MANITOBA POLICY PERSPECTIVES

A Student Journal

Manitoba Policy Perspectives (MPP) is a multi-disciplinary and cross-university online student journal that addresses the topics of public policy, administration and governance in Manitoba, Western Canada and Canada.

Manitoba Institute for Policy Research

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Foreword

The *Manitoba Policy Perspectives* (MPP) online student journal is an initiative spear-headed by the Manitoba Institute for Policy Research (MIPR). Our objective is to give students in the province of Manitoba the opportunity to publish papers on public policy and take part in the publication of an online journal. For this inaugural issue, eight undergraduate and graduate papers from the University of Manitoba (U of M) and University of Winnipeg (U of W) have been selected for publication.

The journal addresses a wide range of topics related to public policy, administration and governance as it pertains to regional and national issues. As a multi-disciplinary and cross-university journal, the MPP aims to foster a dialogue amongst students in Manitoba and strengthen their voice in policy discussions.

This year, the Peer Review Board of the MPP comprised MIPR staff and U of M students. Dr. Karine Levasseur, Assistant Professor in the Department of Political Studies at the U of M, took on the role of Faculty Advisor, providing guidance and instruction throughout the peer review and publication process.

We thank the professors who nominated their students' papers for publication this year and encourage them to continue to do so in the coming years. We welcome submissions from the U of M, the U of W, Brandon University, Université de Saint-Boniface, University College of the North, the Canadian Mennonite University, and Red River College.

MIPR is based in the Department of Political Studies in the Faculty of Arts at the U of M. The Institute serves as a hub for academic analysis, public policy discourse and outreach. MIPR aims to engage academics, government, the private and non-profit sectors, and citizens of Manitoba on a wide variety of policy issues concerning Manitoba, Western Canada, and Canada in general.

Thank you to everyone who contributed to the August 2014 publication of *Manitoba Policy Perspectives*. We look forward to continued engagement with students and faculty members across the province in the coming academic year. Please visit www.mipr.ca for more information.

Sincerely,

Alexandra Allary
Interim Editor, 2014
Manitoba Institute for Policy Research

About the Publication

Manitoba Policy Perspectives is an online student journal that addresses the topics of public policy, administration, and governance as it pertains to regional and national issues. It is published by the Manitoba Institute for Policy Research. The Peer Review Board consists of a Faculty Advisor, an Editor, and anonymous student peer reviewers from the University of Manitoba.

Information for Authors

The journal invites submissions from students in the province of Manitoba. Papers must have been written for a 3000, 4000, or graduate-level class, received a grade of A or higher, and be recommended by the course instructor. Applicants must submit an electronic copy of their paper in Microsoft Word and a completed submission form. Citations must follow the Chicago Manual of Style (Author-Date). For more information, view the submission guidelines at www.mipr.ca and/or contact mppj@mipr.ca.

Authors must agree that the submitted paper has not previously been published and is not currently being considered for publication elsewhere. All persons who have made a substantial contribution to the work must be identified in the submission form. In order to be published in the journal, authors are responsible for completing all editing requirements requested by the Peer Review Board. The Peer Review Board reserves the right to modify manuscripts for the purpose of ensuring grammatical correctness, clarity of language and ideas, and conformity with the Manitoba Policy Perspectives style guide.

Peer Review Board

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The Prohibition of Marijuana

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Abstract

Canadian society's view on marijuana is changing, while the government persistently asserts that it should remain illegal. Issue salience regarding the legalization of marijuana is high and recent public opinion polls show overwhelming support for a policy change (Hathaway, Erickson, and Lucas 2007, 45). This paper discusses how marijuana was outlawed under a false problem definition in 1923 and its continuing prohibition to this day. Four current issues affect the determination of marijuana's prohibition: social problems, health problems, marijuana as a gateway drug, and American pressures on Canadian policy. These factors impact the problem definition of marijuana use and suggest an impending policy change that reflects Canadian society's view on this drug, based on contemporary indicators and focus events.

Keywords: Canadian marijuana policy, public policy cycle, problem definition

Introduction

As Canada passes the 90th anniversary of prohibition of marijuana, a shift in the values of how society views marijuana is evident. Despite being illegal, marijuana usage has not subsided, which to some indicates a need to rethink Canadian policy on its prohibition (Fischer, Rehm, and Hall 2009, 101). Michael Orsini (2007) writes about a responsibility paradigm in which individual choice plays a large role in the lives of Canadians. While he writes specifically about the health care system, this paradigm can play a role in the Canadian illegal drug policy as well. For much of the last 25 years, Canada has operated on a harm reduction model for marijuana, a model that supports the responsibilization of individuals. It focuses on decreasing the health, social, and economic consequences of drug use while promoting abstinence, but not requiring it (Grant 2009, 661). The recent passage of Bill C-10[1] by the current government

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1. Bill C-10, the *Safe Streets and Communities Act*, was an omnibus bill passed on 12 March 2012 that invokes a mandatory minimum sentence of six months imprisonment for the production of more than five marijuana plants if the intent of production is for trafficking. See *Statutes of Canada* 2012, sec. 41b. http://www.parl.gc.ca /HousePublications/Publication.aspx?DocId=5465759&File=4.

shows a reversal from this harm reduction model to harsher penalties for marijuana possession and cultivation (Hyshka et al. 2012, 126). This move is in the opposite direction of other countries' policies and is probably temporary. Stuart Soroka (2007) argues that policy changes occur when issue salience is high. If this is true, then Canada should expect to see a policy change regarding the criminality of marijuana in the near future.

This essay will argue that Canada's policy regarding the prohibition of marijuana operates on an outdated problem definition. The first part of this paper will explain agenda-setting and problem definition. Secondly, a brief history of Canada's policy on marijuana will reveal the original problem definition, and how policy was unable to change in the last 90 years due to the lack of salience. Thirdly, a discussion about the current issues that inform the problem definition of marijuana – social problems, health problems, marijuana as a gateway drug, and American pressures on Canadian policy – will outline the changing nature of the problem. Finally, these changing perspectives will explain why a policy change is imminent and necessary using Soroka's problem recognition via the use of *indicators* and *focus events*. The purpose of this essay is not to provide a comprehensive analysis of the complex issues surrounding marijuana legislation, nor to offer an opinion about marijuana's use. An informed, responsible citizen can decide for him or herself whether using marijuana is acceptable.

Framework: Agenda-Setting and Problem Definition

Problem definition is a formal part of the public policy cycle that indicates the existence of a problem and some of the factors that lead to its existence (Pal 2010). A properly defined problem allows a policy maker to choose the most effective method of policy implementation. In a complex society, there are complex problems that require much attention and forethought. As a result, governments inevitably face more problems than they have time to deal with. Indeed, attention is a finite resource. Soroka (2007) suggests that agenda-setting "is the study of issue salience" (185). Issue salience is the relative importance of an issue on a policy maker's agenda. Specifically, he discusses the rise and fall of salience and the effect it has on policy makers. He would like us to think of issue salience in two ways: first, as a cycle, with many periods of increased salience followed by a decline in public interest (186); and second, as a heart monitor – long periods of stability with sudden bursts of salience. Soroka describes this as punctuated equilibrium. The national mood is a form of salience that describes a time at which a large percentage of society is thinking along common lines. This mood, along with the brief moments of salience, help create political streams. These streams lead to the opening of *policy windows* – moments during which issues receive the attention of policy makers – when policy change is most likely to occur (187).

Deborah Stone (2012) says that problem definitions are like stories. They have a beginning, middle, and end which involves a change or transformation (159). Within these stories there are many ways to define problems. She identifies five different modes that act as a

language to explain how "we know there is a disparity between social goals and the current state of affairs" (14). Symbols and numbers are verbal and numerical languages that help define problems by telling a story. She also encourages us to think of a definition of a problem in terms of what causes them, who is interested in them, and what kind of decision is appropriate (14).

Policy making is about solving problems, but in order to solve a problem recognition is necessary. Recognition of a problem requires the observation of indicators and focus events. Leslie Pal (2010) relates indicators to "routine monitoring that turns up discrepancies or patterns that hint that something is amiss" (101). They are events that are noticed, but do not necessarily command immediate response. Examples of such events are statistics on highway deaths, or the concentration of diseases in a particular geographical area. Larger, focusing events portray an impending response. Pal provides two examples of focus events, one made it through the policy window and became implemented, and the other decreased in salience and faded away (102-04). The SARS (severe acute respiratory syndrome) outbreak in 2003 attracted immediate worldwide attention, and the tasering of a Polish immigrant thrust the use of tasers by police into the limelight. While the SARS outbreak caused an immediate government response, the tasering issue decreased in salience and ultimately disappeared. Now and then this issue "blips" when incidences happen and discussions are held, but then it disappears again. This is an example of punctuated equilibrium (112). The next section will show how both issue salience and storytelling works to define the problem of the Canadian policy on marijuana.

History

The public policy story regarding marijuana began in 1923, in a time when most people were not aware of what marijuana was. Marijuana use was first defined as a problem when Emily Murphy, a Police Magistrate and Judge of the Juvenile Court in Edmonton, brought the issue to the forefront. She wrote a series of articles regarding a drug problem for Maclean's magazine and later published a book called *The Black Candle* that linked immigration to this drug problem (Mosher 1999). She commented that users of marijuana would "become raving maniacs and are liable to kill or indulge in any form of violence to other persons" (Hathaway and Erickson 2003, 467). This increased the issue salience by using strong language that explained who was interested in the problem (society), what caused the problem (marijuana) and recommended a decision as to its solution (prohibition). This worked to elevate marijuana to a social problem. As marijuana was largely unknown, this went largely unchallenged (468).

However, contemporary literature suggested that marijuana was not as dangerous as Judge Murphy explained. As early as 1894, the *Journal of Mental Science* explained that moderate use of the drug was not harmful, and in fact proved beneficial in certain circumstances. There were no links between marijuana usage and the inclination to commit violent acts. The strong language and effective story-telling by Judge Murphy was enough to sway the House of Commons to add marijuana to the list of prohibited substances in Canada by unanimous vote in

the House of Commons without providing any proof of harm (Mosher 1999). Marijuana then became an illegal substance under the same category of harder drugs such as cocaine and heroin, despite lack of scientific, health, or criminal correlations to suggest such categorization.

In line with Soroka's (2007) theory of issue salience, a long period of stability took place between the between 1930 and 1960. During this period, there was little change to Canadian drug legislation regarding marijuana. Although there were short bursts of salience, they were not enough to invoke major policy change. Clayton Mosher (1999) speaks of a "cannabis confusion" that took place between 1930 and 1946. Only 25 convictions for marijuana offences nationwide suggested that it did not pose a serious social problem. As a result, the Minister of National Health and Pensions indicated that marijuana would be allowable for legal use in Canada. However, as marijuana's prohibition was already underway the possibility of its legalization was not likely and did not occur because salience on this issue was low during this time. Policy makers were preoccupied with more important issues such as the Great Depression and World War II (Mosher 1999).

The 1970s saw an increase in recreational use of marijuana among young people, a subject on which the government issued an inquiry. The Le Dain Commission proposed that all criminal penalties associated with marijuana be removed, but was immediately rejected by the government of the day. There was no reason given, and for the next 30 years, systematic rejection of all recommendations by subsequent governments to ease penalties created a stalemate on the issue of marijuana legalization (Hathaway and Erickson 2003, 468).

In 1987, Canada moved toward a harm reduction model approach to drug usage. A harm reduction model attempts to balance public order and public health using four supporting pillars: prevention, treatment, enforcement and harm reduction (Grant 2009, 661). This model views drug use, specifically marijuana use, as an unpleasant fact in society and seeks to reduce the harms caused by its use instead of advocating abstinence. While not discrediting the need for enforcement, the allocation of $210 million for this program over five years saw 70 percent of it dedicated to fund prevention and treatment with the remainder available to fund enforcement objectives (Hathaway and Erickson 2003, 471).

Despite this model, Canada's overarching approach to marijuana was largely a model of criminal prohibition. Diane Riley (1998) of the Canadian Foundation for Drug Policy says this model is an ineffective and inappropriate drug policy that causes more harm than the drug itself. During the first three years of the harm reduction model, the proportion of drug offenders in Canada's prison rose from 9 percent to 14 percent (Hathaway and Erickson 2003, 472).

Hyshka et al. (2012) regard the current government's ratification of Bill C-10 in March of 2012 as a move in the wrong direction. Its intent is to invoke a minimum sentence of six months

for individuals convicted of cultivating six or more marijuana plants. By doing this, Hyshka et al. argues that the government has not acknowledged scientific evidence that shows the current approach of prohibition and criminalization has proven to be an ineffective measure (125). Additionally, four issues contributing to marijuana's problem definition – social problems, health problems, a gateway to harder drugs, and American pressures on Canadian drug policies – have persisted during marijuana's prohibition. What follows is an analysis of how the problem definition of marijuana has changed over time as the story on Canada's marijuana prohibition continues.

Issue: Social Problems

The original social problem previously discussed explains the power of issue salience. A largely unknown problem was singlehandedly brought to the forefront by one individual. Stone (2012) talks about wedges and inclines. A wedge is a seemingly small issue that leads the way to a large impact. An incline suggests that once an issue begins on a downward path, it is "drawn further by gravity" (173). Judge Murphy's writings had a significant impact on Canada's marijuana policy, a decision that "inadvertently set us on a course that has sent tens of thousands of Canadians to jail" (Mosher 1999, 21). That policy is still in effect almost a century later.

The original problem definition focused on the correlation between immigration and drug use as defined by Judge Murphy. This definition changed little until the 1970s when authorities noticed a marked increase in recreational use of marijuana among young people. There were fears about a decline in societal productivity because of chronic usage (Hathaway and Erickson 2003, 470). During this time, there were numerous attempts to remove criminal penalties associated with its use. Prime Minister Pierre Trudeau introduced a bill which sought to eliminate mandatory minimum sentences for importing marijuana and reduce sentences for other offences. Although passed in the Senate, the House of Commons rejected the bill without a valid reason. The Le Dain Commission had delayed action to the point where salience was low and the issue was removed from the government's agenda (Mosher 1999; Riley 1998).

More recently, there have been concerns about the high content of tetrahydrocannabinol (THC), the psychoactive drug found in marijuana. Canada produces marijuana with up to 25 percent THC, compared to 7 percent in the United States, and 2 percent from the 1970s (Gecelovsky 2008, 209). Since marijuana is illegal, this poses a series of problems, including the lack of regulation and awareness of driving under the influence of THC. Canadian society has seen an aggressive anti-drinking and driving campaign in attempts to raise awareness of the problems associated with impaired driving. As marijuana is currently illegal, these programs related to its use have been minimal, yet Mark Asbridge (2006) argues that 4 percent of the Canadian population have reported to have driven under the influence of marijuana (283). A policy change regarding Canadian marijuana can lead to a sophisticated educational awareness program and research into legal THC limits (284).

In the early days of marijuana prohibition, consequences of marijuana use defined the social problem. Today, consequences of prohibition define the social problem. Stephen Kisely (2008) writes in the *Canadian Journal of Psychiatry* that imprisonment of otherwise law-abiding citizens for use of marijuana unnecessarily criminalizes them. The social costs of marijuana use include "stigma of arrest, lost incomes, and ruined careers" (796). Additionally, many people arrested for marijuana-related crimes are already socially disadvantaged, which can be exacerbated by receiving a criminal record (796). Kisely argues that alternatives to prohibition (dealing with the supply-side) will work to reduce the social costs of marijuana users (the demand-side). He says this could take place in the form of decriminalization – applying a fine instead of criminal sanctions – or full legalization (795-96).

Issue: Health Problems

Marijuana is currently one of three psychoactive substances used recreationally in Canada, the other two being alcohol and tobacco (Fischer, Rehm, and Hall 2009, 101). Wayne Hall and Michael Lynskey (2009) break down the ill-effects of marijuana use into two groups: acute harms that arise from a single or a few occasions of use, and chronic harms associated with repeated use. The former group includes anxiety and panic and an increased risk of accident if a person operates a motor vehicle under marijuana's influence. Harmful effects in the latter group include chronic bronchitis, impaired respiratory function, cardiovascular disease, respiratory cancers, and psychotic symptoms and disorders in heavy users (259).

The issue salience of ill health-effects from marijuana usage rose in the 1940s when there was considerable debate among American scholarly journals, peaking in the 1960s (Mosher 1999). A content analysis of op-eds in the six highest circulating American newspapers found that concern for adverse health effects declined sharply after the 1960s, a decline that persists through to 2000 (Caulkins et al. 2012, 15). Current research shows that the effects of alcohol and tobacco outweigh those of marijuana and there are very few deaths related to marijuana usage, certainly not as high as death associated with alcohol and tobacco use. The argument that marijuana creates a dependency has also been opposed. Studies show that persistent marijuana usage from youth to adulthood is relatively low, challenging previous research that it is a highly addictive drug (Hathaway and Erickson 2003).

While longitudinal studies have shown that marijuana use produces an increased risk of psychotic symptoms, current research suggests that marijuana's contribution to these psychotic episodes in chronic users is only around 10 percent (Hall and Room 2008, 793). In many cases, psychotic behaviour is the result of a pre-existing condition in people who would be at risk of such episodes regardless of their use of marijuana. The argument therefore evolves to a question regarding the role a genetic predisposition plays on psychosis more than marijuana's impact on psychosis (793).

The issue of ill-health caused by marijuana usage has been in a constant state of change. The majority of modern research is showing that the health effects one receives from marijuana are far less severe than the criminal sanctions one receives when charged with marijuana (Hathaway and Erickson 2003). As stated by Justice Mary Southin of the British Columbia Court of Appeal, people who use marijuana are "no better or worse off, morally or physically than people who like a martini" (quoted in Mosher 2011, 375). Furthermore, current research suggests that other forms of ingestion will lessen the health risks. The development of marijuana beverages, lozenges, skin patches or other forms of ingestion would work to reduce the pulmonary hazards associated with smoking (Hathaway and Erickson 2003, 479).

Issue: Marijuana as a Gateway Drug

The notion that marijuana use inevitably leads to harder drugs is an issue that first emerged in the 1950s and continues as a reason why prohibition remains the policy in Canada. Popular media claimed that because marijuana has not proven habit forming, "it makes the switch to heroin easy" (Mosher 1999, 27). Later, in the 1980s, the emerging cocaine epidemics failed to differentiate between its effects and the effects of marijuana saying that "psychoactive drugs tend to correlate with other psychoactive drugs" (Hathaway and Erickson 2003, 477).

Andrew Hathaway and Patricia Erickson (2003) say there is flawed logic to the argument of marijuana being a gateway drug, as the use of legal drugs is more likely to be a gateway drug than marijuana. Studies from the Netherlands show that marijuana tends to satisfy the majority of illegal drug curiosity effectively creating a "closed gate" to further, harder drug use (477). While it is evident that users of harder drugs did start on softer drugs, such as marijuana, they say that two thirds of marijuana users have never made the jump to a harder drug. Kisely (2008) points to numerous government and parliamentary inquiries from countries such as Australia, the United Kingdom and even Canada that dispute the gateway drug problem. They recommend a lenient approach to marijuana, including decriminalization and regulation similar to current regulations for alcohol and tobacco (796).

Issue: American Pressures on Canadian Policy

Many Canadian policies garner quite a bit of reaction from the United States, and the American influence on these policies is often vociferous. Canada's policy on drugs, specifically marijuana, is one such policy. Paul Gecelovsky (2008) calls Canada's marijuana policies an irritant in relations between Canada and the United States, as they have historically attempted to blend the two countries' policies together. The United States is the world's most determined advocate of the war on drugs and views Canada as generally soft on its drug policies. Until the 1980s, the two countries have typically agreed upon or aligned their drug policies, a functional necessity due to the large, undefended border which the two countries share (Mosher 2011).

However, after Ronald Regan declared war on drugs in 1986, and Canada instituted the harm reduction model, tensions between the two countries have arisen (Gecelovsky 2008; Mosher 2011).

In the early 2000s, American authorities expressed concern about the size and quality of British Colombia's marijuana industry. From 2001 to 2004, American law enforcement has seen a three-fold increase in both the number of seizures and the volume of marijuana seized. The quality of this "BC Bud" has the highest THC content of any other supplier, creating a large demand. The United States Department of State indicated that large scale cross-border trafficking is a serious concern for the American government and they threatened to respond accordingly (Gecelovsky 2008, 208).

In 2003, the Chretien government proposed a bill that would decriminalize possession of 15 grams or less of marijuana. An American response soon followed, with the drug czar John Walters pledging to "respond to the threat" posed to the United States by Canada's lenient attitudes about marijuana (Gecelovsky 2008, 210). Canada came up several times at the Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries. While not officially added to 'the list,' Canada along with North Korea were considered as potential threats (210).

Stone (2012) explains that interests to a problem definition can mutate over time (242). While disagreement between Canada and the United States persists, opinions and interests have changed. Recent votes in Colorado and Washington State to legalize marijuana will have an impact on future Canadian policy. This time it will be American policy reducing the severity of Canadian policy. As Colorado and Washington move to institute their regulations and policies regarding legal recreational use of marijuana, Canadian policy makers will be watching, and a flood of academic research will inevitably appear. Through this research, prudent decisions regarding Canada's own policies based on the experience and lessons learned from the United States are possible.

A New Problem Recognized?

Earlier, we examined the original problem definition. A keen observer of past and current events can predict impending changes to public policy. Indeed, the problem definition surrounding the prohibition of marijuana is different today than it was in the 1920s when it first became illegal. We saw how the problem has mutated over time and now Canadian society must recognize a new problem. Recall Soroka's (2007) theory of issue salience and the use of indicators as a way to show increased salience and later, a policy window. This section will discuss two indicators: crime statistics and public opinion. These indicators help to map the national mood, and point out "discrepancies or patterns that hint that something is amiss" (Pal 2010, 101).

Recent events in the media featured a member of the Royal Canadian Mounted Police (RCMP) officer smoking a marijuana cigarette while in uniform. Although the member believed smoking marijuana in uniform was his right because he held a prescription to treat his post-traumatic stress disorder, RCMP Commissioner Bob Paulson said the incident was embarrassing for the member and for the forces (Canadian Press 2013). Observation of changing problem definitions can prompt an organization, like the Department of National Defense (DND) to pre-emptively change a policy in response to a shift in societal values. For example, the *Canadian Aviation Regulations*[2] outlines rules regarding the consumption of alcohol before a pilot takes command of an aircraft. It stipulates that "no person shall act as a crew member of an aircraft within eight hours after consuming an alcoholic beverage" (602.03a). It further states that no crew member can be under the influence of "any drug that impairs the person's faculties" (602.03b). This broad statement fails to differentiate between cold medication and other drugs like marijuana. Changing policies will necessarily outline the specific regulations and research needed to integrate marijuana into legal society. Failure to do this could lead to more embarrassing incidences, as experienced by the RCMP.

As discussed, not all issues that affect policy makers can take priority at once. Many problems remain problems for decades without earning their way onto the government's agenda. Other issues such as terrorism, climate change, oil prices, and unemployment have commanded the attention of politicians (Hall and Lynskey 2009; Stone 2012). However, with the economy showing steady recovery, and Canada's role in Afghanistan winding down, other issues will move into the spotlight. Caulkins et al. (2012) agrees with Soroka (2007), saying that initiatives for policy change on the legalization of marijuana are most common when salience is high (2). Salience is growing, a policy window is opening, and Canadian's should expect policy change initiatives in the near future. Current research is showing that criminalizing marijuana has not been an effective policy in the reduction of marijuana usage and the costs of its enforcement is a substantial financial burden to society (Hall and Room 2008; Hathaway and Erickson 2003). Figure 2 contrasts the overall crime rate in Canada with the drug offence rate. While Canada's crime rate has decreased steadily since the early 1990s, the rate of drug related offences has increased. Figure 3 shows that the majority of drug crimes in Canada involve marijuana, accounting for 62 percent of all drug offences in 2007 (Dauvergne 2009).

