate are also part of parliament, although they do not have the real powers that the MPs have.

5. HOUSE OF COMMONS

The group of all **Members of Parliament**, including the Prime Minister and the Cabinet, is called the House of Commons. MPs are elected by the citizens of Canada for a five-year term. Each member represents a riding. This means that there are 308 MPs in Canada because there are currently 308 ridings. MPs spend most of their time debating and passing legislation. Individual MPs also look after the needs of their constituents (the people who elected them).

The House of Commons is the focal point of the Canadian parliamentary system. This is so because at the heart of a democratic system is the idea that citizens, when they elect their representatives, are in fact empowering those representatives to act on their behalf. To illustrate the importance of the House of Commons students should realize that no law can become law in Canada without the approval of the House of Commons. Furthermore, the government of Canada collects taxes so the assumption is that someone in government will spend that money. No money can be spent by the government without the approval of the House of Commons. Canadians can express their satisfaction, or lack of it, most effectively when they vote on election day.

Every democracy has a legislative (law making) assembly. While the Senate (see below) also has a role in the law making process, it is the House of Commons that initiates and carries out this process. Generally proposals for laws or spending initiatives come from the Cabinet, but these must be debated and passed by the House of Commons. Occasionally laws are initiated by an MP who is not in the Cabinet. These are called private members bills. (A bill is a proposed law that has not yet been passed.) To further illustrate the power of the House of Commons, if the Cabinet introduces a bill or a spending initiative and the House of Commons rejects it then the Prime Minister and his Cabinet must resign (usually followed by another election). It is via this power of our representatives in the House of Commons that Canadians exercise their democratic control of government.

6. SENATE

In Canada the **Senate** is not an elected body. The Senate consists of 105 men and women appointed by the Governor General, but only on the recommendation of the Prime Minister. Senators include business people, journalists, lawyers, teachers, etc. Appointment to the Senate is usually given as a "reward" for service to the community. Senators must be at least 30 years of age when they gain office, and they can hold office until age 75. Their primary function is to investigate bills passed by the House of Commons (more on this in the next section). For a bill to become law the Senate must pass the bills passed on by the House of Commons. It is very rare for the Senate to refuse a bill from the House.

7. EXECUTIVE BRANCH

The function of the **executive branch** is to make and apply government

decisions. At the federal level, the executive branch consists of the Governor General and the Prime Minister.

8. LEGISLATIVE BRANCH

The function of the **legislative branch** is to make and amend laws. Another major task of the legislative branch is to determine how the government will spend the money it collects from the people. On the federal level, the legislative branch consists of the House of Commons, the Senate and the Governor General.

9. CABINET

There are approximately 30 members of the **Cabinet**. Members of the Cabinet are called Cabinet Ministers. Cabinet Ministers are selected by the Prime Minister from among the MPs who are from the party who won the election. Each province must be represented by at least one minister. Cabinet Ministers have no set "term" and remain in office until the House of Commons term expires or the government is defeated in the House. As a group, Cabinet Ministers are responsible for initiating new laws and administering government policy. They are responsible for initiating most legislation (new laws). Each Cabinet member is responsible for administering one department of government (e.g., Finance, Defense, Transportation).

III. CANADA'S DEMOCRACY

A. REPRESENTATIVE DEMOCRACY

In ancient Greece democracy meant that all citizens participated directly in the political process by voting in every decision. This system is called **direct democracy**. Imagine the type of organization that would be required for direct democracy to be in place today. Nothing would ever be accomplished! To avoid such a clumsy system, modern democratic countries have developed a system whereby citizens elect representatives to act on their behalf and are expected to voice the views or wishes of the voters. This is called **representative democracy**. This is the system we have in Canada. In order for this type of democracy to be effective, elected representatives must respond to the interests of the citizens, and must not abuse the power given to them. In Canada, we have almost unlimited opportunities to make the government truly representative. For example, we can support a particular political party or seek public office ourselves; we can demand the removal of public officials who behave improperly; and, at the most fundamental level, we all have the right to vote in elections. Ultimately, in a democracy, we have the ability to elect a new government if we are unhappy with the current state of affairs. Hence the expression, rule "by the people."

B. CONSTITUTIONAL MONARCHY

1. BRITISH MONARCH

Though we have our own constitution (set of laws) Canada still maintains ties with the United Kingdom. We choose to recognize the British monarch (currently Queen Elizabeth II) as our formal head of state. This means that Canada is a **constitutional monarchy**, with both a constitution and a British sovereign. (However, it is important to note that the monarch herself is also subject to the laws of our constitution.) Canada preserves its relationship with the monarch today for symbolic and sentimental reasons. The monarch would never interfere in Canadian affairs, and the monarchy merely represents our

historic relationship with the United Kingdom (Great Britain). Some former colonies of Great Britain have rejected the monarchy and, therefore, they have no more formal ties with the Queen.

2. GOVERNOR GENERAL

In Canada, the monarch is represented by the Governor General. Although the Governor General does give final assent to legislation passed by the government, he/she must act on the advice of the Cabinet Ministers in the House of Commons. Today, the Governor General has little actual power, and mostly performs ceremonial functions such as greeting foreign dignitaries, opening Parliament sessions, and celebrating the achievements of Canadians by presenting medals and awards. At the beginning of Parliament sessions, the Governor General reads the agenda for the session in what is known as the speech from the throne.

C. FEDERAL STATE

There are several ways in which a new country can define the manner in which it will unify itself - that is, bring all aspects of the country under one general government. Some countries, for example, the United Kingdom, have chosen a system called a legislative union. In this style of unification there are no provincial or state governments, only national and municipal (sometimes referred to simply as local government). The second method of unification is called the **federal system**. Both Canada (and the United States) have chosen this style of government. Because Quebec would never join a country in which it could not protect its culture in a provincial legislature, our Fathers of Confederation chose to accept a federal union.

In a federal union the government is divided into three levels: the federal government, provincial governments, and municipal governments. Each level has authority over different aspects of government. The federal government was given exclusive power in some areas (for example defence), as well as any areas not listed specifically as provincial powers. These "leftover" areas are called *residual powers*. They apply to unforeseen elements that did not exist in 1867 when Canada's constitution was written. The founding fathers of confederation could not foresee developments such as telecommunications, computers, air travel, etc., but had the foresight to award these new unforeseen developments to the federal government. When such circumstances arise the federal government decides who should receive jurisdiction or responsibility over that issue. The responsibilities are divided as follows:

1. GOVERNMENT RESPONSIBILITIES:

a) Federal

The federal government is responsible for foreign policy, immigration, taxation and currency, criminal laws, transportation, national defence, employment insurance, aboriginal peoples and the postal system.

b) Provincial / Territorial

Provincial or territorial governments are responsible for education, health care (the federal government pays a portion of the cost of health care and higher education), provincial taxation, provincial police, the management of natural resources, roads and bridges, workers' compensation programs, and housing.

c) Shared (federal and provincial)

The following services are shared between the federal and provincial governments: agriculture and farming, pension plans, and environmental protection. However, provinces manage their own natural resources.

d) Municipal (services specific to a community)

Municipal governments are responsible for areas such as: libraries, local police, local schools, fire departments, public transport, building permits, parks and recreation, and garbage and recycling collection.

The purpose of the diagram below is to allow you a point form a perspective on the notes that are to follow. The notes within the diagram offer the most basic or important features. The extended notes that follow the diagram expand this information.

The Canadian Parliamentary System

The Governor General

- Is the official head of state but must sign bills (laws) passed by parliament and therefore has very little power. Must not interfere in the political process.

The House of Commons

It consists of:

- The governing party which includes the P.M., the Cabinet and all the other elected members of the governing party.
- One or more opposition parties. The opposition party with the most elected members is called the Official Opposition. The duty of the opposition parties is to criticize the proposals of the governing party. They may occasionally also introduce bills.
- The House of Commons is the 'heart' of our democracy because it is we, the people, who elect members to the House of Commons. If you are listening to the news it is often simply referred to as "The House".
- It is also useful to remember that the Cabinet does not only sit in the House, but meets independently to plan the course of the government.

The Senate

- The Senate is appointed on the advice of the Prime Minister.
- Senators in Canada are usually appointed as a reward for long and loyal political service to the party in power.
- Their role in passing legislation is to review the work of the House of Commons and make recommendations. They must also vote on the bills passed by the House, but very rarely refuse to pass a bill after it has passed the House.
- Today many Canadians think that the Senate should either be abolished or made into an elected body.