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2. *Canadian Aviation Regulations*, SOR/96-433. http://laws-lois.justice.gc.ca/eng/regulations/SOR-96-433 /page-170.html#h-737.
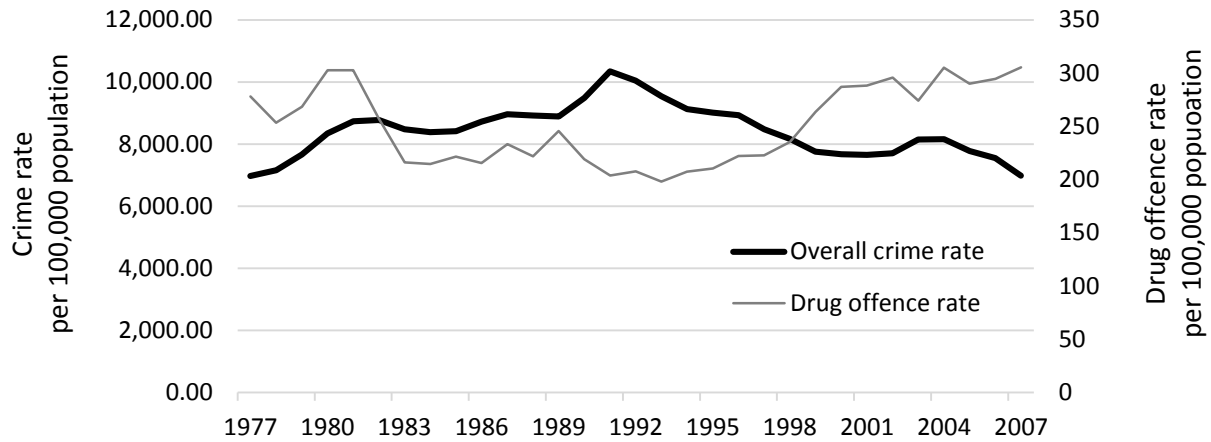

Figure 1. Police-reported crime and drug offence rates in Canada from 1977 to 2007. The overall crime rate does not include traffic offences, drug offences and other federal statute offences. Adapted from Dauvergne (2009, chart 1).
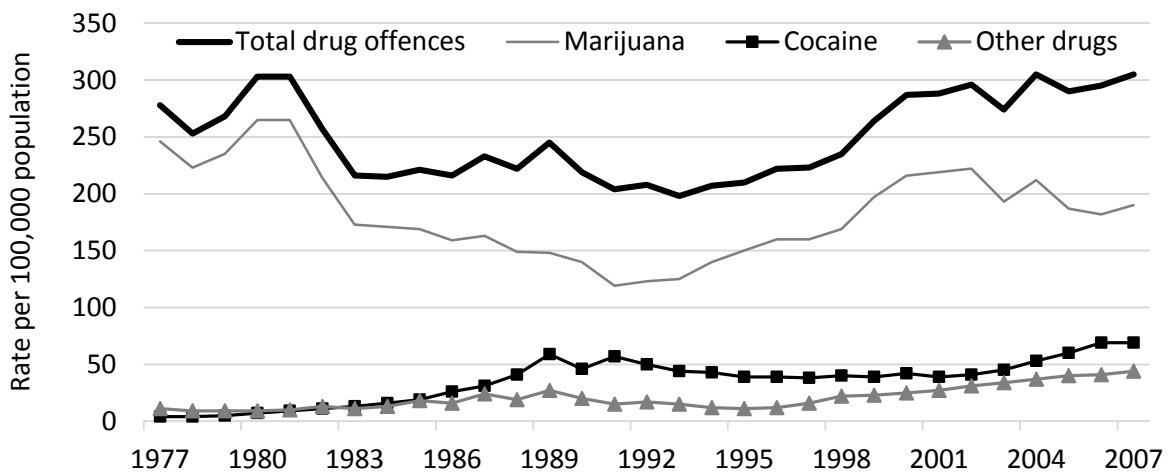
Figure 2. Police-reported drug offences by type of drug in Canada from 1977 to 2007. Adapted from Dauvergne (2009, chart 2).

An examination of public opinion polls over the last few decades shows a steady increase in the proportion of Canadians who support the legalization of marijuana, rising from only 19 percent in 1977 to 57 percent in 2012 (Grenier 2013). Lorne Bozinoff of Forum Research Inc. (2012) says that given these statistics, "the public no longer favours devoting time and resources required to restrict marijuana use and possession," instead favouring a legalize and tax strategy (1). This shows the issue is increasing in salience and a policy window is opening.

As marijuana is currently illegal, proceeds from sales inevitably end up funding a black market. Hall and Lynskey (2009) cite two major problems that go hand in hand with a black market. Firstly, without regulation, the cost of marijuana is extremely high, reflecting the risks

and imprisonment of its vendors (259). Secondly, there is no control regarding the quality of product. Not only does the THC content vary unpredictably, but an unregulated market does not restrict young people from purchasing marijuana. Furthermore, black market marijuana is often sold by the same vendor as heroin and cocaine, providing easy access to these harder drugs (260).

Enforcing marijuana prohibition has come at a considerable cost to society. In spite of attempts to enforce marijuana prohibition, Canada experiences some of the highest rates of marijuana usage in the western world (Hathaway, Erickson, and Lucas 2007, 52) and in turn has the second highest incarceration rate next to the United States. This places a significant burden on the Canadian economy in costs of enforcement and incarceration, estimated at $1,267 per Canadian each year (Grant 2009, 655, 658). In times when governments worldwide are looking at ways to save money, a regulated marijuana market will allow law enforcement authorities to enforce other, perhaps more violent crimes (Kisely 2008).

Often, there are larger focus events that increase salience on a policy issue. The leader of the Liberal Party, Justin Trudeau, has recently spoken about his experiences with marijuana. Statements from a high profile politician broadcasted in the media give this issue salience. Other focus events, such as those seen in Colorado and Washington State's vote to fully legalize recreational marijuana, keep the issue in the media. While still illegal under United States federal law, both states have voted in favour of a regulated marijuana industry similar to that of alcohol and tobacco. These "experiments" currently underway will be watched, studied, and should indeed play a large role in future policy initiatives around the globe (Galston and Dionne Jr. 2013).

It is clear that the criminal state of marijuana is an exhausting financial burden on the Canadian economy that takes away funding needed for more serious crime investigations. The underground market for marijuana places its users at risk by the lack of quality control and access to harder drugs. As public opinion on marijuana is increasingly positive, it is apparent that a new problem definition is required regarding the use of marijuana.

Conclusion

Marijuana prohibition has been in effect for more than 90 years and the majority of research has shown it to be ineffective in curtailing its use. Judith Grant (2009) suggests that since marijuana use is not going away, it is time that policy makers think of a user as a responsible citizen and launch an aggressive educational campaign to better inform marijuana consumers (664). Treating these consumers as valuable members of society instead of criminals will go a long way to reducing the harms associated with prohibition. Their quality of life will increase, and the financial burden on Canadian society will be reduced (Grant 2009; Riley 1998).

This paper began with a discussion on agenda-setting and problem definition; the two work in concert to create a political stream that allows the creation of a policy window based on the salience of an issue and the definition of a problem. Shadowing Stone's (2012) theory regarding problem definitions, we saw how marijuana's problem was defined in terms of causes (marijuana's effect on users), actors who are interested (society), and a resulting decision (prohibition) that seemed appropriate at the time. Inevitably, a new definition results from a shift in societal values, thus redefining the problem. Recent crime statistics and public opinion are examples of Stone's symbols and numbers, indicators of this societal shift. The majority of the public are the interested actors who no longer favour the status quo. The cause of the problem has shifted from marijuana's effects on users to prohibition's effects, which do not work to reduce usage but add difficulty to the lives of marijuana users. A new decision is expected, with high-level politicians speaking out against this policy, and two American states setting a new precedent, Canada's move to stiffen penalties for marijuana cultivation is out of step with current public attitudes regarding marijuana (Hathaway, Erickson, and Lucas 2007). The Canadian public favours Orsini's (2007) responsibilization paradigm that focuses on the examination of risk factors by individuals who are aware of potential harms or benefits of a particular activity. Salience is high, a window is open, and a policy change is imminent. It is imperative that all governmental organizations prepare for this future possibility of legal and regulated marijuana by pre-emptively planning their own policies to prevent misuse or abuse of the legal use of marijuana.

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Canadian Telecommunications Policy: Closing the Window on Foreign Investment

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Abstract

This paper demonstrates that the aftermath of the 700 MHz (megahertz) wireless spectrum auction in 2014 closed the policy window which opened previously in 2012 to allow modest reform of the Canadian telecommunications sector. A literature review on telecommunications policy emphasizes that Canada retains significant barriers to foreign direct investment, despite changes to the 2012 federal budget. The paper introduces Kurt Lewin's force field analysis, a theoretical model originating in psychology and change management theory, to develop a tool for measuring the opening and closing of policy windows. Finally, applying this tool to telecommunications policy demonstrates that the federal government's recent effort to promote foreign competition has stalled and will not likely resume until a new policy window forms.

Keywords: Canadian telecommunications policy, policy window, force field analysis, foreign investment

Introduction

Telecommunications are the backbone of modern Canada. Technological advances have birthed a knowledge economy where ideas and information matter more than physical resources (Powell and Snellman 2004, 199). Participating in the information age enabled Canada and other members of the Organisation for Economic Co-operation and Development (OECD) to surge ahead of developing nations, reaching 86 percent of global GDP (gross domestic product) with 91 percent of Internet users (Wang 2003, 269). Telecommunications has also driven globalization to new heights, even threatening to impose cultural homogeneity and weaken the significance of nation-state boundaries (Pal 2013, 60). Clearly, the telecommunications industry connects Canadians to each other and the world. However, the industry itself remains ironically isolated.

Canada has one of the most protected telecommunications industries in the world (Hirshhorn 2008, 24). Significant legal and economic barriers prevent foreign direct investment (Globerman 1995, 21-26). In particular, the *Telecommunications Act*[1] precludes foreign takeovers by requiring that carriers have at least 80 percent Canadian ownership and control. However, this long-standing isolationist policy has shifted recently. Amid growing controversy over consumer prices, the Government of Canada (2012) introduced new rules in 2012 to allow foreign ownership of small companies representing less than 10 percent market share (120). It also designed the recent 700 MHz (megahertz) wireless spectrum auction to increase competition by reserving spectrum for a fourth carrier in every region (Canada 2014a). Given the rapid evolution of these developments, one might wonder if they foreshadow greater liberalization to come.

This paper aims to demonstrate that further reform of the telecommunications sector is unlikely because the necessary policy window has closed. This analysis begins with an overview of telecommunications policy to situate the debate surrounding foreign investment. Next, the paper introduces Kurt Lewin's force field analysis, a theoretical model originating from the field of psychology, and compares it to public policy theory to develop an inter-disciplinary tool for measuring the opening and closing of policy windows. Finally, the paper applies force field analysis to the field of telecommunications policy which reveals that a policy window to allow greater foreign ownership opened in 2012, but then abruptly closed in 2014.

Background

The federal government controls telecommunications in Canada. Although the *Constitution Act, 1867*[2] predated telecommunications, it effectively assigned jurisdiction to Parliament through sec. 91(29) along with any other matters not granted to provincial legislatures. Furthermore, sec. 92(10) expressly prohibited provincial control over telegraphs, a precursor of telecommunications (Townsend 2012, 24). The *Radiocommunication Act*[3] and *Telecommunications Act* form the basis of modern telecommunications policy. The former pertains to lawful use of radio waves for any purpose, while the latter covers the provision of communications services in Canada. These policies intersect with any form of radio-based communications such as wireless (cellular) phones. Both acts assign regulatory powers to Minister of Industry and administrative authority to the Canadian Radio-television and Telecommunications Commission (CRTC).

The *Radiocommunication Act* serves to distribute radio spectrum in an orderly fashion. Just as motorists drive in different lanes to pass each other without collision, radio operators

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1. *Telecommunications Act*, *Statutes of Canada* 1983, c.38. http://laws.justice.gc.ca/eng/acts/T-3.4/.

2. *Constitution Acts, 1867-1982*. http://laws-lois.justice.gc.ca/eng/Const/index.html.

3. *Radiocommunication Act, Revised Statutes of Canada* 1985, c.R-2. http://laws.justice.gc.ca/eng/acts/R-2.

transmit on different frequencies to avoid electronic interference. The Act enables Industry Canada to issue frequency licenses that separate users in a geographic area so that each conducts their business uninterrupted. The *Radiocommunication Act* does not have any particular restrictions on who can operate in Canada, but it provides the federal government with a powerful tool to control radio-based telecommunications through the issue of licenses.

Meanwhile, the *Telecommunications Act* serves primarily to isolate Canadian industry. From the onset it states "that telecommunications performs an essential role in the maintenance of Canada's identity and sovereignty," (sec. 7). The Act has historically required carriers to remain firmly under Canadian control, but a 2012 amendment removed ownership restrictions for small companies with less than 10 percent market share. However, this amendment has very little effect in practice because three larger incumbents – Bell Canada Enterprises Inc., Rogers Communications, and Telus – control the vast majority of market share. The Act also emphasises protecting the social fabric of Canada as one of its objectives. In conjunction with the *Broadcasting Act*[4], this forms a guiding principle to the CRTC for the safeguarding of Canadian culture.

These ownership rules satisfy a variety of interests. Arguments for the status quo date back to the 1979 Consultative Committee on the Implications of Telecommunications for Canadian Sovereignty that recommended pursing "a sophisticated telecommunications sector developed and owned in Canada to meet specific Canadian requirements" (2). Proponents also point to national defence and industrial regional development as important beneficiaries of domestic ownership (Globerman 1995, 22). Conversely, the *Telecommunications Act* has its detractors. Opponents argue that government could better protect Canadian interests by regulating outcomes rather than restricting ownership (28). Opening the sector to foreign direct investment could facilitate technology transfer and innovation because multinational companies would leverage their global talent to compete for profitability in Canada (Hejazi 2010, 7; Kemeny 2010, 1550). Finally, some argue that restrictions on foreign investment results in higher prices for consumers (Hirshhorn 2008, 2).

This controversy endures today. Industry Canada prominently advertises how consumers have benefited from the partial lifting of ownership restrictions two years ago (Industry Canada 2014), while the opposition New Democrats proposed limiting foreign ownership in their most recent policy book (NDP 2013, 28). On the surface, it appears that the debate remains alive in the public sphere. However, there are more forces at work than merely public debate. The next section outlines a technique to study these different influences shaping telecommunications policy.

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4. *Broadcasting Act, Statutes of Canada* 1991, c.11. http://laws-lois.justice.gc.ca/eng/acts/B-9.01/.

Theoretical Framework

Alternative Techniques

Forecasting policy requires adopting a theoretical framework to analyze and predict its movements. There are several society- and state-centred framework alternatives, but these do not adequately describe a complete picture of telecommunications policy. For example, Marxism offers the society-centred perspective of class struggle to explain the current *Telecommunications Act* as a blend of accumulation and legitimation policy (Milgan 2012, 27). A Marxist critique would assert that the Act shields the interests of existing companies and transfers wealth to the owners of capital by limiting competition. This critique could explain the partial lifting of ownership restrictions as a legitimation policy that provided limited consumer appeasement without jeopardising the primary objectives of capital. However, such a critique would struggle to explain why Industry Canada prominently pursued greater competition and lower consumer prices in recent spectrum auctions. As will be described later in the paper, the federal government recently mandated several consumer-oriented changes to telecommunications policy aside from ownership restrictions. A Marxist critique would find itself hard pressed to describe the cumulative effect of these policy shifts as favourable to established business interests. Consequently, such a society-centred theory has limited application.

Institutionalism offers a state-centred perspective that could explain the longevity of ownership restrictions. A sociological perspective could point to the use of charged language in the *Telecommunications Act* (Lecours 2005, 13). Terms like "Canadian identity" and "sovereignty" could have profound impact on how actors in the policy community perceive their role. Meanwhile, a historical perspective could argue that the established institutions like the Act and the CRTC cause policies to become entrenched through path dependency (14). However, these theories do not explain why the Government of Canada appeared to embark in a new direction in recent years. No major exogenous shock occurred to upset the existing path. Consequently, these state-centred theories also have limited application.

Force Field Analysis

In lieu of these society- and state-centred alternatives, the remainder of this section develops force field analysis as a theory to examine the telecommunications policy. Force field analysis does not originate from the study of public policy, but it offers a practical lens to study change. If force field analysis had a justifiable link to public policy, one could then employ this lens as a theoretical framework. The latter part of this section builds such a link. However, it is necessary to first outline the nature of a force field analysis.

Force field analysis provides a mechanism to analyze change from a baseline state toward a goal. An analyst documents forces acting on the baseline state that restrain or support a transition to the goal. Portraying the forces in this manner establishes a metaphor to understand

how the change can occur. Transitioning from the baseline to the goal requires the drivers to overcome opposing restraints. Figure 1 depicts this metaphor graphically.
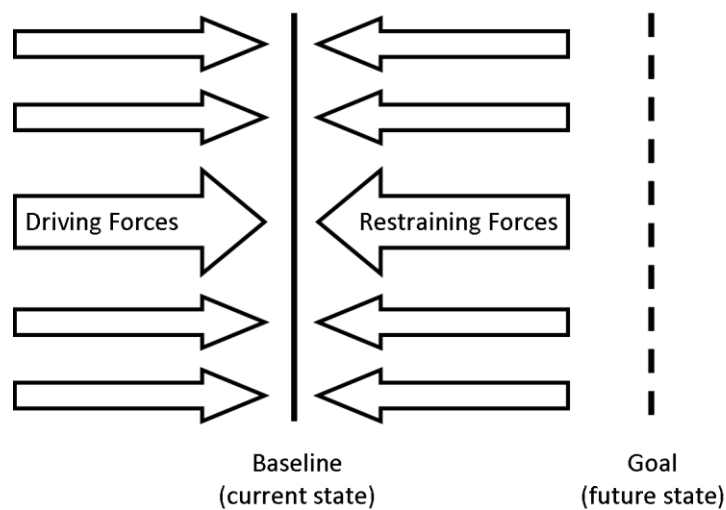

Figure 1. A graphical representation of force field analysis.

This technique has become a popular change management tool for practitioners seeking to implement new policies. For example, medical practitioners have applied force field analysis to restructure hospital services (Baulcomb 2003, 278) and implement patient management information systems (Bozak 2003, 80). By categorising organizational influences in a hospital, these practitioners built a model to demonstrate how the organization could achieve a predefined goal. Similarly, force field analysis can contribute to policy design. Policymakers must select the most appropriate instrument to achieve a predefined policy problem (Pal 2013, 130). Depicting the problem as a baseline and its removal as a goal, one can examine different restraints to change and select an instrument that tackles these challenges.

Conversely, this managerial variant of force field analysis lacks the depth necessary for rigorous study. Categorising forces into drivers and restraints simplifies model building, but the approach lacks a clear methodology to identify possible forces for inclusion in the model. Without such methodology, one cannot ascertain that all appropriate forces have been included. Finally, the transition from a baseline to the goal seems arbitrary rather than founded in a strong, empirically tested hypothesis. The remainder of this section pieces resolves these limitations by drawing on the development of force field analysis to piece together the necessary methodological framework.

Force field analysis originated with Kurt Lewin was a psychologist who proposed a series of theories that culminated in force field analysis. First, Lewin developed "field theory" on the belief that individual behaviour reflected the sum of all the perceptions that an individual had at the time (Lewin 1943, 1997). This field theory disagreed with most contemporary psychology

theories of his time in two key ways. First, Lewin asserted that behaviour reflected all the forces acting on a person rather than a few key determinants. This implied that changing single aspects of a person's environment would not imply a shift in behaviour unless one considered how the entire environment interacts (Burnes and Cooke 2013, 410). Second, field theory defined behaviour as a function of current perceptions rather than past history. For example, he proposed that a grown adult would not react to a troubled childhood without perceiving that childhood as troubling in the present moment (411).

These concepts from Lewin's field theory shed a different light on how to interpret and apply force field analysis. Lewin did in fact propose a methodology for choosing which forces to consider. He believed in considering as many influences as possible and considering the interactions between them. Analysts have to look deeper to understand all of the forces at work rather than simply scratching the surface (Swanson and Creed 2014, 32). Furthermore, the theory provides a basis to explain how behaviour remains static until the right arrangement of forces causes it to change. Behaviour rests in a dynamic equilibrium amid the counterbalancing forces at any given moment, and a change to several of these forces causes a shift to a new equilibrium.

Lewin's next theory bridged psychology to organizational management. Group dynamics asserts that behavioural change across an entire group endures because the group pressures its members to conform to the change. Conversely, behavioural change in a single member reverts if the rest of the group does not immediately follow (Lewin 1947b; Burnes 2004, 982). Although Lewin focussed on the formation and evolution of groups, group dynamics connects the underlying principles of field theory to the broader social sciences. In particular, group dynamics connects field theory to public policy.

Public policy represents an extreme example of group dynamics. Regulations define norms throughout society (Lemaire 1998, 59). Governments affirm these norms with varying degrees of coercion, just as groups assert varying levels of pressure on individual behaviour. Group dynamics relates to common behaviour inside any organization or group, such as the government or the Canadian public. In these examples, however, public policy replaces the concept of common behaviour. Group dynamics thus provides a theoretical basis for applying field theory and force field analysis to the study of public policy.

Finally, Lewin produced a model to explain the change process. This model builds on field theory by explaining how change occurs in three stages (Burnes 2004, 985). First, he asserted the requirement for a thawing phase (Lewin 1947a, 35). Since behaviours (individual or group) exist in a dynamic equilibrium amid counterbalancing forces, change cannot occur until the equilibrium destabilises. Thawing the behaviour implied rendering it vulnerable to change by creating a perception of need (drivers) and reducing the impact of restraints (Burnes 2004, 985). This may appear to mirror the popular management tool introduced earlier, but there is a subtle

difference. The simple metaphor of arrows pointing forward and back asserts that organizations leap from baseline to goal by simply removing a few obstacles, but Lewin believed that weakening the forces represented only the first stage of change.

Second, Lewin (1947a) proposed a move stage (35; Burnes 2004, 985-986). During this stage, behaviours could shift along any desired axis because of weakness in the dynamic equilibrium. Depending on the context, this is when behaviours change, organizations adapt, or policies form. Lewin recommended that organizations try different options during the move stage, to determine which is the most effective (Burnes 2004, 993). Trial and error may not suit policymaking, but different options exist during this phase. Lewin's theory predicts that policies are malleable during the move stage to any significant force applied against them.

Finally, Lewin introduced the concept of refreezing (1947a, 35). Once an organization had achieved the desired change, he asserted that it must rebuild the field of counterbalancing forces around the new position. Without refreezing, the changes would remain tenuous amid an unstable dynamic equilibrium (Burnes 2004, 986). The simplified force field analysis described earlier omits this stage completely (Swanson and Creed 2014, 33). In a policy context, the simplified tool describes only part of how to implement a policy. The refreezing stage completes the implementation by asserting the need for mechanisms to ensure continuity. It also provides an important corollary: if refreezing occurs before reaching the desired end state, then the process must restart from the beginning. Similarly, if the factors influencing policy become entrenched partway through a change, then the change will remain incomplete.

Lewin's three-step change model shares similarities with conventional policy models. Breaking changes into stages compares to models that break policymaking into a sequence of steps. One such theory, agenda-setting, asserts that policies change during narrow policy windows (Kingdon 2011, 165). These windows present opportunities for policy entrepreneurs to pursue a desired policy option. However, the opening of a window does not guarantee the change will occur. If the window shuts before its proponents secure a foothold, then the opportunity fades with no substantial policy change. This concept of a temporary policy window mimics the middle stage in Lewin's change model. Policy windows form when the associated dynamic equilibrium thaws, and later shut when it refreezes. Consequently, Lewin's model applies to the study the opening and closing of policy windows.

Incorporating Lewin's original research into the force field analysis model produces a theoretical framework to study telecommunications policy. Field theory is particularly relevant to telecommunications policy because of how telecommunications connects all Canadians together. One must understand all of the different forces acting on Canadians to appreciate how telecommunications policy unfolds. Meanwhile, group dynamics provides an important theoretical bridge between psychology and public policy, allowing force field analysis to take the

place of a theoretical framework. Finally, his three-step process describes how policy windows open and close. This provides a deeper understanding of when telecommunication policies are most likely to change or remain. The next section applies this method to demonstrate that the policy window for reform of Canada's telecommunications ownership rules has ended.

Policy Window: Canadian Telecommunications Ownership

Thawing Stage

Aside from the *Telecommunications Act*, several informal barriers crowd out foreign investment in telecommunications. Building networks invokes high capital costs (Church and Wilkins 2013, 4). Incumbents have the advantage of owning existing infrastructure such as the public switch telephone network. Consequently, new entrants cannot provide competitive services without massive infrastructure spending. This reduces the likelihood of both domestic and foreign competitors entering the market. However, advances in wireless technology have weakened this relationship. Wireless infrastructure costs less to establish because a few towers cover a community without the need to bury wires on every property. Incumbents and new entrants both face similar challenges in rolling out new technology to meet evolving consumer demands.

Meanwhile, controversy over consumer protection has arisen to the forefront of telecommunications policy. Canadians allegedly suffer from a lack of competition in the wireless industry. Popular arguments for more competition and lower prices abound everywhere (Church and Wilkins 2013, 1). The federal government even incorporated these arguments into online and television advertising, "More choice. Lower prices. Better service," (Industry Canada 2014). However, this interest in consumer protection did not originate with wireless communications.

The CRTC's mandate has shifted in recent years toward consumer interests. The Commission regulates wholesale prices that carriers charge when leasing services to each other. Although wholesale prices differ from retail ones, controversy arose in 2011 when the CRTC approved a wholesale pricing model based on consumer behaviour (Geist 2011, 222). Instead of charging a flat fee based on the number and quality of leased internet connections, the CRTC (2011) authorised wholesale providers to charge their lessors a premium for each consumer who exceeded a monthly data usage threshold (4). Critics argued that industry incumbents would have the ability to interfere with the relationship between competing internet service providers and their customers (5). The controversy reached a climax when 450 thousand Canadians petitioned for an end to data caps on internet service (Geist 2011, 222). This led the Industry Minister to overrule the CRTC (CBC News 2011), and created the necessary friction within government to set in motion future policy changes to bolster consumer protection in the telecommunications industry.