IV. STRUCTURE OF THE CANADIAN FEDERAL GOVERNMENT

A. PARLIAMENTARY GOVERNMENT

Canada and the United Kingdom have a parliamentary government. In Canada, Parliament is the highest branch of government that can make laws. It consists of the House of Commons (elected officials) and the Senate (people who are chosen by the Prime Minister and then appointed by the Governor General). The Prime Minister and the Cabinet are the top executives in the government, but they are almost always members of Parliament. Even though the Prime Minister is the leader of the government, he/she is still responsible to Parliament.

B. THE EXECUTIVE BRANCH

The function of the executive branch is to make and apply government decisions. At the federal level, the executive branch consists of:

1. THE PRIME MINISTER

The **Prime Minister** is the head of the Canadian government. He is also the leader of the Cabinet. He/she is elected by the people (through party representatives) and is the leader of the party with the most elected representatives in the House of Commons. Although the Prime Minister has the authority to unilaterally (without consultation) decide on government policy, his/her position is dependent on the support of his/her party in the House of Commons. This means if the Prime Minister loses the support of a majority of Parliament members, he/she may end up losing office through a **vote of non-confidence**. A vote of non-confidence can occur in two ways. The House of Commons can defeat a bill introduced by the Prime Minister's government or the members can introduce a formal vote of non-confidence. In either case the government must resign. In a majority government situation a vote of non-confidence is highly unlikely because the ruling party members will simply defeat the motion.

The duties of a Prime Minister are as follows:

- a) To act as the voice of the nation by speaking at international meetings and addressing citizens on issues of national importance.
- b) To develop foreign trade and foreign policies.
- c) To recommend new Judges and Senators. The Governor General then officially makes these appointments, but always accepts the appointments suggested by the Prime Minister.
- d) To act as a spokesperson for his/her party and lead the **caucus** of his party (a group of Members of the House of Commons from the same political party).
- e) To select MPs for the Cabinet (patronage is sometimes a factor here – see page 15). One of the most important roles is to supervise the performance of the Cabinet members he/she has appointed. In this way, he/she can play a role in all the aspects of government.
- f) To advise the Governor General when to dissolve parliament so that an election may be called. In Canada a federal election occurs either when the term expires (five years) or when the Prime Minister decides an election is necessary before the five years have expired.

2. THE CABINET

There are approximately thirty members of the Cabinet. Cabinet Ministers are selected by the Prime Minister from among the majority party members in the House of Commons. Traditionally, the Prime Minister tries to ensure that each province is represented by at least one minister. Cabinet Ministers have no set term; they remain in office until the parliament's term expires, the Prime Minister removes them, or the government is defeated in the House of Commons. As a group, Cabinet Ministers decide on government policy (e.g., raising taxes, going to war, etc.). They are responsible for initiating and guiding most legislation (laws) through the House of Commons.

When Cabinet Ministers meet they may discuss concerns and even disagree, but once a decision is made public, ministers are expected to show full support of the Prime Minister and Cabinet decisions. This united front is called cabinet solidarity. Cabinet Ministers who are unable to maintain their support are expected to resign. If necessary, they may be asked to do so by the Prime Minister.

Cabinet Ministers are also given a particular department (or "portfolio") to administer such as the department of environment, finance, or health. To help the Ministers with this task, each Cabinet Minister chooses a **Deputy Minister** for their area of responsibility. Deputy Ministers are civil servants (non-elected government officials) who are employed by the government to help run a specific department and report to their respective Cabinet Minister. While they have little formal power, in reality they have considerable informal power as the day-to-day operations of the Ministry are carried out.

3. BACKBENCHERS

Backbenchers are the members of the governing party who are not in the Cabinet. The name stems from the fact that they sit behind the Cabinet Ministers in the House of Commons. The role of these members is to support their party while also keeping in mind the wishes of the public. On occasion they may vote against their own leaders or even resign if they disagree with a government proposal. (The term "backbenchers" may also apply to all MPs who sit in the back of the House of Commons.) Some parties elect a **party whip** to discipline members if they speak out against their party.

4. THE SHADOW CABINET

Opposite the Cabinet sits the **Shadow Cabinet**. This term refers to MPs from the Official Opposition who have been chosen to shadow a specific minister from the Cabinet. Minority parties (i.e., not the Official Opposition) can also have their own Shadow Cabinet to serve as critics of the current government.

5. THE PUBLIC SERVICE (CIVIL SERVICE / BUREAUCRACY)

Public servants are employees of the federal government who represent the link between Canadian citizens and the government. They perform much of the day-to-day work of government such as gathering statistics, delivering mail, and answering questions. As mentioned, the most senior **public servants** (i.e., Deputy Ministers) play a large role in advising ministers and even helping to draft new laws.

C. THE LEGISLATIVE BRANCH

The legislative branch is also called Parliament or the Legislature (at the provincial level). Its function is to debate, make and amend laws.

1. STRUCTURE OF THE LEGISLATIVE BRANCH

a) The House of Commons

(i) Members of Parliament

Members of the House of Commons (MPs) are elected by Canadian citizens for up to a five-year term. Each member represents a riding (i.e., a district of roughly 100,000 people). This means that there are currently 308 MPs in Canada. Members of Parliament (MPs) spend most of their time debating legislation called **bills**. Bills are a proposed law which may or may not pass and become law. The **Speaker of the House**, who is elected by MPs from among their own members, is responsible for running the day-to-day business in the House of Commons. Namely, he/she maintains order, applies the rules of Parliament to all, and acts as a "referee" of sorts. In this way, the Speaker of the House also controls debate.



The Mace

The **Sergeant-at-Arms** works for the Speaker of the House and carries out two duties: performing ceremonial activities (like carrying the **mace**), and taking responsibility for the security of the House of Commons and the Parliament buildings. The mace is a symbol of legislative authority held by the Speaker of the House. The mace plays

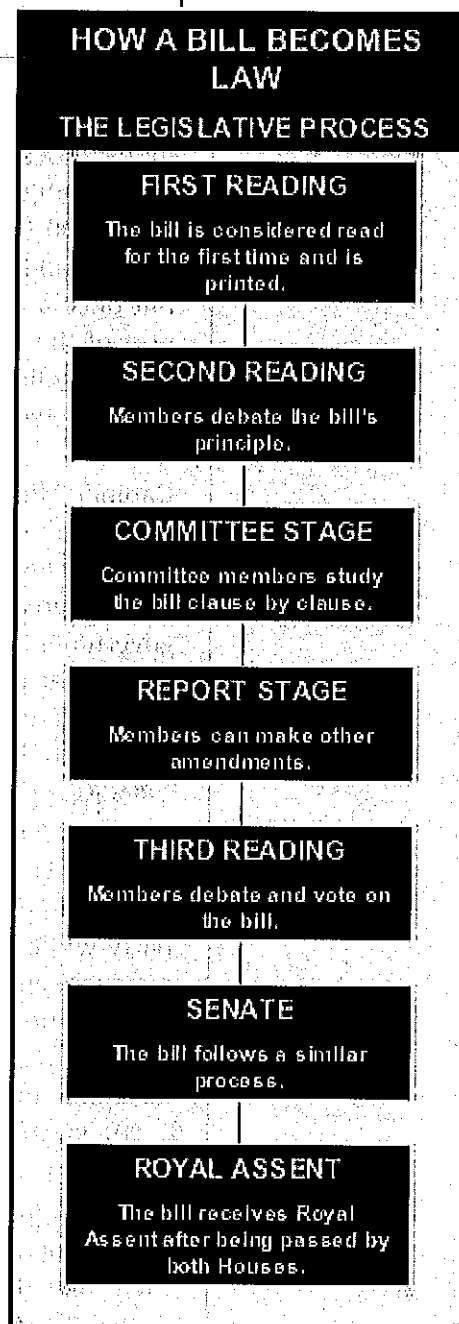
an important symbolic role in the opening of Parliament—without the mace, the House of Commons cannot hold its proceedings. The mace represents the authority of the Speaker of the House to conduct the business of the house.

(ii) Parliament Sessions

Parliament sits between September and June of every year with breaks throughout to allow MPs to work in their own ridings.