These events alone do not describe the CRTC's influence. Recalling Lewin's field theory, one must consider all of the forces at work rather than a few key ones. For the CRTC, this means considering some of its key roles that lie outside telecommunications. For example, it serves to protect Canadian culture by administering the *Broadcasting Act*. Many of the objectives in this Act mirror the *Telecommunications Act*, including the "enhancement of national identity and cultural sovereignty" (sec. 3b). Consequently, the two policy areas are bound to interact.

Changes to the broadcasting industry have helped to thaw telecommunications policy. Two of the telecommunications incumbents, Bell Canada Enterprises Inc. and Rogers Communications, have embarked on a strategy of vertical integration by acquiring and integrating media companies into their own services. For example, Bell Canada Enterprises Inc. (2011, 1) acquired CTV for $3.2 billion and both companies purchased a stake in Maple Leaf Sports and Entertainment for a combined value exceeding $1 billion (Rogers Communications 2011). Most recently, Rogers Communications (2013) signed a 12-year contract with the National Hockey League worth $5.2 billion. These major acquisitions have stoked fears about competition. Without regulatory oversight, critics argue that these major firms could deny competitor access to lucrative broadcasts. The concern has shifted the CRTC's focus from its usual emphasis on Canadian content quotas in broadcasts. Technology has also played a role in shifting broadcast policy, including the introduction of satellite-based radio (O'Neill 2008, 30). The CRTC approved a reduction in quotas from 35 percent to 10 percent to avoid a black market, as it cannot coerce foreign satellite providers as easily as terrestrial broadcasters inside Canada.

Changes in technology, consumer attitudes, and broadcasting policies weakened the restraints on telecommunications policy, but it was not until 2008 that a major driving force arrived. Globalive won a substantial amount of wireless spectrum in the 2 GHz (gigahertz) auction at a cost of $440 million (Industry Canada 2008). Although Globalive was a Canadian company, it financed the deal by giving a significant equity stake to foreign investors. This led to a rare decision by the CRTC to reject a carrier from operating on the basis that it failed to meet Canadian ownership rules (Robertson 2009). This presented a problem for the government, as it had already sold the spectrum and in doing so bore a degree of culpability for the sudden reversal. The Honourable Tony Clement, Minister of Industry, later overruled the CRTC by declaring that Globalive was in fact Canadian controlled and met the ownership rules of the Act (Canada 2009). Even if one accepts the Minister's decision and the relevant Order in Council at face value, Globalive's entry into the wireless market upset the already fragile balance that held telecommunications policy in place.

Movement Stage

This paper has already alluded to the small movements that took place while the policy window remained open. Amid continuing controversy over the Globalive decision, including an appeal to the Supreme Court of Canada by competitor Public Mobile, the Government of Canada

(2012) announced new Canadian ownership rules in its 2012 Economic Action Plan. The budget introduced an exemption for companies with less than 10 percent market share, and allowed this exception to continue if they grew beyond this threshold as long as they did so without mergers and acquisitions.

This policy change eliminated the uncertainty around Globalive, but its impact was muter than it could have been. Telecommunications services remained broadly concentrated with three incumbents that fell outside the scope of the new policy. Consequently, the new rules only applied to a tiny portion of the market. Loosening investment restrictions on the industry incumbents would have represented a more dramatic policy change. Furthermore, the exemption for small carriers had limited attractiveness to potential investors because it contained a legislative "poison pill." If any foreign-owned company grew beyond 10 percent market share, it would become ineligible for mergers and acquisitions by law. This has the effect of chilling investment by eliminating one of the drivers for share price (Malatesta 1988). Consequently, the government has not yet achieved a substantial policy move toward welcoming foreign investment in the telecommunications sector.

Refreezing Stage

The refreezing stage began in 2014 with the 700 MHz wireless spectrum auction. The government designed the auction to favour smaller carriers by establishing four blocks of spectrum in each geographic region and prohibiting firms from winning multiple blocks. Consequently, the incumbents could only compete for three blocks (Canada 2014a). This left a fourth block open to new entrants at a substantially lower price. In an industry consultation to prepare for the auction, firms disagreed over the merits of this policy (Industry Canada 2010).

As the auction neared, the three incumbent companies lobbied the government to change course. The lobbying intensified and made national headlines after rumours surfaced that Verizon Communications Inc. was interested in entering the Canadian market (Chase, Erman, and Trichur 2013). These rumours gave the incumbents ammunition to accuse the government of prejudicing large foreign companies at the expense of Canadian industry. The debate was no longer simply between large incumbents and smaller carriers; Verizon was far larger with US$120 billion annual revenue (Verizon Communication Inc. 2014, 9) compared to C$20 billion for an incumbent such as Bell Canada Enterprises Inc. (2014, 5). The government responded with an intense public relations campaign. Unlike previous spectrum auctions, the 700 MHz auction accompanied significant volume of online and television advertising (for example, see Industry Canada 2014). However, this advertising did not respond directly to the incumbents' concerns about foreign investment. Instead, it painted the issue as one of competition.

As it happens, foreign investment did not flood into the auction. Verizon clarified that it had some interest in Canada, but would not participate in the auction. Its decision to keep out

may have been influenced by its subsequent deal with UK-based Vodafone to end a joint venture in the US wireless market. At US$130 billion, this was the third largest corporate deal in the telecommunications industry (Holton and Carew 2013). Consequently, Verizon may have avoided Canada so that it could focus capital on this larger purchase. Meanwhile, Globalive announced through its subsidiary Wind Mobile that it did not have the financial capacity to participate in the auction (Trichur 2014). These two announcements dealt a blow to momentum for foreign investment in wireless communications. Meanwhile, the government remained deeply invested in its public relations campaign for a fourth carrier in every region.

The auction ended 13 February 2014 and the winners became publicly known six days later. The government raised $5.2 billion selling 97 licenses to Canadian-owned carriers, of which 83 went to the three industry incumbents (Canada 2014b). Regional carriers Sasktel and MTS also acquired one license each, reflecting their local incumbencies. Had there been no further winners, the government's fourth-carrier strategy would have been a dismal failure. However, Quebecor-owned Vidéotron stunned the industry by purchasing seven licenses, including five in Ontario, Alberta and BC. Consequently, Vidéotron now represents a serious contender for national market share.

These auction results dim the mood for foreign investment. Now that a fourth Canadian carrier is undertaking a strategy of national expansion, market saturation will increase and render Canada less attractive to foreign investment. Foreign investors must now contemplate competing with Vidéotron as well as the three main incumbents. This reduces the likelihood that smaller companies such as Globalive will receive further international funding. Furthermore, market saturation weakens justification for the government to pursue further policies to promote competition, such as relaxing ownership rules. Meanwhile, Vidéotron has the financial means to win spectrum in future auctions through its parent corporation. Finally, Quebecor Inc. itself is almost certainly immune to foreign takeover. As a combined media and telecommunications corporation, both the *Broadcasting Act* and *Telecommunications Act* apply. More importantly, Quebecor Inc. is majority owned, controlled, and operated in a province that resists hostile takeovers by outside corporations (see Quebec 2014, B.79-80).

Consequently, drivers for foreign investment have weakened while restraints strengthen. As Vidéotron begins to compete in several Canadian markets, the incumbents continue expanding their infrastructure to keep up with technological advances. The cost of entering the Canadian market will rise as the benefits decline. Meanwhile, the federal government has expended its political capital through public advertising amid the controversy over Verizon Communications. The next opportunity for foreign investment will occur in 2015 during the 2.5 GHz spectrum auction (Canada 2014b), but the government will likely shy away from promoting foreign investment with further policy action amid a looming election. Consequently, a new dynamic equilibrium has formed with the conclusion of the 700 MHz auction. The existing

policy changes will remain in place, but further liberalization of telecommunications policy appears unlikely.

Conclusion

Force field analysis proves to be a useful analytical tool for studying public policy if one applies it in the context of Lewin's original research on field theory (1943), group dynamics (1947b), and the three-step model (1947a). Although the technique does not predict exactly what will occur when a policy window opens, it does provide clues into how policies could shift in a variety of directions within the same window. Furthermore, it establishes that these shifts lack permanence until the window closes. Most importantly, however, force field analysis provides a firm means to predict policy entrenchment. When the dynamic equilibrium surrounding a policy field refreezes, force field analysis predicts that they will not change further. This predictive character establishes the relevance of force field analysis as a theoretical framework.

Applying force field analysis to Canadian telecommunications policy reveals that a policy window formed amid changing technology, consumer expectations, industry amalgamation, and controversial outcomes of the 2008 spectrum auction. However, movements inside this window deviated from the policy objective of increasing foreign investment. Instead, the recent 700 MHz auction served to increase competition amongst domestic carriers. While this represents a significant shift from the previous status quo of three dominant incumbents, it also implies that policy moved in an opposite direction from foreign investment. Despite the changes to the *Telecommunications Act* in 2012, the efforts of the Government of Canada to promote foreign investment in the telecommunications sector has stalled. Consequently, further reform of the telecommunications sector is now unlikely until a new window forms in the future.

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Women and Employment Insurance in Canada: A Gender*ing*-Based Assessment

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Abstract

Gender*ing*-Based Assessment (Bacchi and Eveline 2003) is used as a conceptual framework to examine the shortcomings of gender mainstreaming (GM) in relation to employment insurance (EI). First, the paper defines feminism and provides a historical overview of how GM became the conventional and dominant approach in Canada. Second, the paper explains and re-defines the problem of the EI program, and describes how EI has changed in the context of neoliberalism. By exposing the flaws inherent in neoliberalism, the paper questions the effectiveness of Canada's gender-based analysis (GBA) and argues that a deeper approach is needed to bring about systemic change. As an analytical tool, GBA does not have the capacity to guide the policy design and decision-making process in a direction that understands *why* EI eligibility requirements impact men and women differently. Moreover, the essay asserts that the problem with conventional approaches is that they place the difference in women, thereby disregarding the potential that policies may have in creating women, as opposed to just impacting them.

Keywords: Canadian public policy, employment insurance, gender mainstreaming, Gendering-Based Assessment, Deep Evaluation

Introduction

During the Great Depression, the Canadian government embarked on a new social policy agenda. Massive levels of poverty forced more and more people to seek help, and in 1935 an unemployment insurance (UI) bill was introduced (Pierson 1990, 79). Five years later, the UI program passed both the House of Commons and the Senate (79). Designed to give assistance to workers who lost their jobs through no fault of their own, UI was used heavily after World War II. At this time, gendered conceptions of employed men and women emerged. Government and society had long viewed women's primary role as being in the private sphere; on the other hand, men were expected to be the breadwinners of nuclear families. Ruth Pierson writes that "gender pervaded the 1934-1940 debate on unemployment insurance, and was inscribed in every clause

of the resulting legislation" (102). The enactment of the UI Act in 1940 marked a pivotal turning point in the history of the Canadian welfare state[1] because women finally had the right to certain benefits, at least on paper.

Gender inequalities were present in the original 1935 UI Act. Contribution and benefit rates were set higher for men than women and there was a special cases clause concerning married women (Pierson 1990, 81). The general consensus was that unemployment was mainly a male problem. Thus, men needed more benefits to support their families. All sex-based differences were removed and the 1938 bill was "marked by an absence of any distinction in benefits or contributions as between men and women, or as between boys and girls" (81). While the 1940 Act was phrased in gender-neutral terms, higher dependency rates were given to "(i) a man whose wife was being maintained wholly or mainly by him, (ii) a married woman who had a husband dependent on her or (iii) one or more children under 16" (Porter 2003, 44). Still, stereotypes about men and women permeated Canadian culture during the Cold War. Quite evidently, the higher rate was intended for married men, and men received the majority of the benefits (44-45). Even from the beginning, gender played a major role in the shaping of the UI program.

UI was renamed Employment Insurance (EI) in 1996 and the restrictions for recipients have been tightened ever since. Lower average payments and shorter maximum duration of benefits are symptoms of neoliberalism. Neoliberalism is an ideological term used to describe parties or politicians who advocate the government's withdrawal from the economy (Dyck 2011, 698). The ideology is responsible for the dramatic reduction in the percentage of unemployed women qualifying for benefits. This paper argues that gender mainstreaming (GM) and gender-based analysis (GBA) are inadequate strategic approaches for addressing the issue of gender equality in a neoliberal context. GM aims to ensure that considerations of gender are included in all phases of the policymaking process. Since Canada does not have an official policy on GM, it uses the institutional variant GBA (Hankivsky 2007, 112). GBA is used to assess the differential impact of particular policies on both men and women. The essay asserts that governments need to pay attention to how policies impact and create women as opposed to how they affect them. I supplement Olena Hankivsky's idea of diversity mainstreaming with Carol Bacchi and Joan Eveline's (2003) idea of Gender*ing*-Based Assessment, which is based on their concept of Deep Evaluation. This paper uses these conceptual frameworks to examine the shortcomings of GM in relation to EI. Gendering-Based Assessment aims to strengthen GM by creating a space at the beginning of the policy design process to let policymakers contemplate the ramifications of particular policies and policy proposals.

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1. Dyck (2011) defines the welfare state as "the characterization of most Western democracies from about 1950 to 1985 in which governments functioned as provider and protector of individual security and well-being through the implementation of a wide array of social programs and income transfers to individuals."

Feminism: Defining the Concepts

Feminists are primarily concerned with gender equality, including employment equity, pay equity, personal and private equity, as well as legal equity. Within the feminist school of thought there are socialist feminists, Marxist feminists, radical feminists, and liberal feminists. Given the diversity, not all feminists think alike or agree with one another, but they all differentiate between the concepts of gender and sex. Sex refers to the biological differences between men and women, while gender refers to the socially constructed characteristics associated with an individual's sex. Like sex and gender, equity and equality are interrelated and dissimilar. The former implies fairness and compensation for past historical wrongs. For example, in order to ensure a level playing field, governments can use affirmative action programs and grant women preferential treatment. Conversely, equality means that both men and women have achieved the same social, economic, and political status within a society. Equality can only be achieved through equity (Status of Women Canada 1995, 3).

Employment equity has always been a major concern among feminist groups because women comprise almost half of the labour force in Canada (Status of Women Canada 1995, 3). To add, women have been traditionally underrepresented and disenfranchised. The Government of Canada should focus on developing public policy that reflects the needs of a diverse group of people including Aboriginal women (and women of other minority groups), women with disabilities, and women that are a part of the LGBT (lesbian, gay, bisexual, and transgender) community. Monica Townson and Kevin Hayes (2007b, preface) write that: "Good public policy depends on good policy research. In recognition of this, Status of Women Canada instituted the Policy Research Fund in 1996. It supports gender based policy research on public policy issues in need of gender-based analysis". GM gained momentum as more and more people, both male and female, ascribed to feminism. Now, I will examine how GM emerged as a strategic approach.

Background: What is Gender Mainstreaming?

GM, or GBA as it is known in Canada, emerged as a result of the 1995 World Conference on Women in Beijing. GM became the international standard for promoting gender equality in all stages of the public policy process. Canada was one of the first countries in the world that attempted to change women's inferior status (Hankivsky 2007, 112). Before 1960 the government took little action to eliminate obstacles to equality; however, in 1963 the Royal Commission on Government Organization instructed Ottawa to show "creative leadership in providing equal opportunities for women" (Brennan 1998, 9). In 1967 the Royal Commission on the Status of Women was given the task to "inquire into and report upon the status of women in Canada" (Hankivsky 2007, 112). Three years later the commissioners made numerous proposals geared toward ensuring equality of opportunity for women. Status of Women Canada was set up to make sure that the commission's 167 recommendations were implemented. Even today some

of the recommendations have not been put into effect (Dyck 2011, 152). Currently, the organization encourages economic, social and democratic equality through "strategic policy advice and gender-based analysis support" (Status of Women Canada 2013). It is also in charge of administering the Women's Program, with the objective to promote the cause of women's rights.

As the women's movement took off in the 1970s the federal government established the Office of Employment Opportunity and the Canadian Advisory Council on the Status of Women. Both sections 15 and 28, which guarantee equality rights, became a part of the Canadian Charter of Rights and Freedoms when Prime Minister Trudeau patriated the Constitution in 1982. That same year, the first federal-provincial conference on women's issues took place. Also, in 1995 the Federal Plan for Gender Equality was established, which committed the government to applying GBA in the development of all new legislation, policies, and programs (Dyck 2011, 152). At the core of GBA is the idea of substantive equality. Substantive equality emphasizes equality of outcome. Because men and women occupy different roles in society, their social, economic and political realities are different. When using GBA, policymakers have to recognize that achieving equal results means treating both sexes differently. Substantive equality "requires the accommodation of differences and the consideration of how gender burdens and benefits are shaped by policy" (Hankivsky 2007, 115). This type of equality stands in stark contrast to formal equality, the view that equal treatment will yield equal results (115). GBA should inform all stages of the public policy process, from problem definition to evaluation (Status of Women Canada 1995, 7). However, it is well documented that GBA has not been successful. Writing a few decades back, Caroline Andrew (1984) asserted that "it is necessary to examine the question of gender, the relations of women and the welfare state" (667). In 2005 the Standing Committee on the Status of Women concluded that "GBA is still not being systematically incorporated into policy-making" (Hankivsky 2007, 117). A significant point that needs to be acknowledged is that gender analysis is disregarded as a part of the policy design process.

Problem Definition and the Policy Design Process

Policy design is the process where the most appropriate policy instruments are chosen to deal with a problem so that a particular goal can be achieved. Every policy consists of three key elements: problem definition, goal setting, and instrument choice. When choosing a policy instrument, decision-makers have to adhere to two main principles: efficiency and effectiveness. Policymakers must choose an instrument that: (1) achieves the organization's objectives (2) and uses scarce resources in the most economical and profitable way (Pal 2013, 130). This can be difficult because bureaucrats operate in an environment of imperfect knowledge. Leslie Pal admits that "in the real world of politics and administration… there are multiple decisionmakers with conflicting perspectives and priorities, information is in short supply or contradictory, and everything has to be done immediately" (23). The prospect of unforeseen circumstances forces many government departments to opt for incrementalism. Policies are supposed to solve

problems, but complicated problems may require a mix of policy instruments. Policy instruments do have the potential to ameliorate problems; nevertheless, there is a great deal of responsibility associated with choosing the right instrument because policymakers have a variety of tools at their disposal that, if used incorrectly, may make a situation worse (22).

Tools vary in effectiveness and efficiency depending on a person's gender. EI entails little coercion and merely encourages labour force participation; it does not restrict individual or group behaviour in the same sense that regulation does (Howard 2002, 412). Evidently, it encourages more male participation in the workforce (since more men qualify for EI). Policy design bridges the gap between problem definition and goals. No one disputes the notion that the general goal of EI is to provide social protection from the vicissitudes of life. Pal (2013) explains that "the technical means whereby we pursue goals are a reflection of the ways in which we perceive problems and the goals we are pursuing" (131). UI became an important policy instrument for the federal government during the Great Depression. Back then, the main policy problem was income inequality and the goal of the federal government was to redistribute wealth more equitably (131). Ottawa chose to solve the problem via public expenditures. This instrument has many subcategories, employment insurance being one of them. How officials perceive the particular problem(s) and the policy instrument(s) they choose to accomplish a goal is influenced by many factors like sociopolitical culture and the changing economic realities of the Canadian labour market.

Problem definition is crucial to the successful development of public policy, yet problems are not always easily defined. One needs to appreciate the myriad of factors that cause unemployment, from domestic recessions to a lack of proper skills. For example, in the wake of a recession or depression there is little that governments can do to assuage high unemployment levels. If the issue is a result of a lack of skills, then the government can encourage people to participate in the market economy by establishing training programs. Although all three components of the policy design process are interrelated, issue definition shapes the entire process afterward (Pal 2013, 97, 130). The new problem should be constructed as follows: fewer women are able to qualify for EI benefits because they are less likely to have had paid employment in the previous 12 months. The following case of Kelly Lesiuk illustrates the complications associated with the EI program.

The Case of Kelly Lesiuk

Almost 60 years after the UI Act, a woman by the name of Kelly Lesiuk applied for EI but was denied special maternity benefits based on the amount of hours she worked. Lesiuk was a part-time nurse but had to give up her job after she became pregnant[2]. In 1996, the qualification

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2. *Canada (Attorney General) v. Lesiuk (C.A.),* 2003 FCA 3, [2003] 2 F.C. 697. http://reports.fja.gc.ca /eng/2003/2003fca3.html.

requirements of the *Employment Insurance Act*[3] were changed from a weeks-based system to an hours-based system. She would have been granted the benefits if the old requirement had been in place. Unfortunately, Lesiuk came 33 hours short of the new 700 hour requirement. Even though the Federal Court of Canada overturned the decision, the Umpire found "that the eligibility requirements demean the essential dignity of women, who predominate in the part-time labour force, since they must work for a longer period of time than full-time workers to demonstrate their work force attachment". Before April 1, 2013, a claimant or an employer could appeal an EI decision to the Board of Referees and Office of the Umpire (Service Canada 2012). As of April 1, 2013, both levels of appeal were replaced by the Social Security Tribunal (Canada 2013).

Problem Recognition

The problem was recognized in February of 2005 when the House of Commons Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities (HUMA) released a report entitled *Restoring Financial Governance and Accessibility in the Employment Insurance Program* (Townson and Hayes 2007a, 34-35). Problem recognition is "the stage at which there is an emerging sense that there may be a problem that needs attention and further analysis" (Pal 2013, 125). Although the report did not contain specific recommendations related to women and gender, it did contain 28 suggestions meant to address EI financing and governance, and benefit enhancements (Townson and Hayes 2007a, 34-35).

As an analytical tool GBA does not have the capacity to guide the policy design and the decision-making process in a direction that understands *why* EI eligibility requirements impact men and women differently. However, intellectuals like Rees firmly believe that mainstreaming is informed by "politics of difference that recognizes the androcentricity of organizations and seeks to change it, thus facilitating women's full participation on equal terms" (Bacchi and Eveline 2003, 101). Rees distinguishes between three developments in equality policy. The early days were marked by "tinkering", followed by "tailoring", and finally "transforming", better known as mainstreaming (100). Critics of gender mainstreaming hold that GBA only assesses the implications of policies. According to Rees, mainstreaming is about changing the nature of organizations to suit women; previous reforms only attempted to "slot women into existing organizations" (100). Hankivsky's (2009) view is that GBA has become an ineffective tool "when forced to confront the priorities and values of neoliberal policies" (119). Bacchi and Eveline (2003) concur with Hankivsky: the reasons GM became so widely accepted is because it does not threaten the dominance of neoliberalism.

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3. *Employment Insurance Act*, *Statutes of Canada* 1996, c. 23. http://laws-lois.justice.gc.ca/eng/acts/E-5.6/.

Metamorphosis: EI in the Context of the Neoliberal Welfare State

Free enterprise capitalism is the doctrine that argues that the economy can regulate itself without government interference. In a freely competitive market, prices, products and services are set through the forces of supply and demand alone. Welfare capitalism conforms to most of the theories of free enterprise capitalism, but adds to this the belief that government should take responsibility for the well-being of its citizens. Social insurance programs like EI protect men and women against a total loss of income. The slow disintegration of the Canadian welfare state changed EI for the worse (Porter 2003, 3-4). Factors that led to the transformation of the welfare state include: debts, deficits, changing responsibilities of the public and private sector, globalization, new technologies, requests for citizen engagement, and doubts about whether government institutions are the appropriate mechanisms that can effect change. What ensued was: cuts, privatization, deregulation, reduced expenditures, targeted social security spending, contracting out, abandonment of programs, and a reduction of the size of the public service (Dyck 2011, 605). These hallmarks of neoliberalism had a severe impact on several echelons of society, particularly women. EI became more exclusionary as neoliberalism engulfed the state.

The switch to an hours-based system affected women adversely (MacDonald 2009a, 254). In 2000, the eligibility requirements were changed from 700 hours to 600 hours. Currently, a person must have worked between 420 and 700 hours in the previous year, depending on the local unemployment rate. Whereas previously applicants for parental and maternity benefits were required to have 20 weeks with a minimum of 15 hours per week (or 300 hours), under the new system they were required to have 20 weeks at 35 hours per week (equivalent to 700 hours; MacDonald 2009a, 254-59). The hours needed to qualify for parental and maternity benefits doubled. Martha MacDonald calls the 35-hour work week a "male norm" (254). Gender inequalities today are different than the inequalities present during the postwar era. The post-World War II era is sometimes referred to as the Golden Age of the welfare state because it was marked by change. Growing pressures by women's rights organizations eliminated deeply entrenched societal prejudices that were a part of public policy and everyday discourse (Porter 2003, 9). The new welfare state is plagued by inequalities that stem from the values associated with neoliberalism. While the male breadwinner model typical of the post-World War II era has largely disappeared, a new adult worker model (sometimes called citizen worker or universal model) has taken its place (MacDonald 2009a, 253).

The Adult Worker Norm

EI applauds the efficient and effective full-time adult worker who happens to be male. It is not so much a male norm as it is a full-time worker norm. Eligibility requirements are based around the standard employment relationship (SER), which simply means that an individual worker is engaged in continuous full-time work under one employer (Fudge and Owens 2006). Women often work in non-standard jobs. Non-standard jobs carry the curse of irregular hours

making qualification for EI benefits difficult and onerous (MacDonald 2009a, 254-255). Also, women constitute the majority of the part-time workforce, which means that they have little job security (254-255). EI reforms hurt part-time women workers more than men because women work fewer hours than men (254-255). Nowadays social policy is geared towards promoting continuous labour force attachment. With the advent of neoliberalism, governments began to increasingly place the onus on the individual. "Social investment" became the new buzzword as the state began to highlight the importance of self-sufficiency (253). To quote MacDonald (2009a), "with social investment… the state claims a role in investing in human capital and social capital in order to enable individuals to support themselves." Twenty years ago the Chrétien Government released the *Agenda for Jobs and Growth: Improving Social Security in Canada,* which was better known as the Green Book. The discussion paper blamed the EI program for unemployment levels in the country. As a part of the 1995 budget, Finance Minister Paul Martin stated that "a key job for unemployment insurance in the future must be to help Canadians stay off unemployment insurance" (Miljan 2012, 173-174). The Standing Committee on the Status of Women concurs by noting that the EI "program changes were designed to ensure that unemployed workers returned to work as quickly as possible" (MacDonald 2009b, 65-86). Neoliberalism facilitated these program changes and gave the upper hand to the full-time worker, or the "ideal male" (MacDonald 2009a, 255).

Quality of life declined as the state slowly downloaded the responsibilities of unemployment to its citizens. Not only do women outperform men in terms of unpaid household work, but the shift from a family-oriented relationship to a market-oriented relationship created more stress for both sexes (Rice and Prince 2013, 228). The 1996 reforms established stringent EI entrance requirements and revitalized gender inequalities. A disproportionate number of seasonal women workers who work less than 35 hours per week could no longer receive EI benefits. Similarly, those that leave work to take care of their children often face barriers as re-entrants. People that have abstained from work for a period of two years or more need at least 910 hours in the previous 52 weeks to qualify for benefits. The old system required only 300 hours (MacDonald 2009a, 259). On average women are more likely to re-enter the workforce after an extended hiatus. It is very difficult for women to overcome the disadvantage that the new entrant and re-entrant[4] rule imposes (258-260). MacDonald (2009a) correctly writes that the EI program changes are "consistent with the neoliberal welfare state's emphasis on the primacy of the market and its discouragement of dependency on state income security programs. 'Good' workers are rewarded and 'bad' ones are punished." New inequalities stem from marketized EI policies, and eligibility entitlements that favour a certain type of individual (i.e. a full-time worker). Regrettably, the victims of the neoliberal welfare state are still women.

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4. One is categorized as a new entrant and re-entrant (NERE) if one has fewer than 490 hours or equivalent EI benefit weeks in the year preceding the 52-week qualifying period (called the "labour force attachment" year). Under UI, eligibility for NEREs was 20 weeks (minimum 15 hours a week), compared to 910 hours under EI.

The Marketization of Employment Insurance

One of the questions that academics pose is: how much of the EI program is insurance and how much of it is social welfare? James Rice and Michael Prince (2013) are careful to note that insurance is a market principle and social welfare is a public policy concept (160). Marjorie Cohen and Jane Pulkingham (2009) elucidate the difference between public policy and social policy. In short, social policy falls under the umbrella of public policy. The term *public policy* encompasses social policy, military policy, economic policy, immigration policy, labour policy, environmental policy and many other policies (5). Public policy is "whatever governments choose to do or not to do" (4). Over the last decade Ottawa has chosen not to do much when it comes to women. As the authors point out, the choice to do nothing can be either conscious or unconscious. The trend in Canada is to unconsciously brush off any public policy issue that is part of a systemic problem (4-5). Systemic problems are not a result of mere happenstance; rather, they are institutionally ingrained problems that create and perpetuate inequalities among men and women (4). Ann Porter's term "differential entitlements" best describes the growing polarization between full-time employees that have EI security (mainly men) and those that do not have any access to EI benefits due to irregular working hours, intermittent work, seasonal work, or part-time work (mainly women; Macdonald 2009a, 255). Less than a third of women who are unemployed qualify for EI benefits. Twenty percent of women aged 20-39 failed to meet the 600 hour threshold in 2007 compared to 9 percent of men (Vosko 2012, 57-118). In 2001, 39 percent of mothers with newborn babies did not receive maternity benefits because they were either self-employed, previously unemployed, or had an insufficient amount of hours (57-118). By 2008 it was one in three (57-113). The drop in numbers can be ascribed to marketized social policy.

The Canadian welfare state has always been marketized. What is different is the degree to which social policy is designed "to reflect the ethic of the economic market" (Rice and Prince 2013, 159). A mixed economy combines capitalist ideology (private property, competition, and profit) with liberal democratic principles (state authority, public interest, and citizenship). Marketization has also been described as the process by which capitalism becomes integrated into the public sector. Rice and Prince write that "marketization entails allowing social policy and economic values to influence each other; economic logic conditioning the goals and means of social benefits and services; and market-based values shaping public attitudes as to which groups and needs are deserving and worthy of support and which are undeserving and the objects of exclusion or stigma" (159). The social investment strategies employed by both Prime Ministers Mulroney and Chrétien had a profound effect because they marketized EI. Presently, Harper has managed to tighten eligibility requirements, reduce benefits, expand disqualification provisions, toughen penalties, and limit public funding (160):

> Several new features reflected this direction: the intensity rule penalized repeat users by gradually lowering
> the benefit rate from 55 per cent to 50 per cent; the high-income clawback rate was tied to past EI use; the

benefit formula used a "minimum divisor" to calculate average insurable earnings, lowering benefits for those who qualified with less than 14 to 22 weeks of work (depending on unemployment rates). (MacDonald 2009b, 69)

Unsurprisingly, EI coverage has actually dropped by 50 percent since the 1940s (Rice and Prince 2013, 160). Lydia Miljan (2012) confirms the statistics by writing that, as a result of the 1996 reforms, "studies have shown that the 'proportion of the unemployed who actually received unemployed benefits dropped from 83 per cent in 1990 to 44 per cent in 2004'" (174). It should be noted that federal EI does not provide full income replacement, but rather income amounting to 55 percent[5] of the average weekly earnings (currently, the cap is $514 per week; Service Canada 2013). If an individual collects special EI benefits or is self-employed, the benefits he/she receives will be reduced. About one in ten women in Canada are self-employed and cannot claim maternity benefits unless they live in Québec.[6] According to the Canadian Labour Congress (2009), the amount of women that qualify for regular benefits has fallen from 70 percent to 30 percent since the 1990s (1). It is evident that EI is not built to suit women's working patterns.

Hindering Progress: Problems Associated with Implementing GM

A criticism leveled against the state is that it focuses too much on equality of opportunity and disregards substantive equality. Equality of opportunity is much easier to implement as a policy. More importantly, equality of opportunity does not address the complex structural barriers that the EI program inflicts on women. GBA must be competent enough to "put neoliberal agendas into question" (Bacchi and Eveline 2003, 99). In other words, it should be able to address the problems associated with the adult worker model. Hankivsky has criticized the GBA approach as too limited because it only examines one factor: gender. By focusing solely on gender when constructing policies the Canadian government tends to overlook deep-seated forms of oppression and how they interact to create inequalities (Hankivsky 2007, 127). Hankivsky advocates for a new strategy called diversity mainstreaming. A key aspect of diversity mainstreaming is intersectionality. Intersectionality turns the attention to differences among women and attempts to illustrate that gender is not a monolithic category; instead, gender is a network of interacting social factors that affect human lives, including socioeconomic status, health status, and quality of life (127). Diversity mainstreaming "seeks to go beyond singular categories to capture multiple grounds of discrimination so that power and privilege, and intersecting domains of inclusion, exclusion, and inequality, are better understood" (127). Clearly, a deeper approach is needed that brings about structural change so that the number of hours needed to qualify for regular as well as parental and maternity benefits is substantially

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5. In 1994 the minimum entrance requirements were raised to 12 weeks. While the replacement rate was lowered to 55 percent for ordinary claimants, it was raised to 60 percent for low income claimants with dependants.

6. Currently, if you are a self-employed person in Québec, you are already entitled to apply for maternity, paternity, and parental benefits through the Quebec Parental Insurance Plan.

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reduced. The hours needed to qualify for other special benefits should also be reduced. Furthermore, the amount of time that people receive benefits for should be increased, and so should the amount of earnings replaced by EI. Gender cannot be a mere factor inserted in the policy design process. GBA should "set policy agendas rather than… simply integrate considerations of gender into existing policy agendas" (Hankivsky 2009, 129).

GM does not acknowledge that differences emerge as a result of various intersecting factors like power relationships. Power is an elusive concept, and a power relationship can be defined as the division of power among genders. Historically, men have had more social, political, and economic power than women. It is important to remember that the concept of gender arose to challenge the individualistic focus on biological differences that plagues much of GBA today. Gender-disaggregated analysis often mistakes gender as being a part of the individual instead of society; it locates difference in women (Hankivsky 2009, 108). However, gender is a social and cultural phenomenon and "the gender-disaggregation approach… tends to a static and reductionist definition of gender (as woman/man)… Bureaucratic requirements for information tend to strip away the political content of information on women's interests and reduce it to a set of needs or gaps, amenable to administrative decisions about the allocation of resources" (108). Consequently, many proponents of GM fail to challenge these individualistic premises. An individual is only different in relation to someone else, a person cannot be different unless the other person he/she is being compared to is also different.

While many GBA frameworks exist, the rational model is most frequently used. It consists of the following stages: identification of the issue; definition of desired/anticipated outcomes; information gathering; development and analysis of options; communication; and evaluation. The ultimate goal is to ensure that differential impact of a particular policy is considered at each stage of the policy design process. As mentioned previously, the objective of policy design is efficient and effective policy; GM attempts to prevent policy failure by taking into account men and women's differential places in the labour market, albeit unsuccessfully. In order to change the structural barriers that favour men policymakers are obligated to look at the causal factors that make women different. They need to examine the practices that render women disadvantaged in the first place (Hankivsky 2009, 108-109).

Conceptual Framework: Deep Evaluation and Gendering-Based Assessment

Bacchi and Eveline (2003) introduce Deep Evaluation and Gendering-Based Assessment as strategies that can "overcome the limitations of current gender analysis frameworks and… make mainstreaming more effective" (112). The approaches aim to strengthen GM by creating a space at the beginning of the policy design process to let policymakers contemplate the ramifications of particular policies and policy proposals. The steps in Deep Evaluation include: examining the way(s) in which the problem under consideration is represented and with what effects; noting how particular assumptions about contexts underpin the policy; and paying heed

to the particular interpretations of key concepts and how these impose certain understandings of the issue(s) (111).

The authors are convinced that "the insights generated through 'Deep Evaluation' would lead to the development of a different form of gender analysis," called Gendering-Based Assessment. This framework would question the underlying assumptions of neoliberalism, and reflects "on the ways in which 'problems' and 'contexts' are represented in specific policy projects, encouraging scrutiny of important developments in trade and commerce, instead of accepting these as given or inevitable" (Bacchi and Eveline 2003, 112). Deep Evaluation can be applied to any policy area including EI. By far the most appealing aspect of this analysis is the fact that it tries to reinvent traditional understandings of public policy. If one thinks of public policy as a response to a problem that affects individuals, one is liable to miss the way in which policies shape and create problems; secondly, policies do not just affect people, they create people. Certain social and gender relations are a product of policies (110). Attention needs to be given to the ways in which these policies produce gender and women.

Bacchi and Eveline (2003) are not the only scholars that contend that the most significant mistake that GM commits is that it regards differences as inherited. Beveridge and Nott write: "There is a connection which must be recognized between the day-to-day 'routine' of gender politics and the wider ideological frame within which they are pursued" (quoted in Bacchi and Eveline 2003, 111). Similarly, Diane Perrons (2005) asserts that "effective gender mainstreaming would require a broader and more holistic conceptualization of the economy in order to secure greater gender equality" (389). Before embarking on the arduous task of changing EI policies, policymakers must look at how power relationships structure differences in men and women. Power relationships are shaped by social, economic and political forces. Examining the circumstances that privilege some women and de-privilege others will help open up policy windows within a neoliberal context where Deep Evaluation can be implemented.

Ordinary GM models adopted in Canada, Australia, New Zealand and other international organizations are in a *project trap* (Bacchi and Eveline 2003, 111). A project trap means that existing policies are only tested for their impacts on men and women. The goal is to introduce policies that do not affect women negatively. This approach does not question how the state's bias towards neoliberalism frames the entire policy design process. Hankivsky (2009) holds Bacchi and Eveline's (2003) approach in high regard, asserting that Deep Evaluation "can produce different kinds, broaden policy debates among key stakeholders, and make policy-makers and decision-takers more aware of the objectives, rationale, and assumptions that shape nation states and underpin their institutions, programs and policies" (127). Targeting the issue of women's unemployment must start with a thorough investigation of the role that state ideology plays in creating gender inequalities. Systemic inequalities will continue to be a part of the EI program, unless policymakers take proper actions to combat the disproportionate responsibilities

that women inherit socially, economically and politically. All new EI policies should be designed with this in mind.

Solutions: Changing EI Eligibility Requirements

The systemic inequalities in the EI program can be addressed by changing the eligibility rules to suit the needs of self-employed women, part-time workers, seasonal workers, and contract workers. Townson and Hayes (2007a) propose a "two-track qualifying system" with a 360-hour threshold. In order to qualify for all types of benefits (i.e. regular, work sharing, maternity and parental, sickness, compassionate care and training) the minimum amount of hours needed would be either 360 in a 52 week qualifying period, or three years of insurable employment that averages 360 hours a year in the previous five years (36).

When designing EI eligibility requirements policymakers have to recognize the social, economic and political factors that make women different. This includes the cultural demands placed on women to take care of the household, family, and children. Canada's goal should be to equalize the gender gap. What separates the two stages is the question of how. The most obvious answer is to integrate a Deep Evaluation approach into the policy design process and reduce the national eligibility standard for EI. A new 360-hour threshold is bound to give jobless Canadians (both men and women alike) the chance to qualify for benefits more easily. Lower standards will increase the number of women eligible for EI. The new Gendering-Based Assessment possesses the capacity to critically evaluate and lessen the negative influence of neoliberalism on female workers.

Conclusion

This paper used Gendering-Based Assessment as a conceptual framework to examine the shortcomings of GM in relation to EI. By exposing the flaws inherent in neoliberalism, the paper questioned the effectiveness of GBA and argued that a deeper approach is needed to bring about systemic change. Side-effects of neoliberalism include marketized social policies and marketized family relationships. The new norm in marketized social policy is of an adult worker model. By favouring full-time workers, EI has become more exclusionary towards women. As an analytical tool GBA does not have the capacity to guide the policy design and decision-making process in a direction that understands *why* EI eligibility requirements impact men and women differently. Moreover, the essay asserted that the problem with conventional approaches is that they place the difference in women, thereby disregarding the potential that policies may have in creating women, as opposed to just impacting them.

In order to address these limitations, I supplemented Hankivsky's (2007) idea of diversity mainstreaming with Bacchi and Eveline's (2003) Deep Evaluation and Gendering-Based Assessment approaches. According to Hankivsky (2009), gender is a complicated concept with

various intersecting factors. Gender cannot be a mere factor inserted in the policy design process. GBA should "set policy agendas rather than… simply integrate considerations of gender into existing policy agenda" (129). The essay proposed that GM can be strengthened via Gendering-Based Assessment. This strategy aims to create a space at the beginning of the policy design process to let policymakers contemplate the implications of particular EI policies and policy proposals. To increase the number of women eligible for EI benefits, I opted for a "two-track qualifying system" with a 360-hour threshold.

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Immigration Policy and the Live-in Caregiver Program: The Racialization of Feminized Work in Canada's Labour Market, an Intersectional Approach

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Abstract

Immigration policy in Canada has increasingly been relied upon in order to meet short-term economic objectives, while conversely, immigration outcomes have increasingly continued to decline. Programs such as the Temporary Foreign Worker Program and the Live-in Caregiver Program (LCP) were created in order to meet labour market shortages with a more flexible labour force. The potential of achieving permanent residency status through these programs provided the incentive for migrants to participate. However, the temporary status of migrants and the precariazation of their employment in a flexible labour market has contributed to increased levels of poverty, underemployment or unemployment, inequality, and social exclusion amongst Canada's immigrant population, with a disproportionate representation of women. This paper uses an intersectional framework to analyze the LCP as feminized work, revealing the intersecting inequalities of immigration status, gender, labour market participation, and racialization. The systemic exploitation and barriers to integration experienced by many migrants, premised on these intersecting identities, are inimical to Canada's long-term social and economic objectives. A comprehensive analysis of immigration policy and the LCP is explored in this paper, concluding with policy recommendations to address the poor working conditions of the LCP and the lack of support for migrants in the integration process.

Keywords: Canadian immigration policy, Temporary Foreign Worker Program, Live-in Caregiver Program, migrant workers, intersectional analysis

Introduction

Immigration outcomes in Canada have declined in the last several decades. Poverty, underemployment or unemployment, inequality and social exclusion are increasing amongst Canada's immigrant population, with a disproportionate representation of women. Canada relies on immigration to meet labour market needs and has historically relied on immigration policy as a component of its nation building schema (Poisson 2012, 186). The failure of integrating

immigrants into the Canadian labour market and society at large necessitates more comprehensive policy analysis. The decline of labour market outcomes has correlated with the emergence of neoliberal policies that have emphasized the need for a more flexible labour force to fulfil short-term economic objectives (189). As a politico-economic theory, neoliberalism is a free market, free trade paradigm that perceives the reduction of government involvement in the economy as a requisite for economic growth and prosperity. The expansion of the Temporary Foreign Worker Program (TFWP) has reflected this change in immigration policy as an entirely business-oriented program. Under the purview of the TFWP, the Live-In Caregiver Program (LCP) is the primary avenue through which migrant workers can achieve permanent residency status in Canada. This paper argues that current policies under the LCP, as seen through an *intersectional* theoretical lens, contribute to the intersecting inequalities of participating migrant women, which are inimical to long-term economic objectives that seek to build citizenship and the labour supply in Canada. An intersectional analysis explores the links between various forms or systems of exploitation or oppression, revealing the necessity for domestic labour recognition and protection as well as more comprehensive program regulation.

Many migrant women who enter Canada as live-in caregivers with the anticipation of gaining permanent residency status expose the intersections among immigration status, gender, labour market participation, and racialization. The demands for labour market flexibility in a globalized economy have disproportionately exposed racialized groups of women who enter Canada to precarious employment and higher levels of inequality than Canadian-born citizens (Hanley and Shragge 2009, 353). In order to illustrate this process, a brief overview of the evolution of immigration policy in Canada will be provided to situate the LCP within a broader context. With an appreciation of the resultant demographic shift and correlating change in the labour market environment, the LCP will be explored more comprehensively as a program that outsources *feminized work*. Feminized work is traditionally associated or dominated by women and characterized by normative gender roles such as domestic labour, like caregiving. The LCP will then be examined through an intersectional lens. Intersectionality, as a theoretical perspective applied to policy analysis, will help facilitate a more acute understanding of the implications of the LCP and immigration policy in Canada more broadly, informing certain policy recommendations accordingly.

Immigration Policy in Canada

The *Immigration and Refugee Protection Act* (IRPA) [1] introduced by Parliament in 2001 is federal legislation that clearly outlines Canada's economic goals sought through immigration policies. Enumerated under the first objective, the IRPA states that the primary goal is "to permit Canada to pursue the maximum social, cultural and economic benefits of immigration … [and]

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1. *Immigration and Refugee Protection Act, Statutes of Canada* 2001, c. 27. http://laws-lois.justice .gc.ca/eng/acts/I-2.5/page-1.html.

to support the development of a strong and prosperous Canadian economy". As a consequence, most immigrants are admitted into Canada through the economic class rather than the more altruistic programs of family reunification or providing refugees protection (Picot and Sweetman 2012, 3). In the context of an aging population, economic immigrants have become increasingly salient. In 2008, 75 percent of workforce growth alone was a result of immigration and is projected to continue to increase (Poisson 2012, 187). Consistent with this trajectory has been the expansion of the TFWP which is designed to alleviate occupational shortages and to fill short-term economic objectives within rapidly changing labour market conditions. Accordingly, a flexible labour force within the objectives of IRPA is requisite to meet these demands (189).

A further shift in immigration trends within Canada has been a change in primary source countries. Prior to 1970, most foreign workers emigrated from Europe. Following the 1970s there was a decided shift from European to Asian countries. According to 2006 census data, the top five source countries are currently China, India, the Philippines, Pakistan and the United States (Statistics Canada 2008). The result has been a demographic shift with an increase in the number of visible minorities in Canada, marking a significant change from the post-war policies that promoted a narrow Eurocentric definition of citizenship and what it means to be a Canadian. The subsequent phase of immigration policies from the 1970s onwards facilitated a multicultural paradigm which emphasized global human capital (Siemiatycki 2012, 225). The emergence of policies that emphasized human capital were underscored with the preponderance of neoliberalism, macroeconomic objectives that favoured a flexible workforce and the decline of the *welfare state* in which the social and economic security of the population are a government's responsibility. As Jill Hanley and Eric Shragge (2009) indicate, "in the past fifty years, the ethnic and cultural makeup of immigrant workers in Canada has changed significantly; over the same period, immigration has had a major impact on the makeup of Canadian society and the structure of the labour market" (355). Challenges to social and labour market integration and the correlating decline of immigration outcomes have emerged as a result. These issues concerning immigration policy in Canada can be most saliently illustrated by the LCP.

The Live-in Caregiver Program and the Domestication of Migration

The LCP is the only program other than the Canadian Experience Class which offers temporary foreign workers the possibility of permanent residency under the purview of the TFWP (Valiani 2009, 3). Through the Canadian Experience Class, permanent residency can be achieved by foreign students or temporary workers who have developed the requisite language or work skills after a stipulated minimum stay and months of full time employment in Canada (Canada 2013a). However, the program itself has only recently been established. It is for this reason that thousands of migrants, predominantly women from the Philippines, have and continue to enter Canada through the LCP. It is also a result of the 2008 IRPA amendments that expanded the TFWP (Valiani 2009, 4). The LCP is designed to fill the care deficit that a century of socioeconomic development, population growth, and now an aging demographic has created.

Citizenship and Immigration Canada (CIC; Canada 2012) defines live-in caregivers as "individuals who are qualified to provide care for children, elderly persons or persons with disabilities in private homes without supervision." It is also stipulated that "live-in caregivers must live in the private home where they work in Canada". Caregivers may apply to Citizenship and Immigration Canada for permanent residency upon completing 24 months of work for a single employer within a maximum four-year time frame. As live-in caregivers are not permitted to bring family members to Canada with them, the program also provides the workers an incentive for family reunification or sponsorship. A permanent residency status provides an immigrant and their dependents the right to receive most of the social benefits that Canadian citizens enjoy. This includes labour and mobility rights, the ability to apply for full citizenship, and protection under Canadian law (Canada 2013b).

Despite the fact that most live-in caregivers come to Canada through the LCP with the intention of achieving permanent residency, only half of the women entering Canada from 2003 to 2005 had successfully done so by 2007 (Valiani 2009, 11). Not only do relatively few participants gain permanent residency status, but many women that participate and complete the program experience exploitative working conditions under the program and barriers to integration after completion (Hanley and Shragge 2009, 353). Indeed, the condition of live-in caregivers in Canada has even been recognized by international organizations such as the United Nations (2003) and the International Labour Organization (2012). They acknowledge that migrant women are excluded from labour protection as a consequence of a combination of factors such as their status, social location, race, or employment within feminized work that is not covered by labour legislation in Canada (Hanley and Shragge 2009, 353). It is therefore essential to consider the relation of the condition of women migrant workers in Canada through the LCP, as well as its capacity to meet the long-term objectives of building the labour force and citizenship. Both objectives are increasingly beneficial to Canadian society in the context of changing demographics (Valiani 2009, 14). These conditions can best be understood within an intersectionality framework in order to demonstrate how the outcomes of the LCP are premised on the interacting inequalities of the various socioeconomic conditions of women migrants.

Intersectionality

As a theoretical framework, intersectionality emerged as an epistemological development from the second-wave feminist movement which sought to challenge the mainstream feminist paradigm that predominantly represented the experience of white, educated, middle-class women (Khanlou and Gonsalves 2011, 167). Women from the developing world argued that gender relations and inequality occurred at various levels, which extended beyond a narrow understanding that privileged this archetypal woman. It is argued that women from the developing world experience the process of racialization, which can be described as when "so-called visible minority groups are set apart and often discriminated against on the basis of skin colour or other markers that are thought to differentiate them from the white European middle-

class mainstream of Canada" (167). Therefore, intersectionality sought to emphasize the importance of social constructions of identity other than gender. It illustrated how multiple identities intersect and interact together within various social locations and processes (Siltanen and Doucet 2008, 147). Intersectionality is premised on the assumption that identities such as race, ethnicity, or class, are given meaning from social inputs which tacitly invest value into these distinctions (Siltanen and Doucet 2008). The United Nations has adopted an intersectional framework for addressing discrimination and defines it as follows:

> An intersectional approach to analyzing the disempowerment of marginalized women attempts to capture the consequences of the interaction of two or more forms of subordination. It addresses the manner in which racism, patriarchy, class oppression and other discriminatory systems create inequalities that structure the relative positions of women, races, ethnicities, classes, and the like. Moreover, intersectionality addresses the way specific acts and policies operate together to create further disempowerment. (quoted in Khanlou and Gonsalves 2011)

Canada has adopted a gendered lens to policy through its gender-based analysis (GBA) framework. A GBA approach seeks to include a gendered perspective in the policy process as a means to analyze how policy may reinforce marginalization or otherwise affect the genders respectively. However, the experience of Canadian immigrants is shaped by policy that, either explicitly or implicitly, defines their condition as a result of the intersecting hierarchies of multiple identities. The causal impacts of immigration policy transcend merely a normative understanding of gender. Therefore, "it is the intertwining of hierarchies that necessitates the discussion of racial hierarchies simultaneously with a discussion of gender" (Siltanen and Doucet 2008, 149). Similarly, Olena Hankivsky (2007) argues that an intersectional approach "brings to the foreground of policy analysis the necessary questions, information, data, and contextual considerations that are essential for understanding and responding to all the contours of systemic domination and discrimination, not just those attributed to a rigid category of gender" (129). Within this framework the multiple intersecting identities of caregivers working in Canada under the LCP can be understood as a result of policies that, conversely, reinforce these identities through the construction of structural barriers to effectual integration.