(iii) The Government and the Opposition

The party that holds the greatest number of seats in the House of Commons becomes the government. The leader of that party is the Prime Minister. The leader of the second-largest party becomes the **Leader of the Opposition**. The Opposition plays a very important role in keeping the government accountable, especially during **question**



periods. This is the time in which Opposition members can question government actions or raise issues of concern. The Opposition tries to put the government on the defensive in order to make it appear less effective. Although this may seem like a political tactic, question periods in which the Opposition puts pressure on the governing party can bring out important information that the public may never have learned otherwise. It is the official duty of the Opposition Party to criticize the governing party. In the House of Commons, members of the Opposition sit facing the government party.

b) Senate

The primary function of the Senate is to review bills passed by the House of Commons. In doing so, the Senate serves as a final “check” on the decisions made by the House of Commons. The Senate has the power to suggest amendments and/or send the bill back to the House of Commons. Ultimately, no bill can become law unless the Senate passes it. This may seem as if the Senate has great authority over the law-making process, but in reality, the Senate rarely rejects a bill passed by the House of Commons. Any changes that the Senate suggests usually involve clarification only.

(i) Controversy about the Senate

Some Canadian citizens and government officials think that the Senate is a waste of money and that we should get rid of it. Specifically, there are three issues surrounding the Senate controversy:

- **Lack of Specific Qualifications**

Some people feel that certain members of the Senate do not have the qualifications to do their jobs. Most senators are ex-ministers or important lawyers etc., but they do not have to meet any specific requirements for the job because there aren't any official requirements.

- **Patronage**

Some people feel that the Senate is undemocratic. Its members are appointed, not elected; also, the Prime Minister tends to fill Senate seats with supporters of his/her own party (who may not be those best qualified). This practice is called **patronage**—the act of rewarding a party member for loyalty or support. In everyday language the people receiving these types of appointments are referred to as party “hacks.”

- **Representation by Population**

Finally, some people feel that the Senate doesn't represent the interests of the country as a whole. Many senators are based in central Canada (currently, 48 of the 105 (46%) represent Quebec and Ontario).

(ii) Proposed Solution

Rather than getting rid of the Senate entirely, a possible way to reform the Senate could be the formation of a Triple-E Senate. Supporters of this change would like to see a Senate that is Elected, Equal (no voting on party lines), and Effective (the current Senate lacks the ability to do much of anything). However, the issue of Senate reform has been

around for a number of years, and there has yet to be any change to the structure of the Senate.

c) Governor General

We have already looked at the role of the Governor General (see page 7).

D. THE JUDICIAL SYSTEM

Terms like '**judicial system**' seem complicated at times. If we put that term into context it becomes easier to understand. In our system of government we have legislators (law makers). We also have police forces to enforce these laws, arrest and charge lawbreakers. It is at this point the judicial system takes over. Laws insofar as they are written and enforced are often open to interpretation. It is up to our judicial system to make those interpretations and then make the appropriate ruling. The most simple rulings the judicial system makes are decisions like "you are guilty" (of breaking a particular law) or "you are not guilty". In the courts, a judge or a jury decide these issues. The judge then passes a sentence (punishment).

Most commonly the term judiciary refers to the judges within the system. However, sometimes it can refer to the whole system which dispenses justice in Canada. The judges are independent of the Executive and of Parliament. It is important for the judiciary to be independent so that it can interpret and make judgments on laws that might be contrary to the Constitution and the Charter of Rights and Freedoms.

The Canadian judicial system is inherited from the common law tradition in England. This tradition is the basis for the constitutional, criminal and civil law in all of the provinces and territories except Quebec, which has its own civil code (based on its French heritage). According to Canada's Constitution, almost all courts are provincial, with the exception of the Supreme Court of Canada.

1. THE SUPREME COURT

The highest court in the country, the **Supreme Court of Canada**, was created in 1875. In 1949, the Supreme Court became the final court of appeal for Canada. (Appealing is asking a higher court to reconsider a decision that a lower court has made.) This means that after cases are appealed at both the provincial and federal levels, the last place that they can be appealed is in the Supreme Court. The Supreme Court consists of nine judges (three of whom must come from Quebec). Judges are appointed by the Governor-General on the recommendation of the federal Cabinet. Since Canada patriated its constitution in 1982 and added the Charter of Rights and Freedoms, the Supreme Court has played a major role in ruling on human rights issues.

2. PROVINCIAL COURTS

Although the provinces have some differences, most have the following types of courts: Provincial Court, Supreme Court, Court of Appeal, Trial Division, and Small Claims Court.

V. PROVINCIAL, MUNICIPAL AND ABORIGINAL GOVERNMENTS

A. GOVERNMENT AT THE PROVINCIAL LEVEL

The parliament at the provincial level is modeled on the House of Commons,

but it is usually called the Legislature or the **Legislative Assembly**. There is no provincial equivalent to the Senate. When a bill is passed in the Legislature it goes directly to the **Lieutenant-Governor** (the Queen's representative on the provincial level). The following is a chart comparing the federal government with its provincial counterparts.

FEDERAL AND PROVINCIAL STRUCTURE CHART

FEDERAL GOVERNMENT	PROVINCIAL GOVERNMENT
GOVERNOR GENERAL	LIEUTENANT GOVERNOR
SENATE	
HOUSE OF COMMONS	LEGISLATIVE ASSEMBLY
PRIME MINISTER	PREMIER
CABINET	CABINET
MEMBERS OF PARLIAMENT (MP'S)	MEMBERS OF THE LEGISLATIVE ASSEMBLY (MLA'S)

B. GOVERNMENT AT THE LOCAL LEVEL

An elected **mayor** is the head of a municipal council made up of elected representatives called aldermen or **councillors**. The function of a town council is to develop policies and then pass **by-laws** as needed. (By-laws are laws that only apply to a particular municipality.) By-laws are passed much through the same procedure as provincial and federal legislation (i.e., committee stage, then three readings). In many ways it is this level of government that most affects people's daily lives.

C. ABORIGINAL SELF-GOVERNMENT

Many aboriginal communities govern themselves through a special form of local government. These communities use a **band council** which is a group of respected members of the community. These members are usually called "elders". The band council operates much like a municipal government in that they look after the needs of their local community. The leader of the band council is a **chief**—a position similar to a mayor—and he/she is directly responsible to the people. Aboriginal chiefs are important ceremonial leaders as well as government leaders. They spend more time dealing with federal ministers than municipal or provincial leaders usually do, as they are often in ongoing negotiations over such issues as licenses, education, and access to highways that cross band lands.

VI. CANADA'S CONSTITUTION

A. THE ORIGINS OF CANADA'S CONSTITUTION

1. WHAT IS A CONSTITUTION?

A **constitution** is a document that outlines all of the principles and rules which make up a country's government. In other words, a constitution defines the

political structure of a country. Ideally, this document (whether written or unwritten) should match the values of the country's citizens.

2. FEDERAL STATE

A federal state is a nation with both a central government and separate provincial governments. This division exists in order to allow each provincial government to focus on the unique interests of region. Specifically, in Canada, the central "federal" government allows for a unified country (thereby providing increased strength and protection from neighbouring nations), and the provincial government allows for the protection of the unique identities and cultures of each region. Of particular concern is the issue of French-speaking cultures. The federal system of government (made up of a federal and provincial government) thus allows protection for both language and religious rights.

The fact that there are several levels of government does not mean that the federal government is superior to the provincial governments, but rather that each level of government controls different sectors/issues (refer to page 7). However, in rare cases, it is possible for the federal government to veto (reject) a provincial law if the law does not fall under the jurisdiction of the provincial governments. For example, in the 1930s, the Alberta government began to print documents that were intended to be used as money by the citizens of Alberta. The federal government vetoed this because the Constitution states that only the federal government can print money.

The federal system in Canada was established by the British North American Act of 1867, (see below) which sets out the division of powers between the federal and provincial governments. The BNA Act was an act of British Parliament. However, the BNA Act is best known for being the document that established Canada as a nation.

3. THE BRITISH NORTH AMERICAN ACT (LATER RENAMED THE CONSTITUTION ACT, 1867)

When the British North American colonies of Nova Scotia, New Brunswick and the Province of Canada joined together in 1867, the people first had to discuss how the new country would be run. They wrote up the rules for the new country in a document that was called the **British North America Act (common abbreviation is BNA Act)**. In 1982, the BNA Act was renamed the **Constitution Act, 1867**. The colonies were made into four provinces, which were Ontario, Quebec, Nova Scotia and New Brunswick. They became the Dominion of Canada on July 1st 1867. The other provinces and territories joined later. In this context the term "dominion" simply means a self-governing nation that was formerly a colony of great Britain.