The Feminization of Poverty and Migration

An intersectional analysis reveals how live-in caregivers are marginalized along several dimensions that intersect at the macro level (global migration and Canadian immigration policy) and micro level (employer and employee power relations), contributing to their inequitable socioeconomic location (Lenard and Straehle 2012, 228). At the macro level there is the "globalization of the feminization of poverty" which has led to the "feminization of migration" (Hanley and Shragge 2009, 360). Feminization occurs when women are disproportionately represented within a role or position. The feminization of migration occurs when women, due to the responsibility to care for family members, and given the lack of opportunities as a consequence of gender inequality or poverty experienced at home, are impelled to migrate in

order to provide for their relatives in their country of origin (355). However, this also leaves them vulnerable to economic exploitation in the destination country, as they are often restricted from returning home. A family's dependence on the financial support of migrant women often binds them to low-wage jobs with poor working conditions in the host country (355), resulting in the feminization of poverty. Indicative of this phenomenon is the fact that remittances are an increasing contributor to global capital flows. Countries such as the Philippines even embrace a domestic economic policy that promotes the export of labour, particularly caregivers, to countries such as Canada in order to generate income from remittances. Indeed, income from remittances constitutes an approximate 10 percent of the Philippines' current account balance (Lenard and Straehle 2012, 232). Given these global trends in migration, the condition of migrant women is consistently precarious, due to not only their vulnerability at home, but also in the host country.

The Philippines can adopt policies that facilitate the export of labour to countries such as Canada, due to Canada's high demand for migrant caregivers. In fact, of live-in caregivers arriving in 2010, 90 percent were from the Philippines (CIC 2012, 4). Once in Canada, the primary destinations for LCP workers are mainly the large metropolitan centres in Ontario, followed by British Columbia, Alberta, and then Quebec (3). Indicative of the high demand for work in these areas, according to a 2006 CIC report, "live-in caregivers, nannies and parent's helpers" were the top occupational categories where temporary foreign workers were needed most in Alberta (as cited in Valiani 2009, 4). As noted above, there is a large labour pool of care workers from developing countries south of the equator as migrant women seek to support family remaining in their country of origin. The promise of permanent residency offered through the LCP and the potential for family sponsorship also constitutes a significant draw. Workers, for this reason, are willing to pay extremely high placement fees to recruitment agencies and wait several years for placement in Canada.

Immigration and the Canadian Labour Market

Work in Canada, however, is not without substantive challenges. Care work in Canada, as in many other countries, is undervalued and consequently underpaid. Women in Canada, as in other regions, experience the inequality of a traditionally patriarchal structure and a gendered division of labour, which depreciates the feminized work of caregiving as an occupation. This creates the paradox where, while migrant women sell their caregiving labour in markets such as Canada, they subsequently leave a care deficit in their country of origin where caregiving is likely equally under-appreciated (Lenard and Straehle 2012, 228). In Canada, as live-in caregivers are only mandated to earn minimum wage under the LCP (Canada 2012), many Canadian families are therefore in a position to purchase the labour of migrant women to care for their own children or other members of the family such as elderly parents. Earning minimum wage in itself may not produce inequalities. Indeed, many Canadian-born citizens occupying low skilled jobs earn minimum wage. However, it is the very demarcation of caregiving as unskilled

labour that makes it consistent with traditional patriarchal family structures which reinforce women's unpaid labour within the household. Moreover, the stipulation that caregivers reside within the home of their employer denotes erratic working hours that are not clearly defined, resulting in work that is not adequately reflected in the compensation or wage structure that is already nominal (Valiani 2009, 4). Consequently, the differential between paid and unpaid labour consequently becomes obfuscated.

Also highlighted through these hierarchies is the paradox that though around 70 percent of Canadian mothers with small children work outside the home, there is an absence of an affordable public system of childcare or homecare (Valiani 2009, 5). In this way, domestic workers facilitate their employers, who are mostly workers themselves, to improve their standard of living through offloading the responsibility of care work onto the indentured labour of the domestic worker (5). Some might indicate access to affordable or universal care services as the most conspicuous policy solution, through which the demand for live-in caregivers under the LCP would ostensibly be reduced or even become obsolete. Quebec, which has the most comprehensive childcare system of the provinces, would suggest otherwise, as it remains one of the primary destinations for caregivers through the LCP as noted above. Given that there is no concrete correlation between, for example, available comprehensive childcare and the demand for the LCP it elicits imperative questions which are beyond the scope of this paper.

As a consequence of the undervaluation of care work with its correlating low wages and poor working conditions, the retention rate of workers have been historically low. According to sociologist Sedef Arat-Koc, prior to the 1970s workers admitted into Canada to work within the home often sought other forms of employment shortly after beginning the program (as cited in Valiani 2009, 6). At the time, caregivers enjoyed the freedom of employment and labour mobility associated with permanent residency status that was automatically attained through the LCP. In order to address retention rates, rather than improving wages or working conditions, mobility restrictions were introduced in 1973 (Valiani 2009, 6). Caregivers were now only allowed to enter Canada on a temporary basis and were obligated to reside in their employers' home. The option of permanent residency was later added to the program in 1982, and was stipulated on the condition that the worker complete 24 months of live-in work for a single employer (7). These policy reforms addressed the issue of retention rates, privileging the interests of employers who are seeking reliable care services.

At the micro level, employee and employer power relations through immigration policy have contributed to the structural marginalization of the caregiver. In addition to low wages, policies implemented in the 1970s onwards have restricted labour mobility and the tenure of the program. Employers have an inordinate level of control over their workers' immigration status, which is a determinant of their legal status in Canada. After a caregiver completes the requisite live-in work, the application for permanent residency is contingent on the employer and the

references that they provide. Certainly, the caregiver's experience in Canada is premised on their participation in the program as an employee in a private home. It is therefore anticipated that an employer's recommendation and statement of hours worked (Canada 2012) be a component of their application and a contributing determinant of qualification for permanent residency. However, this creates the circumstance where the current and future immigration status of the live-in caregiver is inextricably bound to that of their employer. That the legal status of workers is determined through their work permits, and "within the context of a weakened and poorly enforced labour legislation throughout Canada, migrant workers hoping to remain permanently in Canada and eventually sponsor their families are rendered yet more exploitable by employers well aware of their employees' precarious legal and economic status" (Valiani 2009, 8). Employer-centred policies were further expanded with the amendments in 2008 to the IRPA. This was in order to address short-term labour market shortages and the care deficit by establishing the temporary migration of workers as the principal conduit to permanent residency in Canada (9). The precarious status of migrant workers, particularly women, has therefore been effectively enshrined in the IRPA.

Furthermore, neither recruitment agencies nor employers are subject to mechanisms that monitor and regulate their compliance with Canadian laws or that have the capacity to enforce working contracts (Valiani 2009, 14). The Province of Manitoba has been an exception; it now rigorously regulates recruitment agencies after passing the 2008 *Worker Recruitment and Protection Act*[2]. However, article 16(2) does articulate that an employer may sue temporary migrant workers for the recovery of recruitment costs if workers are perceived to act "in a manner that is not condoned by the employer," are "disobedient, dishonest," or "willfully neglect duties". It is essential to recognize and protect the interests of employers and the members of their family whom participants of the LCP are employed to care for. Employers do share an analogous risk to the participants themselves by permitting a foreign worker in their home merely on the basis of an unverifiable application and the discretion of the recruitment agency. Only once in the home can the skills, work ethic, honesty, or compatibility of the employee be confirmed. If concerns with employee behaviour do arise, such as dishonesty or negligence, employers should have recourse to terminate employment and break the contract as vulnerable family members such as children or elderly parents may otherwise be put at risk. However, section 16(2) in effect negates protection given to migrant workers under other sections of the legislation by shifting the balance of power entirely to favour the discretion of the employer. Migrant workers, who have already paid high recruitment fees in addition to supporting family members at home, are therefore effectively attenuated under this legislation. Furthermore, under the LCP when a caregivers' employment is terminated in that household, their obligated 24-month tenure is either reset with employment in another household or their temporary working permit is revoked and they face deportation. As caregivers are subject to a precarious status, they

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2. *Worker Recruitment and Protection Act, Statutes of Manitoba* 2008, c. 23. http://web2.gov.mb.ca/laws /statutes/2008/c02308e.php.

are in a position where employers may either intentionally or unintentionally violate their labour rights, provide poor working conditions, unfairly terminate their position, or extract excessive workloads from their employees that extend beyond their essential mandate. The unstable status of live-in caregivers gives them little legal recourse.

This results in the precariazation of immigration status, where immigrants do not have full legal status without permanent residency, depend on third parties for employment rights, face a greater potential for deportability, and are restricted from public services as well as other protections available to residents. Precarious immigration status intersects with precarious employment which can be characterized as low waged jobs with little job security, poor working conditions, and excessive hours. This describes the condition of many migrant women in Canada, particularly caregivers working under the LCP (Hanley and Shragge 2009, 361). Given these conditions, it is not surprising that retention rates have remained low for the LCP despite the policy changes, even falling as low as 28 percent in 2005 (Valiani 2009, 6). Moreover, the insecure status of live-in caregivers often persists for those that do complete the LCP, in part as a consequence of the perpetuating "interacting inequalities embedded within employer-employee relations" (Lenard and Straehle 2012, 233). This begs the question of how well the program serves as a means of recruiting workers to remain in Canada as permanent residents and its capacity to contribute to the strength of Canadian citizenship and the labour force.

Integration in the Labour Market for Live-in Caregivers

In addition to employer-employee power relations, another challenge to integration for caregivers is that, according to CIC policies, they are not permitted to pursue academic courses whose duration exceeds one month while under the auspices of the LCP (Canada 2012). Reasonably, it would not be desirable for an employer to have schooling and its associated workload detract from the primary vocation of participants and the primary purpose of the LCP, which is to provide care. However, as a consequence, skilled participants whose credentials are often not recognized experience challenges in upgrading these credentials to meet Canadian qualifications (Poisson 2012, 199). Skilled live-in caregivers will often see their level of credentials downgraded to skill level C, which includes clerical positions, assisting occupations in health services, and care providers in the National Occupational Classification (HRSDC 2011). Educational requirements for this skill level are two to four years of secondary school, two years of on-the-job-training or two years of specific work experience. As these are similar qualifications for the LCP itself, and conversely the LCP provides the qualifications for the occupations outlined under the level C category, former live-in caregivers often find themselves in a position in which they are impelled to remain in the field of care work. Caregivers during and after the LCP are often not entitled to opportunities for labour mobility, thereby reproducing their labour market participation based on the interaction of gendered and ethnic identities (Lanard and Staehle 2012, 234).

The deficiency of institutional support in occupational training for either skilled or unskilled care workers following the LCP often channels them into low-wage jobs with little job security, further reinforcing their socioeconomic positions (Lenard and Straehle 2012, 234). There are programs for employment assistance, language training, and other bridging programs designed to support recent immigrants' integration into the labour market. However, there are several issues concerning the assumption "that there is a training or work experience gap that has been properly assessed," as well as the availability and accessibility of these programs to newly arrived immigrants, particularly as they have experienced recent cutbacks (Poisson 2012, 199). Given such limitations, these programs may experience challenges in targeting specific groups like participants of the LCP and their distinctive needs, particularly in consideration of the time lag from their arrival in Canada to the completion of the program. There may also be the implicit assumption that the work experience under the LCP as with other programs is sufficient for their subsequent integration. However, this emulates the strictures on temporary migrant working permits as an attempt to keep migrants within "the target type of work," with the consequence that those "who are accepted as permanent residents find themselves restricted to the bottom of the labour market" (Hanley and Shragge 2009, 360).

For former caregivers who are successful at achieving family reunification, often after a three to five year waiting period, their precarious condition is exacerbated for families with small children (Lenard and Straehle 2012, 234). Former live-in caregivers find themselves in a familiar paradox, that is, a lack of a public affordable childcare service which had contributed to the care deficit that was, in part, responsible for bringing them to Canada in the first place. These former caregivers are consequently exposed to additional financial strain as they attempt to provide for their families through employment in low-wage jobs. Furthermore, this feminization of poverty as a result of women's exploitation in the labour market has the subsequent effect of creating "gendered and racialized spatial concentrations of poverty" (Abu-Laban and Gabriel 2008, 81). The intersecting hierarchies of racial and gendered identities, both in the labour market and in segregated communities, is succinctly expressed by John Porter's characterization of Canadian society as a vertical mosaic (Galabuzi 2008, 13). This is an apposite depiction of Canada as a multicultural mosaic of different ethnic, religious, linguistic, and gendered identities construed by a clearly hierarchical order or perpendicular power structure.

Accordingly, an intersectional analysis of the LCP reveals how labour and socioeconomic status in Canada is stratified along gendered and racial lines. The construction of identity in society and one's livelihood is predominantly contingent on "attachment to the labour market" (Abu-Laban and Gabriel 2008, 87). Marginalized groups that are incapable of successfully integrating into the labour market due to structural barriers are frequently segregated within Canadian society in a process of social exclusion. Social exclusion can be described as "a form of alienation and denial of full citizenship experienced by particular groups or individuals and communities, among its characteristics are high levels of poverty, uneven access to employment

and employment income, segregated neighbourhood selection leading to racialized enclaves" (Galabuzi 2008, 81). An essential facet of social exclusion is the relation of labour market participation, or economic security, to the concept of citizenship.

Citizenship and Social Exclusion

From the neoliberal ideals that have informed the economic restructuring of Canada since the 1970s, a tension has emerged between the purport of the ideal worker and that of the ideal citizen. The ideal worker can be defined as the "self-sufficient nomad, migrating with moving job possibilities...characterized by low expectations regarding pay, working conditions, and above all job security" (Hanley and Shragge 2009, 357-58). In other words, the ideal worker is flexible. Citizenship, within immigration policy, is premised on the economic objectives of attracting the "right type" of immigrant that can contribute to Canada's competitive position in the global economy. Given that the concept of the ideal citizen has been reconciled with that of the ideal worker, certain groups or individuals experience social exclusion as a result of the intersecting inequalities premised on various interacting identities. As their socioeconomic position is gendered and racialized, they are not considered as self-sufficient; rather, they are demarcated as special interests (Abu-Laban and Gabriel 2008, 51). Special interests are perceived to be extraneous from the normative concept of the ideal citizen or worker, characterized as self-sufficient and productive. Along with race, "gender issues, including gender equality, are increasingly linked to the priorities of special interests, often falling outside the government's mandate, as it continues to reconceptualise and narrow the parameters of the social welfare state" (Hankivsky 2009, 118).

Neoliberal policies that have undercut the welfare state have thereby cast particular groups as undesirable and therefore not particularly valued as prospective citizens (Abu-Laban and Gabriel 2008, 52). Furthermore, the neoliberal demarcations of the private and public spheres further marginalizes this group. As previously illustrated, the nature of caregiving has traditionally been undervalued. Within a neoliberal framework, this is largely a result of the refusal to recognize the productive capacity of care or domestic work in which participants of the LCP are employed. Indicative of these values is the lack of recognition under labour legislation of the domestic sphere as a workplace, irrespective of the fact that it may employ labour on its premise. Therefore, while caregivers fill labour market shortages under the auspices of the flexibility that the TFWP provides, they are nevertheless inhibited from integration into the Canadian labour market and society collectively as full citizens.

Immigration Policy, Markets, and Multiculturalism

Situating the LCP within the broader framework of immigration policy through an intersectional lens, the overall decline of immigration outcomes in Canada is evident. This has been the result of the restructuring of global and national economies, deregulation, the decline of the welfare state, increased global migration and the restructuring of labour markets toward

flexible employment. These changes are captured in the euphemism from the 1980s and 1990s that "multiculturalism means business". This is what Yasmeen Abu-Laban and Christina Gabriel (2008) describe as the "marketing and selling of diversity" which has "emphasized the economic exploitation of Canada's racial and ethnic diversity to capture markets at home and abroad at the probable expense of gender equality and other equality initiatives" (49). Indeed, prior to the 1970s immigration studies have shown that recent migrants experienced a shorter "immigrant factor", which is the length of time that it takes for an immigrant to draw level or even exceed their Canadian born counterparts in terms of economic performance (88). Employment participation and wages of immigrants had reflected that of Canadian born citizens. However, the rates of labour market integration since the 1970s have fallen precipitously. Currently, immigrants can either anticipate lower earnings in comparable jobs occupied by Canadian born citizens, or higher levels of underemployment and unemployment, irrespective of the increasing level of education amongst immigrants.

Given deteriorating immigration outcomes and that immigration policies are premised on economic objectives that seek to bolster the labour market and to build citizenship, it necessitates the question of whether programs such as the LCP help effectuate these outcomes. Low retention rates during the program, the inability to retain migrant workers as permanent residents, and inequitable labour market participation following the LCP, would all suggest otherwise. An intersectional framework reveals how policies operate to create inequalities and conditions of marginalization. In order to actualize long-term economic and social objectives of a productive and equitable society, certain policy changes should be considered. This is particularly pertinent since the LCP, a model for temporary migration as the route to permanent residency, is being adopted as the general basis for immigration policy (Piccot and Sweetman 2012, 33). This has been made evident by the recent introduction of the Canadian Experience Class in 2008.

Similar to the LCP, foreign students or temporary migrants under the TFWP can only obtain permanent residency status through the Canadian Experience Class premised on a stipulated timeframe of full-time employment with a single employer as determined by their work permit. Their legal status is therefore analogous to participants under the LCP, in that they depend on third parties for employment rights. Moreover, since permanent residency can only be achieved by migrants who have obtained "the right kind of skilled work experience" (Canada 2013a), it is implicitly implied that citizenship is only extended to the right type of migrant. Therefore, many migrants under the TFWP who contribute to Canada's labour market growth by filling low-skilled labour shortages do not qualify for permanent residency. It can be inferred that the precariazation of employment and immigration status, as well as the intersecting hierarchies in what constitutes ideal citizenship, would result in the structural exploitation and barriers to integration experienced by participants of the LCP.

Policy Recommendations Through an Intersectional Lens

A policy recommendation for the LCP is that Human Resources and Skills Development Canada (HRSDC) change the private nature of care work by recognizing the home as a workplace (Lenard and Straehle 2012, 242). Live-in caregivers would then be protected under labour legislation, giving them the legal sanction and recourse to file complaints against employers that infringe on their contract or social and labour rights. This would also have the effect of encouraging greater systemic monitoring of contracts, employers, recruitment agencies, and the program itself. Regulatory measures are necessary to ensure the effectual and equitable operation of the LCP for all of its participants. In an effort to address the growing pressure to reform the TFWP, and in response to the Standing Committee on Citizenship and Immigration recommendations (Canada 2009), the federal government has recently implemented certain revisions in order to strengthen program monitoring. This has included provisioning HRSDC as well as Employment and Social Development Canada (ESDC) with additional authorities in order to monitor and ensure employers compliance with program requirements.

Employers of foreign nationals including live-in caregivers are in some instances required to apply for a Labour Market Opinion (LMO). LMOs ensure that CIC and ESDC can perform employment audits whereby LMOs may be revoked or suspended, restricting the employer from further hiring temporary workers. Moreover, as of April 2014, employers that have their LMO revoked or suspended will be publicly listed by ESDC. The Government of Canada (2014) has also announced in the Economic Action Plan 2014 intentions for further reform by levying a fine on non-compliant employers. However, these reforms are primarily intended to mitigate the misuse of the program by outsourcing Canadian jobs rather than improving the working conditions of migrants. Moreover, while the TFWP more broadly has generated significant public attention, there has been less response by Canadians or the federal government in respect to the LCP and the particular challenges experienced by caregivers as employees within the home. Despite bringing in many migrant workers to Canada, the LCP in itself is not a priority within the agenda-setting hierarchy, in part due to the private, and thereby invisible, nature of their employment.

Given that "CIC policies constrain the integration of these workers due to LCP restrictions that lead to downward social mobility during and beyond the LCP," it denotes the imperative that policy reforms prevent the ensuing issues of poverty and social exclusion (Lenard and Straehle 2012, 244). A possible solution would be to initiate the integration process at the onset of the program rather than after its completion (244). In response to the recommendation that live-in caregivers be eligible for more settlement services, the federal government has acknowledged that while participants do have access to some of these services, they are denied access to other mentoring or buddy programs as they feel that having lived with a family is sufficient in facilitating successful integration (Canada 2009). However, program restrictions prevent caregivers from language training or extensive schooling. Therefore, the

mentorship gained within the home cannot equip them for integration into the labour market to the extent of other bridging programs.

A policy alternative would be a greater effort to ensure credential compatibility, and the appropriate provisions for upgrades before participants arrive to Canada. This would help to ensure that the skills of participants of the LCP, and immigrants more broadly, are properly recognized. It would also help prevent negative mismatching (where workers are employed in sectors other than where they are skilled), underemployment, and unemployment (Poisson 2012, 192). Furthermore, the prevention of frequent negative mismatching would help Canada's economic objectives of filling labour shortages more effectively and efficiently. If migrants or prospective citizens had a greater opportunity to fill occupations that matched their skill level and were protected under labour rights, then more systemic barriers such as discriminatory social attitudes could be challenged. Policies that fostered more equitable labour rights could help ensure that occupations, such as care work, are not feminized or established as racialized enclaves within the labour market.

Conclusion

Immigration outcomes in Canada have increasingly deteriorated since the 1970s with the incapacity of immigration policy to facilitate the successful integration of immigrants. The fundamental premise for immigration policy as a means to build citizenship and the labour force has necessitated more comprehensive policy analysis. Higher levels of labour market inequity, poverty, and social exclusion experienced particularly by immigrant women, are all symptomatic of these policies. As illustrated, the decline of immigration outcomes explicitly correlate with the adoption of a neoliberal paradigm and the subsequent restructuring of the Canadian labour market in favour of a flexible labour force intended to meet short-term economic objectives. The expansion of the TFWP, which includes programs such as the LCP, has reflected this change.

An intersectional analysis revealed how the identities of gender, race, immigration status, and labour market participation intersect through immigration policy, which has established structural barriers to integration. Consequently, women such as caregivers have been disproportionately exposed to precarious employment conditions that aggravate the challenges to integration due to their occupation in feminized work. Despite the demand for care workers in Canada, the nature of their employment has led to decreased economic security and the increased inequality experienced by caregivers during and after the program. The outcomes from the LCP program are inimical to long-term objectives of an equitable and dynamic citizenry and labour force in Canada. In order to mitigate this process of social exclusion and establish an inclusive citizenship, effectively dealing with inequality necessitates policy that addresses poor working conditions during the LCP. This in correlation with a greater provision of institutional support for workers after the program would help to facilitate successful integration into the Canadian labour market and society collectively.

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An Evaluation of Canada's Procurement Policies for Aboriginal Business

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Abstract

With the pressures of globalization and the government trends toward a smaller state, many public policy observers have argued that the choice of policy instruments governments have at their disposal is shrinking. Using a policy tool framework, this paper explores this argument by evaluating the Canadian government's Procurement Strategy for Aboriginal Business (PSAB). After defining the policy tool framework, the paper provides an overview of the PSAB program, the rationale behind its creation, and the ways in which procurement strategies have been utilized to stimulate Aboriginal business development and creation. The program's accomplishments and deficiencies are examined, followed by a discussion of how procurement policies, and the PSAB program in particular, show that the policy toolbox from which governments choose their implementation instruments is not shrinking but merely changing to adapt to Canada's changing realities and priorities.

Keywords: Canadian public policy, Procurement Strategy for Aboriginal Business, policy toolbox

Introduction

Procurement policies can be used to encourage various types of action. A review of the literature shows that procurement policies have been used to stimulate innovation and entrepreneurship (Timmermans and Zabala-Iturriagagoitia 2013), as well as social outcomes such as racial and gender equality (McCrudden 2004; Orser 2009). Governments in particular may use federal procurement policies to provide opportunities to marginalized groups by stimulating both business development and entrepreneurial activities; however, I will argue that such strategies can create misleading results. Procurement policies can encourage minority businesses to compete for and win contracts, and may also fuel the creation of new businesses to respond to the increase in demand, but the unintended impacts of such policies may actually create a more contentious work environment for those groups who are meant to benefit.

By utilizing a policy tool framework, this paper will evaluate the Procurement Strategy for Aboriginal Business (PSAB) to argue that although procurement policies are limited in their application to Aboriginal communities, their existence shows that policy tools are being utilized in news ways, and that the policy toolbox is not shrinking. I will begin this paper by outlining the policy tool framework and its main arguments, and continue with a discussion of the context of PSAB's creation, in which the federal government came to choose procurement as a policy tool to solve a defined problem. I will then evaluate the success of PSAB in relation to the problem definition and highlight some of the major concerns regarding procurement policies and PSAB in particular, finishing with a discussion on how this innovative use of public procurement policies defies the argument that the policy toolbox is shrinking.

The Policy Instrument Conceptual Framework

Policy instruments are essentially the techniques that form the toolbox from which governments choose to enact their public policy goals (Howlett 2011, 22). By looking at the benefits and downsides of particular instruments, one can begin to decipher why governments choose certain techniques over others. In an era of globalization and privatization of many government services, utilizing a policy tool framework is particularly important, as many argue that the policy toolbox is shrinking as sovereign state policy instruments align internationally to stimulate and facilitate business interactions. Further, by examining instrument use by governments, one can see how instrument choice has been changing over time and which tools remain most effective in a changing state.

Policy tools are central to the public policy cycle: they affect agenda-setting (which utilizes stakeholder consultations and government reviews), they provide the mechanisms for implementation, and they are linked to evaluation through reflective cost-benefit analyses (Howlett 2011, 22). Public procurement is a policy tool that enlists the help of contractors to perform a function of government vis-à-vis a contract, defined as "a business arrangement between a government agency and a private entity in which the private entity promises, in exchange for money, to deliver certain products or services…on the government's behalf" (Kelman 2002, 282). In other words, governments outsource certain responsibilities or tasks to private businesses instead of utilizing internal resources. With the rise of new public management, which utilizes more private-sector techniques within government, contracting private firms to perform public work has become increasingly popular in order to utilize specialized skill sets the government may not need to constantly employ (315).

There are three attributes of procurement that make it a valuable tool for the government: its economic efficiency (through its use of external sources for services to save internal resources), its automaticity, and its level of coerciveness. Steven Kelman (2002) ranks procurement in the "medium" category for automaticity, which measures the extent to which a tool is grafted onto existing administrative structures instead of relying on the creation of entirely

new systems (284). This medium ranking is due to the reliance on "regulations for choosing and overseeing contractors" (284) in place of a pure reliance on the market to sell the contractor's services; however, public procurement for Aboriginal businesses has a higher degree of automaticity since it is a specialized form of procurement, which is grafted onto a pre-existing procurement structure complete with regulations, staff, and online tools, which will be discussed later.

Procurement strategies through PSAB may also have been chosen by the government to stimulate Aboriginal business development and creation due to its medium level of coerciveness. It was helpful that procurement could be used to encourage Aboriginal prosperity and wealth creation without the use of coercive regulation, such as new funding rules, which could insult communities. Instead, procurement policies put the onus entirely on Aboriginal businesses themselves to seek out contracts. However, as Kelman (2002) points out, "the potential contractor may feel some degree of coercion if it has become dependent on government contracts for its survival" (284). This is a situation that will be touched upon later in this paper.

Finally, this tool was chosen by the government for its ability to promote socioeconomic goals (Kelman 2002, 296). In PSAB's case, Aboriginal businesses were awarded the first bids on certain government contracts over $5,000, called set-asides, in order to reward those that may be at a competitive disadvantage in the unregulated marketplace. In Kelman's words, procurement uses "the immense buying power of government in support of a worthy goal" (314). However, procurement policies may not always allow for the most economical choice due to the finite amount of applicants, and may discourage other non-minority businesses from applying for government contracts, which discourages pure competition (314).

Problem Definition

PSAB's creation in 1996 was a "response to the underrepresentation of Aboriginal businesses among firms that were seeking and winning federal government contracts" (INAC 2007, i). In other words, Aboriginal communities needed a mechanism to assist in business development and professional interaction with federal departments and agencies. The problem identified was the inadequate number of Aboriginal firms competing for federal contracts. Therefore, a policy tool was needed to improve the contracting relationship. Public procurement contracts can account for a significant amount of a state's gross domestic product (GDP); for example, procurement contracts can constitute up to 20 percent of the GDP of the European Union annually (Timmermans and Zabala-Iturriagagoitia 2013, 674). Accordingly, this policy tool was a logical method to stimulate Aboriginal business creation, profitability, development, and their acquisition of federal contracts.

Before the creation of PSAB, entrepreneurship trends among Aboriginals were growing in the late 1970s and 1980s due to "dissatisfaction with the results of community business

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development and…an increasing emphasis by government on entrepreneurship" (Brant and Brant 1985, quoted in Weir 2007, 8). As a result, the last two decades have seen marked growth in this trend, escalating from approximately 6,000 Aboriginal organizations in the early 1990s up to more than 30,000 by 2007 (Weir 2007, 5). The types of businesses have also changed: the early 1990s saw a 50/50 split between private and not-for-profit businesses, while recent statistics indicate there are now about 3,000 not-for-profits compared to 27,000 for-profit small-to-medium enterprises (Weir 2007, 5). In light of this, the Canadian government began to recognize that Aboriginal businesses were not competing for lucrative government contracts, which could enhance business and economic development for these populations.

In keeping with a suggestion from The Royal Commission on Aboriginal Peoples (1996) that highlighted "the need to develop and support Aboriginal businesses" (cited in Weir 2007, 10), Aboriginal Affairs and Northern Development Canada (AANDC; 2013) created the Procurement Strategy for Aboriginal Business (PSAB) in 1996 to "increase the number of Aboriginal firms participating in the federal procurement process" (i) and stimulate economic development. The program has been lauded as a success and since its inception the program has awarded over $3.3 billion worth of contracts to qualified Aboriginal businesses; this includes sole proprietorships and co-operatives, which may bid on sub-contract opportunities and "joint ventures with other firms" (i).

Procurement Policies as a Solution

Procurement policies have been marketed as a useful policy tool for stimulating Aboriginal business development, but how exactly does the program work? Primarily, PSAB ensures that contracts relating directly to Aboriginal groups are made available to the affected population. Specifically, PSAB stipulates, "contracts that serve a primarily Aboriginal population are set aside for competition among qualified Aboriginal businesses" though Aboriginal firms are also able to "compete for federal contracts which are open to all qualified suppliers." As well, the government encourages employees to volunteer set-aside contracts for Aboriginal bids whenever practical (AANDC 2013, 2). The program applies to all federal bodies under the Financial Administration Act and has three components specified by Indian and Northern Affairs Canada (INAC 2007, i):

- Set-aside contracts: Goods or services contracts valued at over $5,000 "that are destined primarily for Aboriginal populations" must be set aside for Aboriginal businesses so long as they are able to adequately fulfill the contract. Other contracts, outside of these parameters, are also encouraged to be set aside by government bodies.
- Federal purchasing: Targets are annually set for Aboriginal procurement, while information sessions and the departmental PSAB coordinator promote the Strategy.
- Education: Increase the capacity and awareness of PSAB program and its requirements among Aboriginal firms.

PSAB Aboriginal businesses may be sole proprietorships, limited companies, co-operatives, partnerships, or not-for-profit organizations, though all must meet the specific requirements stipulated by INAC (2007, 21):

- At least 51 percent of the firm must be Aboriginal-owned and controlled.
- If the business has six or more full-time staff, at least one-third must be of Aboriginal descent.
- At least 51 percent of the joint venture/consortium must be owned and controlled by an Aboriginal business or businesses, as defined above. If there are six or more employees working for the joint venture/consortium, at least one-third must be of Aboriginal descent.
- If an Aboriginal supplier or the joint venture subcontracts part of the requirement, the Aboriginal component of the work must be maintained. Contractors must certify that an Aboriginal firm will conduct at least one-third of the value of the work performed under the contract.

Public procurement as a policy mechanism can be seen from the institutions-as-tools approach, whereby organizations themselves constitute policy instruments. Accordingly, AANDC delivers PSAB as an instrument for providing both public services and government policy (Hood 2007, 133). Public procurement can also be used to drive innovation to solve societal problems, which first involves, "identifying human needs and societal problems that are not satisfied or solved" (Timmermans and Zabala-Iturriagagoitia 2013, 676). In this case, PSAB helps to alleviate the barriers to the success of Aboriginal businesses and improves the welfare of reserve populations. This is because Aboriginal entrepreneurs often hire other Aboriginal employees, provide necessary products and services to their people (which is particularly important in remote reserves where non-Aboriginal businesses may not operate), and keep the generated revenue within the community (Weir 2007, 23-24). Bram Timmermans and Jon Zabala-Iturriagagoitia (2013) also observe that procurement policies encourage entrepreneurial activities through the development of new firms in reaction to the opportunities provided by the procurement agency (678).

Leslie Pal (2010) notes policy instruments are chosen to tackle a defined problem in order to achieve certain policy goals (130). As previously stated, PSAB was developed to stimulate Aboriginal business development and competition for government contracts. Though the Government of Canada uses multiple methods to stimulate Aboriginal business development – for example community grants for economic development – PSAB is unique in that it further stimulates entrepreneurship and explicitly encourages competition for government contracts (INAC 2007, 10).

On the other hand, governments may not always want to be seen as giving handouts to Aboriginal communities. In the 1990s, the Canadian government was working extremely hard to balance the budget and program spending was being cut (Martin 1996, 11). As a result, public procurement was a policy tool that both assisted Aboriginal business development and allowed them to obtain lucrative government contracts; this would be seen as helping alleviate Aboriginal inequities in contract awards, and creating wealth in communities. Public procurement was also

an inexpensive solution, as it did not provide any extra funding for Aboriginal groups (INAC 2007, 40). The policy simply altered the rules to ensure Aboriginal businesses received a larger portion of the contracts. In developing PSAB, the government recognized the growing number of Aboriginal businesses and college/university graduates, which marked an increased capacity for their competition over government contracts. A new relationship between Aboriginal groups and the government facilitated by procurement would bring socio-economic benefits to Aboriginals, open a gateway for new joint ventures with non-Aboriginal firms to compete for larger government contracts, and expose them to increased involvement in the mainstream Canadian economy (10-11).

Is This Really a Public Policy Issue?

There is a distinction to be made between whether procurement policies are in fact, a public policy issue, under the direction of elected officials, or if they are within the realm of operational and administrative policy. Public policy can easily be defined as "a course of action or inaction chosen by public authorities to address a given problem or interrelated set of problems" (Pal 2010, 35). Administrative and operational policies are those that direct governmental staff in their daily activities and guide actors in administering governmental programs (Ontario Ministry of Natural Resources 2012). As Steven Maynard-Moody and Adam Herbert (1989) point out, a central distinction between the two is that administrative policy is largely formed by "the ideas, norms, routines, and choices of nonelected public employees," whereas legislative public policy is directed by public officials and can intrude "on the choices and actions of administrative agencies" (137). An argument can be made that procurement policies are housed within the realm of administrative policy, as they appear to be largely informed by the bureaucrats who administer them. This is evident with PSAB, whereby the single evaluation that has been done on the program obtained much of its information from the program's staff instead of through the elected officials who had a hand in developing the policies. As well, one could take the view that procurement policies merely work to guide staff toward whom they can hire for particular contracts via hiring quotas and regulations around what defines Aboriginal businesses.

However, some important features of PSAB distinguish it from administrative policy, which can be illustrated with the following examples. One example is Maynard-Moody and Herbert's (1989) discussion of the United States' food stamp program; here, vague legislation required administrators to fill in the gaps in the policies. With PSAB, public procurement policies were not vague: specific quotas were set for suppliers, the makeup of Aboriginal businesses had to be at least 51 percent, while the policies ensured to include regulations around the makeup of joint ventures, consortiums, and subcontractors. Policies do leave some room for departments to volunteer set-aside contracts, but even these must follow the rigid qualifications of the program. In the second example, Oregon, Colorado, and Connecticut implemented Community corrections, "a form of policy adaptation that placed nonviolent felons into halfway

houses and treatment and training programs", before any act was passed (138), allowing administrative agencies to be the policy entrepreneurs. Again, this example does not apply to procurement policies for Aboriginal businesses, as government departments did not initiate such programs before the policies were implemented.

Essentially, PSAB's procurement policies follow Pal's (2010) definition: they were implemented to tackle the specific problem of federal contracts not being regularly awarded to Aboriginal businesses. In this sense, policy makers realized that they could remedy this specific problem, but could also tackle more interrelated problems such as the poor economic position of Aboriginal communities. As noted, procurement can help alleviate discrimination, stimulate business creation, and bring wealth onto reserve populations since Aboriginal businesses tend to hire other Aboriginals and buy from one another, allowing revenue to stay on reserve (Timmermans and Zabala-Iturriagagoitia 2013; Weir 2007, 23-34).

Analysis

PSAB was developed under the rubric of new public management, which aimed to modernize and streamline the public sector using market-based techniques. This organizational style favoured cost-effective methods, including delivering services on a contractual basis, and grafting PSAB onto a pre-existing procurement program to save on new administrative costs. The benefits of public procurement policies are also evident in other countries and industries, such as the private sector. For instance, Syncrude Canada Ltd., Canada's largest producer of crude oil from oil sands, relies heavily on procurement as a way to engage Aboriginal communities in work contracts. This strategy has been working, and since 2002 it saw $82 million in Aboriginal business alone, and over $500 million in the previous decade (Weir 2007, 32). The dollar figures suggest that procurement strategies can work in the private sector to promote Aboriginal business, but can the same be said about the public sector? As in Canada, the United States construction industry provided a vehicle to implement set-aside procurement policies, since infrastructure projects use ample federal funding. Here, "a portion of Public Works funded construction contracts [were] secured by black-owned businesses in an attempt to promote the entrepreneurial black middle class" (Letchmiah 2012, 30). Due to set-aside programs such as 1997s Public Works Employment Act, state, local government, and other federal agencies soon instituted their own procurement programs (31).

Similar to PSAB, Minority Business Enterprises (MBEs) were the target group for set-aside policies, and were defined as any business that was 50 percent minority-owned, including Black Americans (Letchmiah 2012, 31). MBE programs successfully provided market access to minority businesses and also allowed them to gain exposure in the construction sector. Clearly, public sector procurement has the ability achieve positive social policy functions, including the minimization of discrimination against minority groups. It has also been used in South Africa's construction sector to "address institutional gender discrimination and inequality" (19-20).

Blanchflower and Wainwright (2005) note that the mere use of race-neutral programs fails to stimulate the hiring of minority-owned businesses (cited in Letchmiah 2012, 32). Therefore, procurement policies may be necessary for such groups to gain a foothold in certain industries.

While directly affecting their target population, procurement policies can also create unintended benefits by stimulating the creation of industries that exist in relation to those policies. For example, by bringing attention to the positive benefits that come from employing and partnering with Aboriginal firms, PSAB has helped catalyze the creation of a number of other organizations, including the Public Sector Aboriginal Business Association (Weir 2007, 46-47). The express purpose of this not-for-profit organization is to assist Aboriginal firms with accessing PSAB as well as other government contracts. In doing so, the Association also provides, "a voice for Aboriginal business interests with all levels of government" and provides feedback to continually improve PSAB and other policies that affect Aboriginal business (46-47).

Another primary benefit of the PSAB program in Canada is the ability of the government to utilize the country's superior internet capabilities to provide government resources and tools. This allows small-to-medium enterprises to better take advantage of various procurement opportunities. In Canada, the government provides: MERX, "the official Canadian public tender website;" Business Access Canada, which raises awareness of procurement opportunities for suppliers and buyers; BizPal, which provides "permit and license processes for entrepreneurs, governments and third party business service providers;" and MARCAN, which posts public sector tender notices and additional information on procurement programs (Orser 2009, 14-15). Lastly, the PSAB website directs Aboriginal businesses to view its free tender notices on the Government Electronic Tender Service, which is managed by Public Works and Government Services Canada (AANDC 2014). These pre-existing online portals, which were used for regular procurement activities, provided a convenient online structure to advertise for new procurement contracts aimed at Aboriginal businesses, and thus contributed to the higher level of automaticity for the PSAB program. Of course, these tools may have limited application to Aboriginal businesses domiciled on reserve or in remote areas where internet access is intermittent or non-existent (Smillie-Adjarkwa 2005, 2). A 2009 Canadian Federation of Independent Business survey notes that a mere 8 percent of micro-firms (one to four employees), which make up the majority of Aboriginal businesses (Weir 2007, 21), utilized MERX (Orser 2009, 17). Furthermore, government offices – where more information is available on tender notices, or the PSAB program itself – may be a far distance from the community, or may be inaccessible during certain times of the year (i.e., ice roads). As such, government procurement strategies do little to encourage entrepreneurship and business development in these remote areas; however, they may serve to be particularly beneficial to those groups who are technically savvy and located near urban areas with better internet connections and more government resources available to them.

A defining aspect of Canada's procurement policies is the qualification rules. As noted earlier, all Aboriginal businesses bidding on a contract must be, at minimum, 51 percent Aboriginal-owned and controlled (including joint ventures); also, a third of employees must be Aboriginal in companies with six or more full time staff (INAC 2007, 21). A 1996 study noted that the set-aside program initiated in the United States as a procurement strategy was ineffective due to instances where firms claim to be minority-owned, but in fact, the minority owner had little, if any, control of managerial responsibilities (Letchmiah 2012, 32). This same risk is evident in Canada. Though AANDC reserves the right to audit the qualifications of an Aboriginal-owned business, oversight in this arena may not be adequate. Indeed, the United States saw a plethora of abuse in its qualifications for MBE programs due to the lack of verification and monitoring of businesses claiming to be minority-owned, and the minimal penalties for non-compliance (32). In order for procurement strategies to be successful in Canada, oversight cannot be lax. INAC (2007) addressed these unintended outcomes of the PSAB program in their survey of PSAB program staff. They indicated that illegitimate joint ventures (between Aboriginals and non-Aboriginals) were not rampant, however, violators were "not being appropriately penalized for their dishonesty" (37).

A proper evaluation of the entire PSAB program's expected impacts is unavailable due to a lack of data; however, INAC (2007) has noted the number and value of federal contracts awarded since the program's creation (29). From figure 1, one can note that the overall dollar value of the contracts has increased since PSAB's inception, and peaked in 2003. The number of contracts awarded peaked in 2001, then declined in the following years; this suggests that a smaller number of more lucrative contracts are being awarded to Aboriginals.
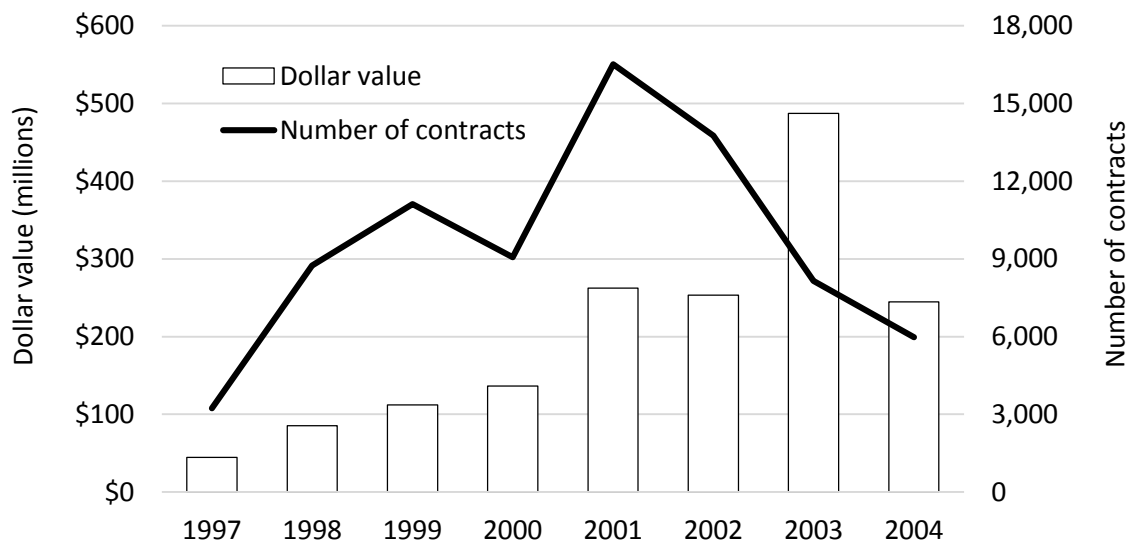

Figure 1. Dollar values of contracts and number of contracts awarded to Aboriginal-owned firms, 1997 to 2004. Adapted from INAC (2007, table 9).

The positive survey results of departmental PSAB coordinators (see table 1), also reflects the opinion that PSAB remains an important mechanism to encourage Aboriginal economic development, and to a slightly lesser degree, encourages joint ventures after a decade of operations (INAC 2007, 12). This suggests that the government views public procurement, and PSAB in particular, as a good policy tool to stimulate Aboriginal business development.

Table 1. PSAB Coordinators' level of agreement with statements regarding rationale for PSAB and its components (*N*=28).

Statement regarding rationale for PSAB and its components	Level of agreement				
	Strongly agree	Somewhat Agree	Somewhat Disagree	Strongly disagree	Don't know/ No response
The rationale for the PSAB remains valid after a decade.	39%	43%	11%	4%	4%
The program for setting aside contracts for Aboriginal firms under the PSAB remains a valid policy tool to support Aboriginal economic development.	32%	46%	14%	4%	4%
Department performance objectives should still include level of procurement from Aboriginal businesses.	43%	39%	4%	7%	7%
Supplier development activities are less important now than five years ago.	14%	11%	36%	29%	11%
There remains a strong rationale for encouraging partnerships (joint ventures and subcontracting arrangements) between Aboriginal and non-Aboriginal firms.	18%	54%	14%	—	14%
The set-aside program is a good way to increase full-time employment within the Aboriginal population.	21%	46%	7%	4%	21%

Source: INAC 2007, table 1
Note: Totals may not sum to 100% due to rounding. PSAB = Procurement Strategy for Aboriginal Business.

One of the other direct impacts expected from PSAB was that it would "increase investment in Aboriginal firms and business startups" (INAC 2007, 13). In other words, it would increase entrepreneurial tendencies to create new businesses. A direct correlation between procurement policies and the creation of new Aboriginal businesses is difficult to assess because the data is generally unavailable. However, there were some positive indications from senior federal procurement officers who noted that since PSAB's inception, there had been an increase in Aboriginal firms contending for and winning government contracts. However, respondents were also sceptical, noting the limited variety in available goods for purchase from Aboriginal suppliers, which suggests that new businesses may not be forming to fill these supply gaps (36).

Even those businesses that are created in response to procurement demands may be at a disadvantage. As Timothy Bates and Darrell Williams (1996) point out, Minority Business Enterprises (MBEs) that sell to government "have the same survival prospects as MBEs not selling to government" (297). However, those companies that relied on state and local government business for over 25 percent of their sales not only reported lower mean sales than other firms, they were also far more likely to go out of business within four years. This pattern was found to be even more likely for younger firms that relied heavily on government sales (297). According to this study, a heavy reliance on public procurement for Aboriginal entrepreneurs can be particularly damaging, and highlights that this policy tool can be extremely coercive if it creates a form of user dependency (Kelman 2002, 284).

Intrigued by this pattern, Bates and Williams (1996) theorized that 38.8 percent of MBEs relied heavily on government sales and were less than two years in operation simply because they were front companies (297). In other words, a non-minority would partner with a minority to create a company for a specific government contract, which would then dissolve upon completion of that contract. From this, one could hypothesize that government procurement contracts targeted at minority businesses do little to stimulate the creation of enduring Aboriginal companies, but merely lead to short-term partnerships between minorities and non-minorities specific to a single job. Admittedly, this pattern may be more likely when larger contracts are awarded to MBEs that do not have the capacity to complete the contract themselves and are thus forced into partnership with a non-minority company for assistance. However, it remains that government procurement contracts alone are not enough to stimulate long-lasting Aboriginal companies. They must diversify their clientele base in order to ensure their existence (297).

Data compiled by INAC to evaluate the program's success shows that the proportional value of contracts awarded by Public Works and Government Services Canada through PSAB has declined in recent years, after peaking in 1998 (see table 2). From this data, one could conclude that although a procurement strategy was able to increase the awarding of government contracts to Aboriginal firms, it has not worked well as a reliable, consistent policy tool in the past decade. This supports Bates and Williams' (1996) assertion that procurement policies for minority businesses may create an over-reliance on government contracts without becoming established in the mainstream market, causing them to go out of business. Further data compiled by INAC shows that about 9 percent of Aboriginal businesses surveyed "indicated that 100% of their revenue had been due to PSAB set-asides". However, the data compiled in their assessment was merely a snapshot and does not fully assess the long-term impact of PSAB (INAC 2007, 31).

Table 2. Value of contracts awarded by PWGSC to Aboriginal businesses by year (in 1996 constant $).