Although the BNA Act was passed by British Parliament, almost the entire document was drawn up by Canadian delegates (representatives). John A. Macdonald, Canada's first Prime Minister, was the author of much of this document. Only a few sections were affected by British influence, perhaps the most significant being the statement in the introduction, which states that the Canadian Constitution was to be "similar in principle to that of the United Kingdom." This referred to such principles as representative democracy and the rule of law.

Although the Fathers of Confederation could have severed all ties with Britain

in the process of writing the BNA Act, they decided to maintain this connection. Indeed, it was an intentional decision that the Constitution came into being through a British Act. At the time of confederation Canada did not control its own foreign affairs, nor did it have the authority to change its own constitution. These elements of gaining autonomy (independence) were to come much later and are covered in subsequent chapters.

B. CANADA'S CONSTITUTION

1. THE "UNWRITTEN" CONSTITUTION

Canada's "unwritten" constitution includes several customs borrowed from the British tradition. These customs or conventions are practices that have not been made into laws, but that society follows nonetheless. For example, in Canada, we continue the British traditions of the rule of law, the supremacy of the central government, and responsible government. Responsible government requires that the executive branch must act on the decisions of the legislative branch. The government in power cannot make decisions without the support of the House of Commons. Although none of these traditions are mentioned in the Constitution, we follow them nonetheless. Another element of responsible government that is worth reviewing here (covered in Grade 10) is the tradition that the Governor General cannot refuse to sign a bill that has been passed by the House of Commons and the Senate. The British Constitution is composed almost entirely of such "unwritten" conventions.

2. THE WRITTEN CONSTITUTION

The written constitution includes all amendments to the BNA Act, the acts integrating all of the provinces into the Confederation, the **Statute of Westminster** (which gave Canada the power to make its own laws independent of Britain in 1931) and the Constitution Act, 1982 (the Charter of Rights and Freedoms included).

a) The Constitution Act, 1982

(i) The Road to Patriation

Although the BNA Act established a high degree of sovereignty (independence) for the nation of Canada, one particularly limiting policy remained. Canada could not change its constitution without the permission of the British Parliament. Many Canadians felt that this was insulting. For years, the federal and provincial governments tried to agree on an amending formula to change this, but neither level of government was prepared to give up any of its existing powers. Prime Minister Pierre Trudeau finally succeeded in reaching a compromise on April 17th, 1982. All but one province agreed; Quebec opposed the Constitution Act because it did not receive any special status. This change in the constitution is known as the **patriation** of Canada's constitution, or the "homecoming." The constitution was no longer under British control, it had moved home to Canada. Keep in mind that the Constitution Act, 1982 (also known as the Canada Act) was not a "new" constitution, but rather the old one "re-worked."

(ii) Amendments to the BNA Act—The Notwithstanding Clause

There have been four new amendments (changes) to the BNA Act. The two most significant were a new amending formula stating that seven

out of ten provinces representing at least 50% of the population must agree in order for changes to occur and the Canadian Charter of Rights and Freedoms. The inclusion of the latter was one of the reasons why it took so long to patriate the Constitution. Initially, most of the provincial premiers were opposed to the Charter of Rights and Freedoms. A "loophole" that finally convinced many of the provincial premiers to accept the Charter was the **Notwithstanding Clause**. This clause allowed both the federal and provincial governments the possibility of opting out of clauses in the Charter. This means that the government could suspend certain rights in the Charter for up to five years. (Refer to page 175 for more information on the impact of the Notwithstanding Clause in Quebec.)

VII. CANADA'S ELECTORAL SYSTEM

A. POLITICAL PARTIES

1. POLITICAL PARTIES HAVE SEVERAL PURPOSES OR FUNCTIONS:

a) Offer Choice

Political parties play an important role in making democracy work. For example, if only one candidate runs for election, voters lose the privilege of choice in the process of electing a representative. Without choice, the democratic process becomes a sham.

b) Give Stability to the Political Process

Political parties simplify the selection of a government by making it easier for voters to identify the candidates they wish to elect. Because party members all believe loosely in the same government policies and set of principles, voters can choose to vote for a party instead of picking from a long list of individuals. Also, to help the selection process further, every political candidate has a **party platform**. A platform is a group of policies that the candidate would implement if elected. Often these policies are initially vague and focused on general issues in the hopes of gaining more votes (by appealing to more people). There is no legal obligation for the elected party to follow the platform they set out in the campaign. If they choose not to follow it they risk losing the support of the electorate in the next election.

c) Legitimize "Good" Candidates

By association with a known political party, a candidate automatically achieves a certain level of legitimacy. Political parties carefully recruit their candidates and thus choose the most qualified from their pool of possible candidates.

d) Membership in a Political Party

Although there are many benefits to belonging to a political party, and to the party system in general, it is not essential for everyone who runs for office to belong to a political party. If a Member of Parliament does not belong to a political party he/she is called "independent."

e) Official Party Status

A party must have a minimum of 12 seats in the House of Commons to have **official party status**. This allows a party to receive funding for government work as well as to participate in debates in the House of

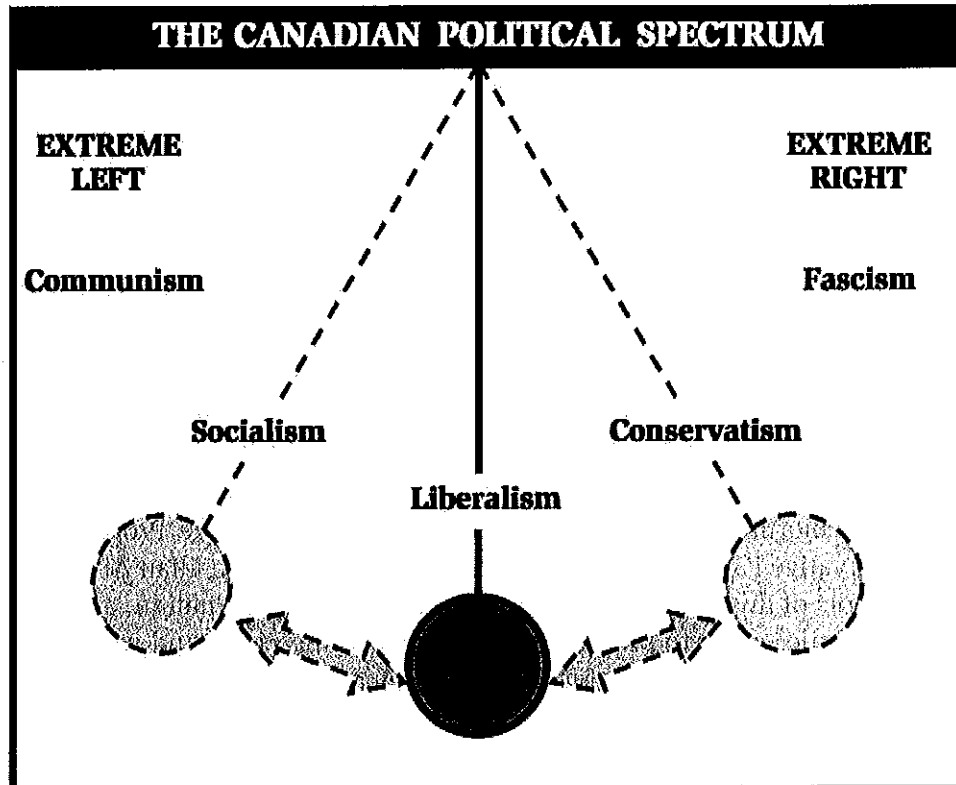
Commons. Parties with less than twelve members still can be useful but they are on their own when it comes to certain types of funding.

2. THE CANADIAN POLITICAL SPECTRUM

In general, political parties are considered to be either left wing, centrist, or right wing. It is possible to make some generalizations about these categories:

- a) **Left Wing:** support (sometimes radical) change; think that the government should provide more social services such as education and health care (therefore they support higher taxes); believe that the government should be heavily involved in managing the economy; and believe that criminals should be rehabilitated (that they are capable of changing their ways). In general, left wing politics support new solutions to old problems.
- b) **Centrist Moderate:** believe in both tradition and change; think that the government should play a role only when it improves the lives of citizens; believe that the rights of individuals should be protected. This group will apply some new solutions and some old solutions to issues facing the country.

CANADIAN POLITICAL SPECTRUM CHART



The Chart above represents the changing nature of the political spectrum. Items inside the dotted lines represent ideas acceptable to most Canadians while those ideas outside are followed by only a handful of people. At present (2005) most Canadians find themselves to the right of center, and the left side of the pendulum is quite vacant. This pendulum of popular ideas swings back and forth depending on the political mood of the electorate (all voters in a country).

- c) **Right Wing:** support tradition and the status quo (the existing situation) think that the government should play a limited role in the economy (cut government spending and involvement); support business and free enterprise (i.e., people can conduct business free of government control and should not have to pay high taxes); believe that the budget should be balanced—even if this means cutbacks in education and health care; believe that law and order have high priority and that there should be harsher penalties for criminals. Quite often this group supports "turning back the clock" when problem solving. After reading the list of parties below, determine where each party belongs along the political spectrum.

3. HISTORIC POLITICAL PARTIES WHICH NO LONGER EXIST

a) Progressive Conservative Party (PC)

- (i) Wanted more controls on government spending and tax cuts on all income levels.
- (ii) Believed in privatization (the process of transferring or selling government-owned companies or assets to private ownership).
- (iii) Until the North American Free Trade Agreement (NAFTA see page 144-45) was signed in the 1990s, the Conservative Party historically had supported high tariffs (duties) and in general believed in economic nationalism (protecting Canada's industries).

b) The Reform Party

- (i) Formed in Manitoba in 1987.
- (ii) Believed that the western provinces should have a stronger voice in the federal government.
- (iii) Favoured reducing the national debt through massive cuts to social welfare.
- (iv) Sought to change the Constitution (create a more powerful and elected Senate).
- (v) Opposed Quebec's demands for special status in Canada.
- (vi) On the political spectrum this party was very much on the right.

c) The Canadian Reform Conservative Alliance Party

In the spring of 2000, in an effort to reach more voters, most members of the Reform Party and some of the members from the Progressive Conservative Party joined to create a new party—the Canadian Alliance. The roots of this party stem from feelings of western alienation, as most other parties seem to predominantly represent the views and wishes of people in central and eastern Canada, (Refer page 23 on Regionalism.)
The Canadian Alliance Party:

- (i) Agreed to a flat tax rate of 17% for all Canadians.
- (ii) Supported a balanced budget.
- (iii) Supported free enterprise, "strong families," and "safer streets and secure borders."

4. CURRENT POLITICAL PARTY PLATFORMS IN CANADA

After the 2004 election, the Liberal Party of Canada held 135 seats in the House of Commons; the Conservative Party held 99 seats; the Bloc Quebecois held 54 seats; the New Democratic Party held 19 seats; an Independent MP

held 1 seat (these MPs do not belong to a political party). The total number of seats in the House of Commons is 308. This makeup in the House of Commons is a classic minority government. Because of the Liberal Parties domination recently parties have realigned (see chart p. 25). On December 8, 2003 the Progressive Conservative Party and the Canadian Reform Conservative Alliance merged to form the Conservative Party of Canada. By joining, these parties hope that they will strengthen both of their parties and form a stronger opposition to the Liberals.

a) The Liberal Party of Canada

(i) Currently, in 2005, the Liberal Party is the minority government in the House of Commons. (See page 25 for minority government)

(ii) Supports individual freedom and the pursuit of equality of opportunity for all persons.

(iii) Favours the expansion of social programs (such as health care and education).

(iv) Believes in the value of multiculturalism and is sympathetic to the hopes of French Canadians.

(v) Supports more free trade (making it easier to trade goods with other countries).

b) The Conservative Party of Canada

(i) Supports a balance between a balanced budget and supporting social programs.

(ii) Believes in the equality of all Canadians, and in the freedom of the individual.

(iii) Supports both English and French as the official languages of Canada.

(iv) Supports free enterprise.

(vi) Supports free trade.

c) The New Democratic Party (NDP)

(i) Believes that the government should intervene in certain important aspects of the economy; therefore, it is generally against the privatization of government-run corporations which are called "Crown Corporations.

(ii) Favours welfare measures (such as Employment Insurance and Welfare payments).

(iii) Believes that the government should pay for health care and education, and that all Canadians should have equal access to these services regardless of their ability to pay.

d) Bloc Québécois

(i) Created in 1990 as a result of the failure of the Meech Lake Accord (refer to page 175).

(ii) Believe that Quebec should become a sovereign (independent) state and separate from the rest of Canada.

5. REGIONALISM

The concept of **regionalism** refers to the differences in wishes and needs that exist between the Eastern, Central, and Western regions of Canada. All of the

provinces and territories have different economies and different strengths and weaknesses. Therefore, it would be ideal if there were MPs to represent each region of Canada so that everyone's voices could be heard. In the current House of Commons, most Liberal MPs come from Ontario and Quebec with only a few from British Columbia. It is for this reason that the Prairie Provinces and the provinces of Western Canada often feel that the Canadian federal government only represents the needs of Central Canada. The Reform Party, the Canadian Alliance, and now the Conservative Party of Canada, were initially developed to try to represent the wishes of the western provinces.

B. THE ELECTION PROCESS

1. WHO CAN VOTE?

Today, almost all adult Canadian citizens are eligible to vote in elections. This is called **universal franchise** (the right to vote for all citizens over 18 years of age). However, voter turnout rarely reflects this wide range of eligibility. Especially in municipal elections, voter turnout can be as low as 20%. Additionally, **voter apathy** is prominent among younger citizens. This refers to a reluctance to participate in elections. Reasons for voter apathy include lack of awareness about the voting process, lack of awareness about the candidates, and disinterest. In other words, people feel a lack of a sense of "citizenship"—the desire to fulfill the duties of a Canadian citizen.

2. THE ELECTION PROCESS

a) The Call

On the request of the Prime Minister, the Governor General "dissolves" Parliament and calls an election. Usually this happens near the end of a government's five-year term; sometimes the government will call an election quite a bit earlier to test whether it still has the support of the people. When elections are called early often the ruling party thinks it can win now, but maybe not later.

b) The Nominations

Candidates (usually selected by local party members) submit nominations to go onto the ballot.

c) The Voters' List

The **chief electoral officer** prepares the voters' list in every province. The chief electoral officer is also responsible for managing the election on election day. Some of the duties of the chief electoral officer are to create the voters' list including all those who are eligible to vote, establishing appropriate voting places (called polls) and ensuring that on election day the votes are properly counted..

d) The Election Campaign

An election campaign is a period of time in which political parties and their candidates promote their platform (their promises and beliefs) and compete for public support. Typical tactics include radio, newspaper, and television advertisements, pamphlets, posters, lawn signs, appearances on television and radio shows, public opinion polls, rallies and even door-to-door canvassing. Provincial and federal laws regulate the money spent by each candidate in this process (through the Election

Expenses Act).

(i) Campaign Controversy

Candidates with a great deal of money to spend may gain an unfair advantage in gaining public support. Also, extravagant campaigning may divert attention away from the real issues. Sometimes during a campaign, candidates who feel that their chances of winning are slipping away will resort to what is called "mud-slinging." This involves publishing nasty things that may not be true about the candidate that appears to be in the lead.

e) Election Day

On the day of the election, voters go to **polling stations** (usually set up in schools, places of worship and other public buildings) and cast a vote for the candidate of their choice. A polling officer records the names of all voters, but everyone's vote remains secret. Voters place an X beside their choice and then, in private, place their ballot in a special ballot box.

3. CANADA'S ELECTORAL SYSTEM

a) Types of Government

In Canada, because we have more than two political parties, depending on the results after the votes are counted in an election, a number of possibilities can occur.

(i) Majority Government (the ultimate goal of a political party)

A **majority government** occurs when a political party wins more than half the seats in the House of Commons in an election. Although the other parties have considerably fewer members in parliament, it is important to note that an Official Opposition still exists (the party with the second most seats in the House of Commons).

(ii) Minority Government

This type of government occurs when a political party elects more members to Parliament than any other party, but not more than all the other parties added together.

The chart to the right is an example of what Parliament might look like in this scenario.

The party in power has less power in a **minority government** because it has to rely on the votes of members of other parties to pass its legislation. In other words, it cannot pass bills (make laws) on its own.