	Non-PSAB	PSAB	Total	% PSAB
1996	$31,955,411	$97,420	$32,052,831	.3%
1997	$50,180,835	$7,126,569	$57,307,404	12%
1998	$16,705,470	$42,144,783	$58,850,253	72%
1999	$38,545,226	$21,137,260	$59,682,486	35%
2000	$77,499,161	$65,312,622	$142,811,783	46%
2001	$139,751,874	$123,534,049	$263,285,923	47%
2002	$292,119,951	$49,353,813	$341,473,764	14%
2003	$391,766,873	$66,983,572	$458,750,445	15%
2004	$206,930,064	$38,471,873	$245,401,937	16%
2005	$242,850,508	$63,880,637	$306,731,145	21%
2006[a]	$376,930,031	$24,323,021	$401,253,052	6%
Total	$1,802,413,733	$498,311,782	$2,300,725,515	

Source: INAC 2007, table 10

Note: PWGSC = Public Works and Government Services Canada

[a]Values projected (based on 10 months of data)

Smaller Aboriginal businesses not only have issues when competing with non-Aboriginal firms for government contracts, but they must also compete with larger, more established Aboriginal businesses (INAC 2007, 37), a problem which PSAB does not address. PSAB may therefore only be able to encourage the growth of a few Aboriginal businesses who may grow to dominate federal-contracts, in which case PSAB would fail to properly stimulate the creation of new Aboriginal businesses and to nurture their development into sustainable firms. This problem is further exacerbated if an overabundance of Aboriginal firms compete for the same opportunities. Samuel Myers Jr. and Tsze Chan (1996) describe this phenomenon in their study of minority business set-aside contracts in the United States. Despite equal applications from blacks and Hispanics as white males, blacks' successful bids fell from 28 percent to 21 percent, while Hispanics' fell from 42 percent to 38 percent due to "the increase in the number of bids submitted without a corresponding increase in awards" (214). In other words, policies meant to stimulate the creation of Aboriginal businesses may actually cause a decline in their success rate due to increased competition for the same number of contracts.

The increased formation of Aboriginal businesses also appears to be uneven both regionally and sectorally. PSAB vendors appear to, largely, be situated in either Manitoba or Ontario (47 percent), while 22 percent are located in Quebec or Alberta. Likewise, business survey respondents overwhelmingly indicated that they were "located within 100 km of an urban centre of 5,000 people or more" (79 percent), 46 percent noted they were located in an urban centre, and 34 percent were on reserve. Overall, the construction and manufacturing sectors dominated the makeup of Aboriginal business participants in PSAB, at 28 percent and 20 percent respectively, while program staff noted that PSAB was lacking in architectural, engineering,

surveying, and medical fields (INAC 2007, 38). Surprisingly, despite the high percentage of Aboriginal construction firms participating in PSAB, program staff noted that federal contracts were usually awarded to "large, established non-Aboriginal companies, many of whom are reluctant to hire Aboriginal employees due to negative stereotyping," leading to the conclusion that PSAB needs to do more to stimulate the skilled trades sectors (i.e. carpentry, electrical, cooling and refrigeration; 38). Such uneven results across regions and sectors may partially be due to ineffective compliance mechanisms, which points to a problem in policy implementation. Only 43 percent of PSAB coordinators indicated that compliance mechanisms were effective, while 39 percent indicated an absence of effective compliance mechanisms altogether; this could be improved with incentives, "penalties for non-compliance and… more training for new and existing staff" (17).

A New(er) Tool in the Toolbox

A key debate within public policy today is that the policy toolbox is shrinking due to globalization and trends towards a smaller state. Many argue, for example, that "countries are aggressive in pressuring other countries to weaken regulations or preferential tax or subsidy treatments that restrict international firms' business activities," while international agreements such as the North American Free Trade Agreement, or supranational organizations such as the European Union, restrict the policy instrument choices of sovereign states (Howlett 2011, 6). One of the most eloquent arguments against these claims is that policy tool choice is not being restricted by globalization and a smaller government, but that these patterns are creating a need for new and revised tools. In other words, older policy tools are becoming outdated, and are either being replaced by new instruments, or are being re-imagined to suit new realities (Howlett 2011, 128-130).

To use PSAB as an example of a policy tool, one could argue three points: first, that the use of procurement to affect positive social change within Aboriginal communities marks a trend towards decreased government involvement and a smaller state and thus, a smaller policy toolbox. Second, an argument could be made that international agreement regulations could override any preferential treatment given to Aboriginals, which would render domestic procurement strategies impotent. Lastly, one could argue that Aboriginal procurement policies are not a new instrument for the toolbox, and that they merely constitute one of a decreasing number of tools surviving the downsizing of the toolbox.

Beginning with the first argument, Michael Howlett (2011) points out that any shift towards less direct government tools should not be equated with a wholesale replacement or disassembling of direct government tools, as these "remain the backbone of most policy sectors" (128). In fact, the shift from traditional direct regulatory mechanisms has been complimented by an increase in more voluntary regulatory regimes. This constitutes a form of self-policing, whereby people or markets for instance, tend to subscribe to certain activities without coercive

governmental legislation, they voluntarily take action. This phenomenon evens out the decrease in certain policy tools by an increase in newer types. With PSAB, the traditional method of creating new regulations to enact policy is exemplified by the enactment of regulations surrounding supplier quotas and set-aside contracts, which is accompanied by the support for, and encouragement of, voluntary set-aside contracts as well.

The second concern that international directives would supersede domestic regulations and thus, limit policy tool choice is also refuted by PSAB. The regulations for this program cannot be overridden by international agreements:

> The *Agreement on Internal Trade* (AIT) does not apply to any measure adopted or maintained with respect to Aboriginal people. It does not affect existing Aboriginal or treaty rights of any of the Aboriginal peoples of Canada under Section 35 of the Constitution Act, 1982. The *International Trade Agreements* allow for exemptions from their provisions for set aside for small or minority businesses. A contracting opportunity set-aside for Aboriginal suppliers is; therefore, not required to adhere to the provisions of these trade agreements. (AANDC 2013, 7)

Howlett (2011) also notes that the proliferation of international trade agreements merely prohibits a relatively small number of policy tools from being utilized, and even these contain exceptions (6).

The last assertion that procurement policies are not a new tool and are merely part of the shrinking toolbox is partially true. Procurement policies have been in use in Canada for decades in areas such as highway and railway maintenance (Howlett 2011, 71). The point here, illustrated by PSAB, is that procurement policies are being re-imagined in today's globalized world and shrinking state. The intent is to realize procurement goals ("quality, timeliness, cost, minimizing business, financial and technical risks") while simultaneously achieving non-procurement goals, including environmental and social goals (Thai 2001, 27). Admittedly, procurement policies for Aboriginal businesses may not be as effective as they could be, and are undoubtedly in need of complimentary policies to aide in the transition of successful businesses to the mainstream marketplace. However, the traditional procurement policies themselves have been augmented to target specific populations in order to initiate social change. In this way, procurement policies are highly flexible as they can be used to achieve varying economic, social, and political goals, depending on a state's current needs and demands (27), and show that the toolbox is not shrinking, it is merely changing.

Conclusion

The criticisms of PSAB do not suggest that procurement policies are the wrong approach to ensuring Aboriginal business development and creation. On the contrary, the evidence above shows that such policies have undoubtedly helped alleviate the problem as it was defined. From a purely numerical standpoint, PSAB has increased the number of Aboriginal firms competing for

and obtaining federal contracts, while testaments from PSAB staff indicate that the overall number of businesses competing has increased. However, there are multiple drawbacks to the tool, including the risk of over-reliance on the program (which heightens the tool's level of coercion), the concentration of procurement success to both specific regions and sectors due to ineffective implementation, and the risk that policies may actually decrease success rates for Aboriginal firms by increasing competition for government contracts. Procurement policies must go beyond the simple inclusion of Aboriginal firms in the bidding of government contracts and establish complimentary programs that ensure promising businesses can successfully enter the mainstream market.

PSAB also serves to defy the argument that the policy toolbox is shrinking. It utilizes both traditional direct regulation as well as newer voluntary regulatory regimes for set-asides, showing that any decrease in traditional tools is neutralized by the use of newer instruments. Further, policy makers have ensured that the provisions of international agreements do not override the regulations of PSAB, which ensures that state instruments remain relevant. Most importantly, the augmentation of traditional federal procurement policies to achieve social goals highlights the fact that traditional instruments are being utilized in new and innovative ways, showing that the toolbox is not shrinking, it is simply being re-imagined.

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Growing Crises of HIV/AIDS, Hepatitis C, and Chronic Mental Illnesses Among Prison Populations in Canada: Implications for Policy Prescriptions With a Special Focus on Aboriginal Inmates

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Abstract

Human Immunodeficiency Virus (HIV), Hepatitis C Virus (HCV) infections, and mental disorders are diseases that run rampant in Canadian correctional facilities. Prisoners, particularly Aboriginal inmates, bear a disproportionate burden of these diseases as compared to the general Canadian population. The current response by the prison authorities to curb the prevalence of HIV, HCV, and mental illnesses among prisoners is insufficient, despite many interventions already in place. To effectively address this crisis, I recommend bridging the gap between current harm reduction measures in policy and in practice; implementing prison based needle exchange programs; officially permitting tattooing in prisons; building adequate drug interdiction strategies; implementing better addiction treatment services; and implementing evidence-based mental health improvement models for inmates with both severe and milder forms of mental illnesses. In light of the epidemiological reality of prison environments and complex links between viral infections and mental disorders, I additionally recommend implementing an integrated policy facilitating cohesive education, prevention, care, and treatment for these conditions simultaneously. Since Aboriginal inmates are most vulnerable to HIV, HCV, and mental illnesses, I also recommend giving additional attention to Aboriginal-specific culturally sensitive interventions.

Keywords: Canadian public policy, prison populations, Aboriginal inmates, HIV/AIDs, Hepatitis C, mental illness

Introduction

Canadian correctional facilities are an epicenter for infectious and chronic diseases. In contrast to the general Canadian population, prisoner populations have alarmingly high

prevalence rates of Human Immunodeficiency Virus (HIV) and Hepatitis C Virus (HCV) infections. The prevalence of HIV and HCV infections in the general Canadian population is estimated to be only 0.13 percent and 0.8 percent, respectively (Thomas 2005, 5-6). In contrast, 1.72 percent and 30.2 percent of inmates at federal prisons, and up to 4.4 percent and 20.5 percent of inmates at provincial prisons, are known to be infected with HIV and HCV, respectively (Calzavara et al. 2007, 257; PHAC 2012; Poulin et al. 2007, 255).

In addition to HIV and HCV infections, inmates in Canadian correctional facilities suffer from a higher prevalence of mental illnesses as compared to the general population. On average, 7.0 to 8.0 percent of Canadian women and 4.5 to 6.8 percent of Canadian men have reported poor mental health (GSC 2006, 3). In contrast, 31 percent of female inmates and 15 percent of male inmates have reported emotional and mental health disorders at the time of intake (36). Nonetheless, these numbers may largely underestimate the occurrence of mental health issues among the general as well as prison populations in Canada. This is because many individuals may be unwilling to admit that they suffer from mental disorders due to the social stigma associated with poor mental health (42), and the subjective nature of self-reported mental health.

Major depression, general anxiety disorder, psychosocial dysfunction, schizophrenia, antisocial personality disorder, alcohol dependence, and drug dependence account for the most prevalent chronic mental illnesses among federal inmates in Canada (GSC 2006, 35-36). The majority of inmates with mental illness suffer from more than one mental disorder simultaneously. Over 90 percent of prisoners diagnosed with mood, anxiety, or psychological disorder have at least one other mental illness, most commonly substance abuse (36). Similarly, 50 percent of inmates with substance abuse problems also suffer from other mental disorders (36).

Aboriginal people are vastly over-represented among federal and provincial prisoner populations. Although Aboriginal people account for only 4 percent of the Canadian population, they constitute 23 percent of Canada's federal prison inmate population and up to 60 percent of provincial inmate populations (Sapers 2012, 35; Rudin 2013, 12). Aboriginal prisoners bear a significantly higher burden of HIV and HCV infections, as well as mental disorders, as compared to non-Aboriginal prisoners (GSC 2006, 164; PHAC 2010, 11). On average, 92 percent of Aboriginal inmates have substance-use problems (PHAC 2010, 40). Mental disorders, including anxiety and major depression, are known to enhance the frequency of substance use, as well as unsafe drug intake strategies, such as sharing contaminated needles (CCSA 2010, 14-26). This can increase the opportunities for transmission of blood-borne pathogens, including HIV and HCV, among Aboriginal prisoners. Thus, disproportionately poor mental health of Aboriginal inmates may be interconnected with substantially higher prevalence rates of HIV and HCV infections among them in Canadian correctional facilities.

Despite HIV and HCV infections, drug abuse, and poor mental health, current policies remain insufficient to address the crises of these infectious and chronic illnesses in Canadian prisons. In light of the issues facing current policies, it is imperative to consider major changes in programs and interventions that target prevention and control of these diseases among the general prison population, as well as Aboriginal inmates. The aim of this paper is to highlight the key risk factors contributing towards high prevalence of HIV, HCV, and mental illnesses among Canadian prisoners, as well as to explore the complex connections between poor mental health, high-risk behaviours, and acquisition of HIV/HCV infections, particularly among Aboriginal inmates. This paper will also highlight the general and Aboriginal-specific strategies currently in place to curb the rates of these infectious and chronic illnesses in Canadian prisons. I will further discuss the limitations of current policies and provide general and Aboriginal-specific recommendations to reduce the prevalence of mental illnesses, high risk behaviours, and HIV/HCV infections among prisoners in Canadian correctional facilities.

Risk Factors Contributing to the High Prevalence of HIV, HCV, and Mental Illnesses in Canadian Prisons

Inmates engage in a variety of high-risk behaviours while incarcerated, including sharing needles during injection drug use (IDU), unsafe sex, unsafe tattooing practices, as well as self-inflicted injury. IDU is the main route of exposure to HIV and HCV among Aboriginal inmates (PHAC 2010, 20-28). These viruses are transmitted through direct blood to blood contact; sharing syringes contaminated with infected blood provide excellent opportunities for viral spread. In fact, a substantially higher proportion of injection drug users (IDUs) in prisons (80 percent) share injection drug equipment than IDUs in the outside community (15 percent; Thomas 2005, 4-5; Elliot 2007, 262; Jürgens, Ball, and Verster 2009, 58; PHAC 2006, 73-74). IDU is disproportionately high among Aboriginal inmates; thus, they are more vulnerable to acquiring HIV and HCV infections in prisons. In fact, 58.8 percent of HIV cases among Aboriginal individuals occur due to IDU (Barlow 2009, 15) compared to only 14 percent of HIV cases among the general Canadian population (PHAC 2010, 24). The need for sharing non-sterile injection equipment between large numbers of inmates arises mainly due to the scarcity of sterile needles in prisons, as well as reluctance to seek needle-decontaminating agents, such as bleach, due to the stigma and punitive consequences of drug use.

Unsafe sexual practices is the second leading cause of HIV and HCV infections among Aboriginal inmates. Although condoms, dental dams, and water-based lubricants are available in most Canadian prisons, access to these provisions is usually limited due to lack of anonymity (Rehman et al. 2008, 67; CAAN 2006, 7). Due to the fear of repercussions from the prison staff, inmates are reluctant to seek safer sex measures and thus often engage in unsafe sexual practices.

Tattooing, although prohibited, remains a fairly popular social activity among inmates. Tattoos can be used to cover the track marks for injections, making it a common practice among IDUs in prisons (PHAC 2004, 143). However, most prisons lack licensed tattooists, equipment sterilization techniques, and availability of clean needles. A significant proportion of inmates report sharing tattooing equipment in order to escape detection and punishment (Kondro 2007, 307-8; Poulin 2007, 254; Rehman et al. 2008, 60, 68). Sharing of contaminated equipment can significantly increase the risk of HIV and HCV transmission.

Self-mutilation is another important risk factor associated with HIV and HCV infections in prisons. Inmates often share "sharps" and other implements to cut their skin (Rehman et al. 2008, 68), which makes them more susceptible to acquiring these infections. Self-inflicted injuries are often used to alleviate depression resulting from poor mental health. Correctional Service of Canada (CSC) estimates that 45 percent of all self-injury incidents in prisons are attributable to Aboriginal offenders (Sapers 2012, 8).

In addition, poor mental health is associated with high incidence of substance abuse and unsafe sex practices. Many inmates start using drugs in prisons as a means to release tension and to cope with the overcrowded and violent atmosphere in prisons (Jürgens, Ball, and Verster 2009, 58). Thus, the prison environment itself can increase depression and lead to the development of mental illnesses among inmates. Individuals experiencing poor mental health often resort to drugs in an attempt to self-medicate and alleviate emotional pain, bad memories, guilt, shame, anxiety, and terror (CCSA 2010, 13-23). Drug abuse can further lead to stress and trauma, producing a self-perpetuating cycle of deteriorating mental health and substance abuse. Substance-use issues including IDU are further associated with inconsistent condom use. In fact, a study of IDUs in Regina, the vast majority (87.2 percent) of whom were Aboriginal, depicted that 68 percent of males and 70 percent of females did not use condoms with regular sexual partners (PHAC 2010, 43). This suggests that mental disorders may enhance unsafe drug injecting and sexual practices, contributing to transmission of HIV and HCV. Thus, poor mental health plays an important role in the high prevalence of HIV and HCV infections among Aboriginal prisoner populations.

Moreover, HIV and HCV infections can worsen the mental health of prisoners. In addition to the stress that the diagnosis of HIV and HCV brings, Aboriginal inmates affected by these diseases are often discriminated against, stigmatized, and isolated from others, which can lead to major depression. Anti-HIV and anti-HCV regimens are also known to have negative side-effects, including depression, anxiety, and mood disorders (Andriote and Roy 2012, 1; Nelligan, Indest, and Hauser 2008, 314). In addition, approximately 60 percent of HIV positive individuals experience neurocognitive deficits (Kranick and Nath 2012, 1320; Ghafouri et al. 2006, 2). Since HIV weakens the immune system, there is also an increased risk of acquiring opportunistic viral, fungal, and parasitic infections that strike the nervous system (Smith,

Smirniotopoulos, and Rushing 2008, 2040-54; Ghafouri et al. 2006, 2). Similarly, neurocognitive deficits are also associated with HCV infection. In advanced stages of liver cirrhosis, accumulation of neurotoxic substances can lead to hepatic encephalopathy, which negatively affects thinking and memory (Nelligan et al. 2008, 313). Thus, disproportionately higher prevalence of HIV, HCV, and mental illnesses among Aboriginal inmates are intricately linked.

Responding to HIV and HCV Infections and Mental Illness in Canadian Prisons

HIV and HCV Control and Prevention Strategies in Canadian Prisons

In order to curb the rates of HIV and HCV infections among prisoner populations in Canada, qualified health care staff and peer inmates educate fellow prisoners regarding the biology of each infection and modes of HIV and HCV transmission, including risks of sharing injection drug and tattooing equipment and unsafe sexual practices (Betteridge and Dias 2007, 58). CSC-funded programs and community organizations also disseminate information on harm reduction and safer sex strategies through HIV and HCV workshops in prisons (59). Voluntary HIV and HCV testing is available across Canadian correctional facilities, with pre-and post-test counselling (26). Prison health care staff also advises inmates with a history of high-risk behaviours to get tested for HIV and HCV infections (28). Specific sexual health nurses are designated to perform these tests; the results of the tests are anonymous, are not reported to the health care staff, and are kept confidential between the nurse and the prisoner (31).

Safer sex measures – condoms, dental dams, and lubricants – are required by policy to be available to inmates in order to reduce the transmission of HIV and HCV in prisons. CSC's mandate states that access to these measures should be discreetly available to inmates at a minimum of three locations inside the facility, as well as in all private family visiting units (Betteridge and Dias 2007, 38). Some jurisdictions, such as Manitoba provincial prisons, also offer release kits for prisoners. These kits contain condoms, lubricant, information on safer sex, and phone numbers for local health services and Aboriginal organizations (40). This is an inexpensive and effective strategy to help non-Aboriginal as well as Aboriginal prisoners protect their sexual health after release from incarceration.

CSC's bleach distribution policy inside prisons is an important harm reduction measure against the transmission of HIV and HCV through IDU and tattooing. Specific staff personnel are appointed by the warden to coordinate bleach distribution to inmates in a confidential and non-discriminatory manner (Betteridge and Dias 2007, 43). Full-strength household bleach is available to prisoners with education on disinfecting injecting, tattooing, and piercing equipment (43). Small containers of bleach are also provided in a health kit given to inmates upon entry and release (42). A few federal prisons in Québec also provide inmates with tattooing kits containing bleach, gloves, alcohol swabs, topical antibiotic ointment, and an empty container for preparing ink or cleaning equipment (46). These kits are provided only upon request.

As part of their drug interdiction strategy to prevent IDU and thus transmission of HIV and HCV in prisons, CSC performs monthly urine testing on 5 percent of inmates at federal prisons to detect illicit drug use (MacPherson 2004). However, most provincial prisons do not carry out random urine testing for illicit drugs. They perform urine testing only when there are reasonable and probable grounds to believe that a prisoner has consumed an illicit substance or as a requirement for admittance into drug treatment programs (Betteridge and Dias 2007, 57). Other drug interdiction strategies include the use of metal detectors, ion scanners, drug detection dogs, and random cell searches by the prison staff (PSC 2010).

Drug addiction treatments, such as Methadone Maintenance Therapy (MMT) – methadone is a narcotic medication used to treat opiate addiction – are also becoming more common in Canadian prisons. The majority of prisons allow inmates to continue MMT during the course of their detention if they were already receiving this therapy in the community. However, only a few facilities permit inmates to initiate methadone use while imprisoned (CHLN 2012, 19-20; Betteridge and Dias 2007, 49-50). MMT is often accompanied by interventions such as drug screening, education on substance abuse, and addiction counselling (Betteridge and Dias 2007, 51-52).

In addition to the above described initiatives, some efforts have been made to develop culturally sensitive strategies to meet the needs of Aboriginal offenders. Peer HIV and HCV programming is available to Aboriginal inmates in federal prisons through the Circle of Knowledge Keepers (Betteridge and Dias 2007, 90). Knowledge Keepers fulfill the role of traditional storytellers, empowering Aboriginal prisoners to adopt healthy and safe lifestyle choices. This includes organizing workshops and activities to create awareness about HIV and HCV infections, transmission, and harm reduction strategies (90). Some also play key roles in ensuring that safer sex measures are consistently available to all Aboriginal inmates. In addition, Aboriginal organizations, such as All Nations Hope, have been contracted by CSC in some jurisdictions to train Aboriginal prisoners as peer Knowledge Keepers (92). Some provinces also offer Aboriginal-specific HIV and HCV education through local Aboriginal organizations (95). Occasionally, Aboriginal community organizations run traditional activities in prisons to aid inmates deal with illness; common activities include talking and healing circles with the Elders, smudging, and traditional Aboriginal crafting workshops (97).

Correctional healing lodges are culturally appropriate alternative justice models specifically designed to meet the needs of Aboriginal offenders and divert them away from incarceration. At these healing lodges, Aboriginal values, traditions, and spiritual beliefs are used to design services and programs for offenders. Since incarceration itself is a key risk factor for acquiring HIV and HCV among Aboriginal IDUs, admission of these offenders at correctional healing lodges has the potential to greatly reduce this risk. In addition, high-risk behaviours, particularly IDU and tattooing, are not as common in these healing lodges in comparison to

Canadian prisons (Barlow 2009, 22). Since confidentiality is protected, safer sex measures and harm reduction strategies are much more easily adopted by the inmates at healing lodges (23, 44). Traditional activities and treatments to manage the symptoms of HIV and HCV are also supported at the lodges (CAAN 2006, 19). Moreover, the healing lodges address the negative impacts of colonialism, assimilation, and residential schools on Aboriginal physical, emotional, mental, and spiritual health (21-26). As a result, re-connection of the offenders with their communities, families, heritage, language, and traditional ways constitutes an important part of the healing process. This can empower the offenders to move away from social stressors, substance abuse, and incarceration, thereby reducing their vulnerability to infectious and chronic diseases.

Strategies to Treat and Prevent Mental Illness in Canadian Prisons

The majority of offenders enter the correctional facilities with existing mental illnesses and disorders. As a result, detection and treatment of mental disorders constitutes a key part of the *Mental Health Strategy for Corrections in Canada*. The key elements that this policy focuses on include mental health promotion, screening and assessment, treatment, services and support, staff education, and partnerships with community mental health services to ensure a continuum of care for the inmates after release (OMCSCS 2012, 20). The mental health of inmates is assessed upon intake and is continuously monitored by designated personnel (Livingston 2009, 16). A specialized mental illness screening tool, called the Computerized Mental Health Intake Screening System (CoMHISS), is also under development in some federal prisons to administer psychological tests to the consenting offenders (Service 2010). Inmates with mental disorders are referred to a qualified mental health professional for a comprehensive assessment to understand the nature and severity of their mental illness. Psychotropic medications to treat mental illnesses are disseminated under the supervision of licensed health care professionals (Livingston 2009, 24). Psychotherapeutic interventions including cognitive behavioural therapy exist, but are not as readily available in prison settings (25). CSC also operates five psychiatric service units or regional treatment centers (RTCs) for inmates with serious mental health problems who cannot be housed with the general offender population (SCPSNS 2010, 9; Livingston 2009, 25). The goal of RTCs is to stabilize the mental health of inmates so that they can return to the general prison population (SCPSNS 2010, 10). In addition, community programs are identified to provide mental health services and support to the inmates after their release from prisons (Livingston 2009, 84). Improving mental health of inmates is crucial, as it will improve individual health outcomes, leading to safer communities inside and outside of Canadian prisons.