Also, in a minority government, the opposition parties could unite and vote the party in power out of office, thus forcing a new election. This could not occur in a majority government because the party in power has over one-half the votes. Finally, minority governments are frequently forced to cooperate or form alliances to vote on

HYPOTHETICAL MINORITY GOVERNMENT	
Party	Seats in Parliament
Liberal	45
NDP	25
PC	34

59

issues—or else a new election is called! A majority government, on the other hand, can put forward its ideas for new laws without fear of being forced into a new election.

(iii) Coalition Government

This type of government is like a minority government in the sense that no party has a majority of all the seats in Parliament. However, in a **coalition government**, two or more parties somewhat officially join together to form a government. A leader is chosen to become Prime Minister and he/she selects a Cabinet from among the MPs of the parties involved in the coalition.

b) First-past-the-post System

When the polls close, after 12 hours, the ballot boxes are taken to one location and all votes are counted by hand. The candidate with the most votes in each riding is declared the winner. This is called the **first-past-the-post system (FPTP)**. This means that a winning candidate in any particular riding does not necessarily have to win the majority vote (i.e., more than 50%), but only has to win more votes than any other single candidate. The party that forms the government is also the one that is first past the post (wins the most ridings and gains the most seats in Parliament).

(i) Controversy

Critics of FPTP argue that the party forming the government does not necessarily represent the majority of voters' wishes. A party forms a government by winning the most seats in parliament – not the total number of votes (**popular vote**). For example, in the 1984 federal election the Conservatives won 75% of the seats in Parliament, but had only 50% of the popular vote. The following table shows the breakdown of both seats won and percentage of votes cast.

FIRST PAST THE POST ILLUSTRATION

Party	# of Seats Won	% of Seats in Parliament	% of Popular Vote
PC	211	75%	50%
Liberal	40	14%	28%
NDP	30	11%	19%
Other	1	0%	3%
TOTAL	282	100%	100%

In this election, as in others, the percentage of the popular vote for each party did not correspond closely to the number of seats won by each party.

However, in some cases, the party with the highest popular vote does not even win the election. For instance, the last NDP government elected in British Columbia in 1996 took power with 39% of the

popular vote, while the Liberal Party had 42%. This situation occurs when, as in this example, the NDP won their seats by a narrow margin, while the Liberals won theirs with a much larger margin. For example, imagine that 10,000 people voted for a winning candidate in one riding, while 15,000 people voted for a winning candidate in another riding. In both cases, one candidate was elected, even though substantially more votes were cast for one.

There are two other possible systems:

- **Proportional Representation (PR)**

Proportional representation is the system in which voters elect a candidate on the basis of the party he/she represents. Each party puts forward a list of its candidates, and the number of votes the entire party receives corresponds to the number of seats it wins in Parliament. The candidates from the party with the most votes fill those seats. There are several drawbacks to this type of electoral system. First, not every riding will have local representatives; therefore, many areas of Canada might not have any say in who is running the country. Also, since most PR elections do not give one party a majority, governments must be formed by coalitions between parties. Coalitions are frequently unstable governments, and require more frequent elections. Most of Europe practices this system. Countries such as Germany and France tend to achieve workable coalitions while others tend to have "revolving door" governments.

- **Preferential Ballot**

In some countries, such as Australia, voters are able to rank the candidates in order of preference. This is called the **preferential ballot** system. If no candidate receives a majority, the one with the lowest number of votes is dropped, and his/her second place votes are distributed. This is repeated until one candidate receives a majority. The problem with this system is that the winner may only have the votes of a small part of the population, and may only represent one area of the country.

C. INFLUENCES ON THE GOVERNMENT

1. INTEREST GROUPS

This term refers to groups of citizens who try to influence government policies and decisions. **Interest groups** are formed when several individuals who share a group of ideas realize that they all have a common goal. There are thousands of such groups in Canada, but several with which you may be familiar include Greenpeace, Amnesty International, the Canadian Cancer Society, the Canadian Federation of Labour, and the Canadian Manufacturers' Association. In the last several decades informal interest groups have begun to have great influence on government. One example of that is a group casually referred to as the "religious right". It has attempted to influence government on moral issues. One example of that is their opposition to abortion.

a) How do Interest Groups Effect Change?

In order to persuade government officials, interest groups send representatives (called lobbyists) to meetings with Cabinet Ministers, and/or

parliamentary committees. Often these groups provide the government with research and specific technical expertise. Interest groups also try to influence public opinion through paid advertisements. Using these tactics, some groups have met with much success in convincing the government to change its policies. Some examples of change include new legislation, environmental protection, new government services, and increased funding for research projects.

b) Opposition to Interest Groups

Some say that interest groups should not be able to influence governments to the extent that they do. Interest groups promote goals that not all citizens share, thus encouraging the government to pass legislation that does not benefit all of society. On the other hand, interest groups argue that they play a vital role in providing the government with information that allows it to make better, more informed decisions.

Another reason why interest groups come under criticism is that often the larger interest groups have contributed a large amount of money to a particular party at election time. These groups then expect special treatment when the party of their choice gets elected.

2. THE MASS MEDIA

Another "agency" that can greatly influence both public opinion and government decisions is the mass media. The media has the ability to influence a government's focus by covering issues that it thinks are important to society. However, the media is often criticized for not accurately reflecting the community's views, or even giving adequate coverage to the most important issues. Of particular concern is the current trend towards media concentration. This term refers to the conglomeration of media ownership. Nowadays, much of the news read by most Canadians is from a limited number of sources. The number of independent news sources has dwindled, and the remaining papers are owned by a small number of corporations. For example, the Vancouver Sun and the Vancouver Province newspapers are both owned by the same company. This media concentration goes against the democratic principles of diversity and plurality, but few individuals are even aware of the trend.

3. PROTEST GROUPS AND CIVIL DISOBEDIENCE

Protest Groups use actions such as rallies, parades, marches, public demonstrations, and blockades to draw attention to their cause. An example of a famous protest group in Canada is the "Raging Grannies." The first group of Raging Grannies was started in Victoria, British Columbia, and soon groups sprang up across Canada and the United States. The Raging Grannies are older women who use the stereotype of the "granny" dressed in colourful, tacky clothes to get their message across and by songs such as "Take Me Out to the Clearcut." The Raging Grannies arrange protests over such issues as logging, pollution, pornography, militarism, poverty and racism.

Civil disobedience is a very serious commitment some individuals make in order to effect change. Civil disobedience is the act of intentionally disobeying a law that one thinks is unjust, usually in order to get the attention of the government. Principles of civil disobedience state that the act should not involve violence, should be directed only against laws that are seriously

harmful, and should require a willingness to face punishment (i.e., to take responsibility for one's actions). In history, leaders such as Mahatma Gandhi and Martin Luther King have employed this strategy in their quest for justice. A more recent example is the Clayoquot Sound protest. Over 800 people participated in the numerous blockades set up across the logging roads during the summer of 1993. Individuals participated in this act of civil disobedience in order to prevent loggers from continuing to clear-cut the area.

D. BECOMING A CANADIAN CITIZEN

In order to participate in the electoral process in Canada, one must first be a Canadian citizen. Anyone born in Canada is considered to be a Canadian citizen, as is anyone born in another country after 1977 who has one Canadian parent. Anyone who has lived in Canada for three years as a permanent resident has the right to apply for Canadian citizenship.

In order to apply for Canadian citizenship one must:

1. be at least 18 years of age;
2. have been a legal permanent resident in Canada for three out of the four previous years;
3. be able to communicate in English or French;
4. have knowledge of Canada, including the rights and responsibilities of citizenship.

A person cannot become a Canadian citizen if one:

1. is under a deportation order;
2. is in prison, on parole or on probation;
3. has been charged or convicted of an indictable (serious) offence.

VIII. HUMAN RIGHTS PROTECTIONS IN LAW

A. WHAT ARE HUMAN RIGHTS?

At the most basic level, human rights are rights to which all humans are entitled, such as the right to be treated with dignity and respect. Human rights are based on morality—what we believe to be right and wrong—and they apply to all people. A basic dictionary definition describes human rights as rights “considered basic to life in any human society.” While basic rights have been deemed “universal” (meaning that they should apply to everyone around the world), they are not necessarily legally sanctioned (protected by law) in all countries. This has become a great source of worldwide conflict, and a detriment to the growth of our global community. Many organizations seek to end human rights abuses, with the United Nations leading the way. However, despite the fact there are fewer people living in poverty, progress has been uneven. In developing countries more than a quarter of people still live below the poverty line, and as a result, over 500 million people around the world are not expected to survive to the age of 40. Even though human rights are considered to be “universal,” it is easy to see how the “basic right to life” is not equally protected around the world.

The following section will look at those rights which are legally protected in Canada. In Chapter Eight we will look at human rights from an international perspective.

B. THE UNITED NATIONS (UN)

The United Nations is an international organization that promotes peace and social well-being throughout the world. It was created on October 24th 1945, in response to the human rights violations of the Second World War (you will learn about this in Chapter Four). Fifty-one countries originally joined the United Nations, but the organization has now grown to include 185 countries. The UN works towards maintaining peace, establishing friendly relations between nations, and eliminating poverty, disease, and illiteracy. One of its most important accomplishments was the development of the Universal Declaration of Human Rights in 1948.

I. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The **Universal Declaration of Human Rights** is significant because it was the first international statement to recognize that "all" human beings have specific rights and freedoms. The Declaration is based on the belief that all people are born free and equal in dignity and rights, and that no one should face discrimination. Although the Universal Declaration of Human Rights is a standard, not a law, much of the world has come to see it as the leading word on global morality. The fundamental purpose of the Declaration is to ensure that each person is treated with fairness and dignity and is allowed to live up to his or her full potential as a human being. This was the first time that nations had signed a formal agreement on specific rights and freedoms for all human beings. However, in practice, the guarantees of this Declaration remain unfulfilled for the majority of people in the world.

a) Important Excerpts from the Declaration

- (i) All human beings are born free and equal in dignity and rights.
- (ii) Everyone is entitled to all rights set forth in this Declaration, without prejudice of any kind, such as discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- (iii) Everyone has the right to life, liberty, and security of person.
- (iv) No one shall be held in slavery or servitude.
- (v) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- (vi) All are equal before the law and are entitled without any discrimination to equal protection of the law.
- (vii) No one shall be subjected to arbitrary arrest, detention or exile.
- (viii) Everyone has the right to an education.
- (ix) Everyone has the right to freedom of movement.
- (x) Everyone has the right to freedom of thought, conscience and religion.
- (xi) Everyone has the right to freedom of opinion and expression.
- (xii) Everyone has the right to a standard of living adequate for health and well-being.

b) The Global Response to Offending Countries

The United Nations lacks the power to directly enforce the above declarations. However, it plays an important role in the fight to end human

rights violations by drawing world attention to offending countries. The world as a whole has become increasingly concerned with the protection of human rights, and increasingly influential in effecting positive change. When the United Nations calls attention to human rights abuses, the global community responds by putting pressure on the offending countries (refer to specific examples in Chapter Eight).

C. HUMAN RIGHTS LEGISLATION IN CANADA

In Canada, the federal government and all provinces have signed and ratified (made legal by a vote of the House of Commons) the Universal Declaration of Human Rights, and it is now binding upon Canada in international law. If a Canadian citizen feels that the government is not meeting U.N. standards, he/she can complain to the U.N.'s Human Rights Committee. Canada also has a set of civil rights, which virtually mirrors those set out in the U.N.'s Declaration. Civil rights are rights sanctioned by the laws of a country and upheld by its justice system. Canada's civil rights are enshrined (protected) in the Canadian Charter of Rights and Freedoms.

1. THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

As part of the Constitution Act (refer to page 19), the **Canadian Charter of Rights and Freedoms** came into effect in 1982. Previously, civil rights were protected only through convention, common law, and statutes (laws passed by the government). Although a Bill of Rights existed previously, with the Charter for the first time civil liberties were enshrined in the Constitution. This means that before the creation of the Charter, Parliament had the ability to change any of the existing rights.

a) Civil Rights in the Charter

Most of the rights enshrined in the Charter fall into seven broad categories:

(i) Fundamental Freedoms (freedoms considered basic to a free and democratic society)

- Freedom of conscience (people can think and believe whatever they want) and religion
- Freedom of belief and expression (including freedom of speech and freedom of the press)
- Right to peaceful assembly
- Freedom of association

(ii) Democratic Rights

- Right to vote and run for office
- Right to federal elections every five years
- A sitting of Parliament and of each legislature at least once every 12 months

(iii) Mobility Rights

- Right to leave and enter Canada
- Right to work/live in any province – to discourage local hiring policies which allow only residents of a given province to work in certain industries

(iv) **Legal Rights** (intended to limit the power of government so that it can't interfere with personal liberty). Below is a list of the more basic legal rights:

- Right to life, liberty, and security of the person
- Right to a fair trial and lawyer
- Right to not be arbitrarily (i.e., without good reason) detained/imprisoned
- Right to be presumed innocent until proven guilty
- Right to not be subjected to cruel and unusual treatment

(v) **Equality Rights**

This section is the most debated section of the Charter and, in the end, the most far-reaching. Initially, there was much debate over the exact meaning of "equality." The main aspects of equality rights are as follows:

- Freedom from discrimination based on race, national or ethnic origin, religion, sex, age, or mental or physical disability.
- Permission for affirmative action programs, which allow preferential hiring for members of disadvantaged groups. Although employers cannot consider ancestry, gender or other prohibited grounds of discrimination in their hiring decisions (which would be a violation of the Charter), an employer can choose to consider a prohibited ground in the hiring process (e.g., hiring more females than males) for the purpose of developing a representative workforce. Many people disagree with this part of the Charter because they feel that people should be hired based only on their qualifications and abilities, not on race or gender. If people are hired simply because they are of a certain gender or race, then reverse discrimination could occur. However, affirmative action is designed to "equalize" the workplace—by hiring more people from disadvantaged groups, the workplace will more accurately represent the Canadian population. For example, historically women did not have the same education / opportunities as men, and so there were fewer women in the workforce in certain types of jobs. It eventually became more accepted for women to work outside the home, and for women to have the same careers as men, such as medicine and law. However, there were obviously fewer women in these positions to start with because they were previously unable to pursue these types of careers. Therefore, under the rules of affirmative action, an attempt is made to "make up" for this difference, and women are "preferentially" hired over men so that there is greater gender equality in most jobs. The same concept holds true for people of different races who previously faced discrimination and did not have equal opportunities.

(vi) **Official Language Rights**

- Recognizes the official bilingual status of Canada and the equality of the French and English languages.

(vii) Minority Language Educational Rights

- Right to education in English or French when there are significant numbers of students.
- Each province decides whether to provide education in a minority language other than English or French.

The Charter also contains rights specific to the aboriginal peoples of Canada, and rights regarding the multicultural heritage of Canada. The Charter states that the rights and freedoms therein cannot interfere with the treaty rights of the aboriginal peoples of Canada or with any land claims. It also guarantees the “existing rights” of aboriginal peoples. Interestingly, these existing rights are not listed in the Charter because Canadian politicians and aboriginal leaders could not agree.

b) Limitations of Rights**(i) The Notwithstanding Clause**

The **notwithstanding clause** is included in the Charter of Rights and Freedoms to serve as an “escape” clause for both the federal government and provincial legislatures. It allows the possibility for both levels of government to pass a law even if the law violates one of the rights guaranteed in the Charter. Governments may suspend a right in the Charter for a period of up to five years, but must then seek renewal. The notwithstanding clause is significant because it gives some power back to the government, and at the same time, it allows for the legal restriction of individual rights.

(ii) Conflicting Rights

In an ideal world, our rights would be inviolate (unquestionable). However, it happens on occasion that civil rights conflict. For example, take the issue of forced retirement at age 65. Some argue that this discriminates based on age, thereby violating the right to equality; however, this legislation also protects the right of young people to find employment. Whose rights take precedence (whose are most important)? The key is to balance the protection of the rights of individuals, with the rights and/or needs of society. Therefore, our individual rights are indeed protected through the Charter—but within good reason.

(iii) Interpretation by the Courts

When civil rights became entrenched in the Constitution, judges found themselves increasingly assuming the role of “interpreter.” In order to judge their cases fairly, they themselves had to interpret the fairness of laws. This put judges in the position of having to make some tough decisions about some very sensitive issues (e.g., pornography, abortion, etc.). Judges were now pressured to make “landmark” decisions, and set precedent for new laws. Many such decisions support limitations of individual rights in favour of the good of society. For example, in the case of “Irwin Toy Ltd. versus Quebec,” Irwin Toy Limited sought to use an aggressive marketing campaign targeting young children. However, the Supreme Court of Canada ruled that the needs of society outweighed Irwin’s right to freedom of expression. The court decided that the Consumer Protection Act of Quebec, which places limits on

commercial advertising “directed at persons under 13 years of age,” was more important than Irwin’s right to freedom of expression. It often happens that rights come into conflict, and it is up to the judges to make balanced decisions that serve the greater good of society, as well as protect the rights of individuals.

(iv) Language in the Charter

Parts of the Charter were deliberately written in a vague and general way (i.e., terms like “unreasonable search”—what exactly does this mean?) While this type of vocabulary gives the courts the ability to limit our rights, it also allows for the Charter to grow over time. This is an important feature of the Charter because it means that the Charter can change with the changing beliefs of a nation’s citizens.

c) The Issue of Gender Equity

Although section 15 of the Charter prohibits discrimination based on gender, women do not yet receive equal treatment in the workplace. In some instances, women continue to occupy the lower and middle ranks of organizations, have unequal access to training and promotion, encounter difficulty entering male-dominated professions, and are paid less than men for equal work. This is still the case despite the rapid increase in the number of women working outside of the home over the past two decades.

In order to encourage gender equity, section 15 of the Charter allows for special initiatives to correct traditional discriminatory practices in the workplace. These include affirmative action programs such as preferential hiring, which was discussed earlier.

2. THE IMPACT OF THE CHARTER SINCE 1982

This topic can become quite confusing if one moves into the complications of various court rulings and proceedings. That is not the intention here. This sub-section will attempt to look at how the Charter has affected Canadians.

First and foremost students must recognize the difference between human rights, on the one hand, that are merely a piece of legislation (an act of parliament) and, on the other hand, human rights that are protected in the constitution. Human rights that are written only as a set of laws can be changed on very short notice. Parliament, if it chooses, can change legislation within days if it so wishes. Thereby, one might say that one’s human rights in this situation exist in limbo (an ill-defined or temporary state). The main impact of placing the citizens’ rights in the constitution is that the constitution is (deliberately) difficult to amend. This is why so many who comment on the Canadian Charter of Rights and Freedoms use the term “enshrined” when they speak of placing our basic rights into the Constitution Act of 1982. “Enshrined” means to put something in a special place.

Another impact of the Charter has been limiting, to a large extent, the supremacy of parliament and then conversely enhancing the supremacy of the constitution. The Charter clearly states that the legislative bodies of the federal and provincial governments cannot pass laws which violate the charter. If they do, those laws will be overturned by the courts. (In typical Canadian fashion, an exception was made in the Notwithstanding Clause discussed earlier.) The courts of Canada have been entrusted with a greater responsibility regarding

human rights after the Charter was adopted in 1982.

In our view the two "impacts" discussed above are crucial to understanding the overall impact of the Charter. If you still do not understand it we would encourage you to ask your teacher to further discuss these two issues.

~~There are, however, other impacts of the Charter. One of these centres on the question, "How have Canadians reacted to the Charter?"~~ You are in Grade Eleven and most likely you have heard your Social Studies teachers emphasize the importance of the Charter. Well they should. However, it is not only Social Studies teachers who are fond of the Charter. Canadians as a group have embraced the Charter. In 2002 the Association for Canadian Studies commissioned a poll to examine how Canadians felt about their Charter twenty years after it was passed. They hired Environics (a polling company) to do the research. While they asked many questions, the responses to two of the questions clearly indicate that Canadian citizens overwhelmingly think positively of the Charter. Eighty two percent of Canadians agreed that the Charter has had a positive impact on the protection of their rights and freedoms. This was the case across social, economic and linguistic groups. Interestingly, ninety one percent of Quebec residents agreed with the above -the highest percentage of all the provinces. Furthermore, eighty one percent of Canadians also believed that the Charter had become a significant part of the Canadian identity. This belief was substantiated when *Time* magazine recently published:

Canada is one of the planet's most comfortable, and caring, societies. The United Nations Human Development Index cited the country as the most desirable place in the world to live.

The final impact we are going to examine attempts to answer the question, "What does the world think of our Charter"? Other countries have used the Canadian example when enshrining their human rights in their own constitutions. In 1990 New Zealand did this inspired by the Canadian example. Legal (court) cases in countries as diverse as the United Kingdom, Sri Lanka, and Zimbabwe (to mention but a few) often cite the decisions of the Supreme Court of Canada in their court proceedings.

In conclusion, it seems safe to say that the Canadian Charter of Rights and Freedoms is an indication that Canada has matured as a democracy. Earlier in this chapter (page 3) the principles of democracy emphasized that a fully functioning democracy, in fact, must have their human rights safely protected in their constitution. In that sense then, Canada has completed the last hurdle to qualify as a fully functioning democracy.

3. THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

In 1989, the United Nations General Assembly adopted the **Convention on the Rights of the Child**. This Convention was created to protect the most basic rights of children, including the rights to identity, education, shelter, safety and special protection in times of war. This was the first document to legally establish the rights of children around the world, and it has become the most universally accepted human rights document in history. The Convention includes the following rights:

- a) Children have the right to be with their family or those who will care for them best.

- b) Children have the right to enough food and clean water.
- c) Children have the right to an adequate standard of living.
- d) Children have the right to health care.
- e) Children must be allowed to speak their own language and practise their own religion and culture.
- f) Children have the right to free education.
- g) Children have the right to be kept safe and not be hurt, exploited or neglected.
- h) Children must not be used as cheap labour or soldiers.
- i) Children have the right to express their own opinions and to meet together to express their views.

Canada is one of 192 nations to ratify (approve) the Convention on the Rights of the Child. To ensure that the basic rights and freedoms of Canadian children are indeed protected, a coalition of organizations from across Canada was formed, called the Canadian Coalition for the Rights of the Child. In British Columbia, we also have a government ministry which protects children and youth, The Ministry of Children and Families.

4. PROVINCIAL HUMAN RIGHTS LEGISLATION

a) The British Columbia Human Rights Code

In British Columbia, human rights are protected by the **B.C. Human Rights Code**, legislation which supersedes (replaces) all other legislation except for the Canadian Charter of Rights and Freedoms. This means that the code takes priority over other policies and collective agreements.

The B.C. Human Rights Code prohibits discrimination in the following areas: publications (hate propaganda), employment, accommodation, services and facilities (e.g., restaurants or libraries), the purchase of property, tenancy, employment advertisements, and wages. The Code protects against discrimination based on race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex and sexual orientation.

(i) The British Columbia Human Rights Commission

The **B.C. Human Rights Commission** investigates and mediates human rights complaints. If a complaint is justified, the Commission may refer cases to the B.C. Human Rights Tribunal for a hearing. If the trial is won, the Tribunal can order the offending party to stop the discriminatory practice, restore the violated right, pay for financial loss, and pay compensation for emotional impact. The most frequent complaint investigated by the B.C. Human Rights Commission is unfair employment practices.

(ii) Sections of the British Columbia Human Rights Code

- **Employment**

Regarding employment, the Code states that "no person shall refuse to employ or refuse to continue to employ a person, or discriminate against a person with respect to employment or any term or condition of employment." For example, employers cannot refuse to hire an applicant because of a criminal record if the crime committed is unrelated to the job.

- **Publications**

This area of the B.C. Human Rights Code protects against hate propaganda. It prohibits the publication or display of any notice, sign, symbol, emblem, or other representation that is likely to expose a person or class of persons to hatred or contempt.

- **Accommodation, Service, or use of Facilities**

The Code states that no one, “without a bona fide and reasonable justification, shall deny to a person or class of persons any accommodation, service or facility customarily available to the public, or discriminate against a person or class of persons with respect to any accommodation, service or facility customarily available to the public.” However, it is important to note that there are two exceptions to the above statement. If the discrimination relates to the maintenance of public decency, the Code does not prohibit discrimination on the basis of gender. For example, men cannot use women’s change rooms. Also, if the discrimination relates to the determination of premiums or benefits of life or health insurance, the Code allows “discrimination” based on gender, and physical and mental health.

- **Tenancy**

The Code prohibits landlords from discriminating in their acceptance policies, such as by refusing to rent to you based on your source of income. However, a landlord can ask that you show proof of your ability to pay the rent. Also, apartment buildings designated for people aged 55 years or older, and apartments that are designed for people with disabilities may show preference for people in these categories.

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