Issues Facing Current Policies to Limit HIV, HCV, and Mental Illness in Canadian Prisons: Recommendations for Future Policies

Gaps Between Policy and Practice of Harm Reduction Strategies in Prisons

There are myriad issues facing current HIV, HCV, and mental illness control and prevention policies in Canadian correctional facilities. Although harm reduction policies, such as safer sex measures, have been implemented across correctional facilities in Canada, access to these measures varies considerably between facilities, and some prisons still lack these provisions in practice. According to one survey, condoms were not available in provincial prisons in New Brunswick, Prince Edward Island, and Nunavut (Betteridge and Dias 2007, 37; CHLN 2012, 10). In some prisons, inmates had to rely on the prison staff to gain access to safer sex provisions; however, the policy mandates discreet access to condoms, lubricants, and dental dams in all Canadian prisons (Betteridge and Dias 2007, 38). Issues with the distribution, quality, and provision of instructions for dental dams have also been reported (Betteridge and Dias 2007, 37; Rehman et al. 2008, 67).

The provision of bleach is another area exhibiting variability in availability and accessibility in Canadian prisons. In a study of female inmates at federal and provincial prisons across Canada, 70 percent of female IDUs expressed major concerns regarding access to bleach. Inmates had to request prison or healthcare staff to gain access to bleach, which often resulted in breaches of confidentiality. The quality of bleach was also questionable at several institutions as it had been excessively diluted, and thus, may no longer be as effective at killing pathogens, particularly HIV and HCV (Rehman et al. 2008, 67). In addition, numerous studies depict that more than half of inmates do not practice proper disinfection procedures using bleach due to a lack of knowledge regarding its use (Betteridge and Dias 2007, 41). Thus, many gaps exist between harm reduction strategies in policy and in practice in Canadian prisons.

In order to bridge the gaps between harm reduction measures, particularly safer sex provisions and bleach, in policy and in practice, I recommend that:

(i) Without any further delay, condoms, lubricants, dental dams, and full strength bleach should be made available in a confidential manner, without having to ask the staff, in all federal and provincial correctional facilities across Canada.

(ii) These provisions should be accompanied by instructions written in plain language with pictorial representations regarding their proper use and disposal.

(iii) Specific external personnel should be assigned to monitor the adherence to CSC policies within each institution.

(iv) In case of any breach of confidentiality on part of the prison staff, strict consequences, including fines and suspension, should be imposed.

Lack of Prison Needle-Exchange Programs

The Canadian government has a statutory obligation to provide inmates in correctional facilities with essential health care, equivalent to that available in the community. However, many inequities exist between community-based and prison-based HIV and HCV prevention and control strategies. This is clearly evident in the lack of needle and syringe exchange programs in Canadian prisons, as these provisions are widely available in the outside community. The Canadian government has consistently refused to implement needle-exchange programs in prisons due to its zero-tolerance policy towards drug use in correctional facilities (Elliot 2007, 263). It is imperative to implement such programs even in the presence of needle decontamination techniques, such as bleach, which are not always effective due to prisoners not following the correct disinfecting procedures (Betteridge and Dias 2007).

Access to sterile injection equipment has been demonstrated to be one of the most important strategies to prevent HIV and HCV transmission among IDUs. Syringe exchange reduces sharing of contaminated needles between IDUs, thus decreasing the risk of HIV and HCV transmission. In Saskatchewan, needle exchange programs have led to a decrease in HIV and HCV transmission by one third (LTSC 2008, vi). Distributing sterile needles has been shown to reduce the total cost of health care services required to treat HIV and HCV; in some provinces, these health care costs have been reduced by about four million dollars annually (vi). Prison needle-exchange programs (PNEPs), whereby IDUs can obtain sterile needles free of charge in exchange for used ones, have been implemented in numerous jurisdictions worldwide including Switzerland, Germany, Spain, Scotland, and Armenia (Kerr and Jürgens 2004, 3; Dolan, Rutter, and Wodak 2003, 154). In these jurisdictions, PNEPs have significantly reduced needle-sharing among IDU inmates, did not lead to increased IDU among them, and did not threaten prison safety and security (Kerr and Jürgens 2004, 3; Dolan et al. 2003, 154-58). In fact, PNEPs were found to increase the uptake of health care services, addiction treatment, and voluntary HIV and HCV testing. They were also associated with a decrease in HIV seroprevalence by up to 6 percent (Kerr and Jürgens 2004, 2). Accordingly, PNEPs may prove to be very useful tools in preventing HIV and HCV transmission among IDUs in Canadian prisons.

In order to effectively address the high prevalence of HIV and HCV as a result of IDU in Canadian prisons, I recommend that:

(i) Without further delay, a pilot needle-exchange project should be started in selected provincial and federal prisons across Canada. The framework of this pilot project can be modeled based on PNEPs that have been successfully implemented in other countries (see Lines et al. 2006, 52). Most importantly, designated inmates should be trained in disseminating clean needles and HIV prevention support to their peers. Recruitment of peer outreach workers will ensure maintenance of confidentiality and trust, and thus increased uptake of exchange services. Inmates should have 24-hour access to exchange services. Instead of providing sterile needles alone in exchange for used ones, harm

reduction kits that contain a syringe and a sterile needle in a hard plastic transparent case, distilled water, and alcohol swabs, should be distributed. The exchange sites should be supervised by designated medical staff members. Correctional staff members should also be trained to operate the exchange sites and carry out supervision duties when outreach workers or medical staff members are unavailable.

(ii) This pilot project should be evaluated for its efficacy in reducing HIV and HCV incidence as well as its cost effectiveness. After the evaluation period is over, an evidence-based decision should be made regarding whether or not to implement Prison Needle-Exchange Programs across all Canadian correctional facilities.

(iii) The zero-tolerance policy towards drug use in Canadian prisons should be amended to recognize that if inmates are found engaging in drug use, they should have easy and discreet access to sterile needles in exchange for used ones. It should also be recognized that this provision does not condone illegal drug use and does not undermine abstinence-based programs.

Lack of Safe Tattooing Services in Canadian Prisons

As compared to the outside community, there is a lack of safer tattooing practices in prisons. Although prohibited, tattooing is a fairly common practice among inmates. Since there is a lack of sterile tattooing equipment, particularly needles and ink inside Canadian prisons, the risk of HIV and HCV transmission is significantly increased. In 2006, a safer tattooing pilot project was implemented across six Canadian prisons (Betteridge and Dias 2007, 42). Even though a draft evaluation of the program demonstrated its ability to reduce harm associated with unsafe tattooing practices in prisons, the program was shut down before completion and release of the final evaluation due to several implementation issues (Nakef 2006). For instance, unavailability of trained tattooists at several pilot sites lead to a delay in tattooing services and lengthy waitlists; as a result, inmates continued to receive illicit tattoos (sec. 3.0). However, this pilot project was determined to be cost effective according to Correctional Service of Canada because a significant amount of money would have been saved in health care costs even if a single site prevented as few as four HIV/HCV infections per year (Elliot 2007, 263; Nakef 2006, sec. 3.0). Nonetheless, there remains a lack of safe tattooing programs in Canadian prisons to date.

In order to eliminate the transmission of HIV and HCV as a result of unsafe tattooing practices in Canadian prisons, I recommend that:

(i) Tattooing should be officially permitted in Canadian prisons as it is in the outside community.

(ii) Without further delay, safe tattooing projects should be started across all Canadian correctional facilities. Two tattooing parlors should be implemented per prison in order to minimize the number of waitlisted individuals. A larger number of inmate tattooists should be trained in delivering safe tattooing services to ensure that the parlors can

operate uninterrupted. Additional inmates should be trained to carry out other tattoo room duties, such as dealing with customers, inventory, and decontamination of equipment. Supervisory duties should be distributed a sufficient number of staff members to ensure ongoing accessibility to the program.

Inadequate Drug Interdiction Strategies in Canadian Prisons

An important component of drug interdiction in prisons is random urinalysis performed monthly. Consequences of a positive urine test include increased security, decreased contact with family, and not getting released on parole (Betteridge and Dias 2007, 49). Thus, the ultimate focus of drug interdiction strategies is to discipline the inmates through punishment, and not refer them to addiction treatment services. In order to escape the punitive consequences of drug detection through urine testing, inmates may start injecting drugs, such as heroin, cocaine, and other opiates, whose metabolic byproducts are not secreted in urine (Betteridge and Dias 2007, 57). Not only does this increase the risk of HIV and HCV transmission, but also leads to underestimation of substance use in prisons and creates missed opportunities for early substance abuse detection and timely treatment. Drug interdiction strategies are also usually aimed at inmates only. However, in many instances the prison staff is responsible for smuggling drugs into the facilities (Hon Chu and Peddle 2010, 19). Therefore, despite the prohibition of drug use in prisons, drugs make their way into these institutions.

In order to curb the use of illicit drugs in prisons, I recommend that:
(i) Random searches of the prison staff by designated personnel should constitute an important part of the drug interdiction strategy in all Canadian correctional facilities. In the event that the prison staff is suspected of or caught smuggling in drugs, strict consequences, including permanent dismissal, should be imposed.
(ii) Random urine testing of inmates for detection of illicit drugs should only be performed under reasonable and probable grounds.
(iii) Mandatory drug testing through blood analysis should be implemented to evaluate the proportion of inmates consuming all types of illicit drugs. Mandatory tests should be performed regularly on randomly chosen inmates. Those who test positive should be referred to substance use counselling and treatment services rather than facing punitive consequences.

Insufficient Treatments for Drug Addiction in Prisons

MMT is the only type of addiction treatment available in Canadian prisons, and is often only available to those inmates who were receiving this therapy in the community. The majority of correctional facilities remain reluctant to allow prisoners to initiate MMT while incarcerated. As a result, many IDUs remain untreated for their opiate addiction problems. In other jurisdictions, such as in European prisons, buprenorphine has been implemented in addition to

methadone to treat opiate addiction (CHLN 2008, 5); Canadian inmates could also benefit from this treatment. In addition, the waiting lists for prison-based MMT are quite lengthy (Betteridge and Dias 2007, 108). As a result, many inmates do not get a chance to begin MMT early in their sentence, which disrupts the continuum of treatment as offenders transition from their community to prisons.

MMT is not effective against all types of drug addictions, as withdrawal from different types of drugs produces variable side effects and thus requires different types of treatments. For instance, a major side effect of withdrawal from opioids such as heroin, morphine, and codeine includes intense cravings, which can be reduced by methadone. However, the side effects of withdrawal from stimulants such as amphetamines, cocaine, and Ritalin include not only intense cravings, but also major depression, anxiety, and acute psychosis. These side effects cannot be treated by methadone and require anti-psychotic drugs, strategies to relieve stress, as well as strong social support (Mayo Clinic 2011).

In order to effectively treat drug addiction problems in prisons, I recommend that:

(i) A wider variety of drug treatments should be made available to inmates in order to address different types of drugs used. Opiate substitution therapy should include treatment with buprenorphine as needed, in addition to methadone.

(ii) Inmates should be allowed to initiate MMT in all Canadian prisons while incarcerated even if they were not receiving MMT prior to their incarceration.

(iii) A minimum of two addiction treatment facilities should be implemented per prison in order to reduce the length of waiting lists.

(iv) A variety of personalized behavioural therapies should be used in conjunction with medications to modify attitudes and behaviours related to drug abuse.

(v) Strategies for relieving stress without consuming drugs, such as yoga, meditation, exercise, music, dance, and art should be widely implemented. This will require increased contribution from community associations, including volunteering to provide these services in prisons.

Inadequate Treatments for Mental Illnesses in Prisons

Although many efforts have been made to improve the mental health of inmates in Canadian correctional facilities, current interventions remain insufficient for effectively dealing with high prevalence of mental illnesses in a prison setting. This is because the capacity of correctional institutions to respond to and treat mental illnesses is largely reserved for the most serious cases, particularly for inmates with severe mental disorders requiring intensive care and treatment at RTCs (SCPSNS 2010, 10). Thus, a majority of the common, but less severe, mental health issues receive limited medical attention and remain untreated. In addition, there is insufficient space at RTCs to accommodate all inmates with serious mental health issues; thus, offenders are released from RTCs too soon and relapse into mental health crises very quickly (SCPSNS 2010, 10). There is also much variability in the availability of mental health services

across all Canadian prisons. For instance, RTCs are only available at five federal prisons in Canada (SCPSNS 2010, 9). Other interventions, including cognitive behavioural therapy and CoMHISS, have not been implemented widely. Thus, current strategies do not adequately cater to the mental health needs of prison populations; yet, improvement of mental health of inmates is a crucial step in reducing the prevalence of high-risk behaviours, particularly IDU, associated with HIV and HCV transmission.

In order to address mental disorders in a prison setting adequately, I recommend that:

(i)   Evidence-based models, such as cognitive behavioural therapy and CoMHISS, should be implemented at all prisons across Canada.
(ii) RTCs should be expanded to cover more federal, provincial, and territorial prisons.
(iii) Funding should be increased for RTCs in order to allow accommodation of all inmates with serious mental health disorders.
(iv) More attention should be given to detection and treatment of less severe mental illnesses among inmates.

The Epidemiological Reality in Prisons: Need for Integrated Infectious and Chronic Disease Policies

Inmates at Canadian correctional facilities bear a disproportionate burden of HIV, HCV, IDU, and mental illnesses. HIV and HCV infections in prisons are increasingly becoming diseases related to substance abuse, which in turn is increasingly being influenced by poor mental health status of inmates. Thus, mental health disorders, high-risk behaviours associated with injection drug use, and high prevalence of HIV/HCV infections among IDUs in Canadian prisons share complex links. Despite this interdependency, there is a sheer lack of integrated prison policies addressing these issues and interactions between them simultaneously. For HIV and HCV infected inmates, there is a lack of focus on improving mental health. Within mental illness therapies and treatments, there is a lack an emphasis on HIV and HCV education. Finally, improvement of mental health is not a core area of focus in drug addiction treatments. As a result, inmates are generally devoid of integrated treatments for concurrent disorders.

In order to concomitantly address infectious and chronic diseases, particularly poor mental health, drug abuse, as well as HIV and HCV infections among inmates in Canadian correctional facilities, I recommend that:

(i)   Interventions to curb the rates of these conditions be integrated together. This may include integration of HIV, HCV, IDU, and mental health education, prevention programming, as well as treatment regimens.

The Needs of Specific Prison Populations, Particularly Aboriginal Inmates

Although the aforementioned policy prescriptions will benefit both Aboriginal and non-Aboriginal inmates, Aboriginal prison populations require additional culturally-appropriate interventions. Currently, only a few programs, particularly correctional healing lodges and the Circle of Knowledge Keepers, exist in Canadian prisons that meet the HIV and HCV prevention as well as harm-reduction needs of Aboriginal inmates. However, these programs remain largely under-funded (Betteridge and Dias 2007, 61, 92), and are thus inconsistently implemented across Canadian correctional facilities. Aboriginal community organizations occasionally run educational workshops and traditional health promotion practices in prisons; however, they are often not welcomed by the prison staff due to a lack of respect and appreciation for Aboriginal cultural and traditional values on part of the staff (95-96). These organizations also lack funding to continue their programming in prisons (96).

To address the needs of Aboriginal inmates, I recommend that:
(i) Best existing practices, including correctional healing lodges and the Circle of Knowledge Keepers, should be readily implemented in all federal, provincial, and territorial prisons.
(ii) CSC and Health Canada should increase funding for Aboriginal-specific educational, prevention, and restorative justice programs.
(iii) Aboriginal-specific programs should be prepared in concert with and delivered through the Elders. Implementation of best programs requires strengthening the partnerships between the Elders and western health care professionals.
(iv) Successful implementation of Aboriginal programming requires better training of health care workers and prison staff in Aboriginal history so that feelings of empathy, respect, and trust can be established. This type of cultural sensitivity training should be rigorously implemented throughout employment in the correctional facilities.

Prison-based health care services do not adequately meet the needs of Aboriginal inmates. There is a major lack of physicians with expertise in dealing with Aboriginal-specific health issues, particularly mental illnesses (Betteridge and Dias 2007, 90). The western health care system heavily emphasizes objectification of the patients, and conceptual separation of the mind from the body in order to treat symptoms of illness (Heller et al. 2006). On the other hand, traditional Aboriginal approaches towards treatment of any illness are holistic; this system considers the relationship between the mind, the body, and the spirit, and places emphasis on social context of healing. Such health care practices are rarely implemented by the western system (Vukic et al. 2011, 68-69). Since the health services available in prisons are westernized, there is a lack of trust between Aboriginal patients and the health care professionals (PHAC 2010, 45). This lack of trust partly stems from the horrible experiences of Aboriginal people with the western health care system during the colonization era (PHAC 2010, 55). As a result,

Aboriginal inmates remain reluctant to seek help from a system which is responsible for their poor mental, emotional, and spiritual health to begin with.

In order to provide better health care services tailored to the needs of Aboriginal people, I recommend that:

(i) Culturally appropriate programs such as therapeutic communities and traditional healing practices including sharing circles and sweat lodges should be widely implemented across all Canadian prisons. These programs will not only aid in improving their physical, but also mental and spiritual health.

(ii) Traditional immune system boosting and cleansing treatments, such as the use of milk thistle, should be recognized.

(iii) More psychologists with expertise in dealing with mental health issues specific to Aboriginal prisoners should be hired immediately. At minimum, there should be two psychologists with such expertise in every Canadian correctional facility.

(iv) Health care professionals should be given rigorous cultural-sensitivity training.

The principles of the Canadian criminal justice system and those of the traditional Aboriginal models of justice largely contradict one another. For instance, the Aboriginal principles of justice revolve around the process of healing, that is, to repair the harmful results of an offense (AJIC 2013a, sec. 2). In contrast, the Canadian justice system places greater emphasis on retribution and relatively little focus on alternative restorative models of justice. A clash of these two contradicting principles of justice leads to over-policing of Aboriginal populations. Consequently, Aboriginal offenders continue to be over-represented among the incarcerated population, which constantly keeps them in contact with the high-risk environments of Canadian prisons. Thus, the Canadian penal system itself puts Aboriginal offenders at a greater risk of developing infectious and chronic illnesses. Unfortunately, current policies lack emphasis on diversion of Aboriginal offenders away from incarceration.

The key to reducing the over-representation of Aboriginal people with HIV, HCV, and mental illness cases may lie in diverting them away from incarceration. Therefore, I recommend that:

(i) Funding should be increased to implement alternative models of justice for Aboriginal inmates, such as sentencing circles correctional healing lodges, drug courts, and mental illness courts.

(ii) Aboriginal employment in the justice system should be increased as they are currently under-represented (AJIC 2013b, sec. 1). This requires attainment of higher levels of education among Aboriginal populations. The Aboriginal communities should have increased control over their own educational systems. The curriculum at Aboriginal as well as public schools and post-secondary institutions should be changed to include Aboriginal-specific content and learning styles.

Conclusion

Overall, due to numerous limitations of current interventions targeting the prevention and control of HIV, HCV, drug abuse, and mental illness in Canadian prisons, inmates remain disproportionately affected by these conditions in comparison to the general population. There remain major gaps in the prevention and control strategies recommended by current policies and how they are used in practice. Surprisingly, access to harm reduction measures including condoms and bleach is still quite limited in many Canadian prisons. This can increase the opportunities for HIV/HCV transmission resulting from high risk behaviours including unsafe sex and injection drug use. There also remains an inequitable access to health services inside Canadian prisons in comparison to the outside community. This is evident in the lack of needle exchange programs and safe tattooing services inside prisons; the use of contaminated needles and other equipment can facilitate the spread of HIV and HCV during injection drug use and tattooing activities. Moreover, poor mental health of inmates strongly influences the occurrence of high risk behaviours, thereby increasing the risk of acquiring HIV and HCV infections. In turn, the biology of these infections, as well as the side effects of the treatments, can worsen the mental health of individuals. Unfortunately, the majority of mental health issues among inmates receive limited medical attention and remain untreated. Despite the interdependency between mental illnesses, high risk behaviours, and HIV/HCV infections, there remains a lack of integrated interventions addressing these concurrent disorders. Furthermore, current prison policies do not adequately cater to the needs of Aboriginal inmates, as is evident in the lack of culturally appropriate disease prevention and treatment programs, as well as traditional models of criminal justice.

Thus, without further delay, current policies need to be amended and new interventions need to be implemented The key interventions to address the growing crisis of HIV and HCV infections in Canadian prisons include ensuring discrete and uninterrupted access to harm reduction measures, developing prison needle exchange programs, and permitting safe tattooing practices inside prisons. In light of the epidemiological reality of prison environments and complex links between HIV/HCV infections, mental disorders, and high-risk behaviours associated with substance abuse, a comprehensive policy should be implemented to facilitate integrated education, prevention, care, and treatment for these conditions simultaneously. Since Aboriginal inmates are most vulnerable to HIV, HCV, drug abuse, and mental illnesses, Aboriginal-specific interventions should be developed, including a major focus on traditional medical practices, traditional justice models, and diversion of this population away from incarceration.

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The Consolidation of Aid: Reducing Fragmentation in Canadian Development Assistance

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Abstract

In the Canadian push to increase the effectiveness of bilateral Official Development Assistance, fragmentation has become an important area of concern. Fragmentation refers to the distribution of aid across too many recipients, inflicting unnecessary costs on both the aid donors and the recipients. This paper analyzes current Canadian policy regarding fragmentation, emphasizing the Aid Effectiveness Agenda and the 20 focus countries Canada has designated as primary aid recipients (CIDA 2010, 6). This analysis will highlight Canada's failure to reach its target to direct 80 percent of Canadian aid to these 20 countries and the causes of that policy failure. In response, several policy routes for improvement are put forward, focusing on the Netherlands as a model for addressing fragmentation. Ultimately, the paper finds that for Canada to address fragmentation, the federal government must create coherent strategies to reduce aid flows to insignificant recipients, increase the portion of Canadian aid allocated by country, and advocate for international cooperation amongst bilateral donors to reduce fragmentation.

Keywords: Canadian foreign aid policy, aid fragmentation, aid consolidation, focus countries, Canadian Official Development Assistance

Introduction

As Canadian foreign aid enters a period of reform, the focus of aid policy discourse has shifted towards increasing the efficiency and effectiveness of international assistance. Foreign aid now accounts for over five billion dollars of Canada's annual budget (CIDA 2013, sec. A), yet Canada ranks amongst the lowest quality aid donors in the world (Knack, Rogers, and Eubank 2010, 24). In response, ensuring the efficiency of aid distribution has become an important area of concern in Canadian foreign policy, prioritizing the need to sharpen the focus of foreign aid. To address this need, one policy option is to reduce the fragmented nature of Canadian aid, focusing available funds on fewer recipients. This paper highlights the negative consequences of fragmented aid, the failures of existing Canadian policy to address the issue, and potential solutions to address fragmentation through federal policy.

To understand the scope and importance of reducing fragmentation through aid policy, this paper will focus on four central areas of discussion. First, it will outline the nature of the fragmentation problem, with both an explanation of its global reach and the potential risks to aid efficiency it brings. The focus will be on fragmentation in bilateral Canadian Official Development Assistance (ODA), meaning funds flowing from the Canadian federal government to a recipient country with the earmarked purpose of promoting the recipient's welfare and economic development[1]. This discussion of Canadian ODA will focus on increases in transaction costs and redundancies, and reductions in bureaucratic quality and economic growth caused by fragmentation. Second, the paper will shift to an explanation of Canada's efforts, both past and present, to reduce fragmentation and the failures of those policies. The discussion will then move to an analysis of potential policy options to reduce Canadian aid fragmentation, focusing on the policy route taken by the Netherlands in addressing the same problem. Finally, policy recommendations are put forward to address fragmentation in Canadian ODA. The analysis of these issues and policy options will ultimately show that to successfully focus aid on fewer countries, Canada must design a program to phase out small aid recipients, decrease unallocated aid, and advocate for international cooperation and division of labour amongst aid donors. Implementing these policies will consolidate Canadian ODA, and increase its efficiency and effectiveness.

Aid Fragmentation

Aid fragmentation at its most basic level can be described as a process wherein aid becomes divided into too many small pieces, allocated across too many countries and projects (Deutscher 2009, 15). In practice, fragmentation is occurring as a result of an increasing number of development agencies, each spreading their aid allocation across a large number of recipients. As this problem grows in scope, the Organization for Economic Cooperation and Development (OECD), an organization of 34 predominantly western states committed to global democracy and economic growth, has highlighted fragmentation as a significant hindrance to the effectiveness of global aid. The OECD largely addresses aid policy issues through a specialized committee known as the Development Assistance Committee (DAC; OECD 2010, 5), which has studied the issue of fragmentation at length (32).

The DAC measures fragmentation from the donor perspective through a metric called the concentration ratio. This ratio takes into account the percentage of a donor's aid relationships that can be considered significant for both the donor and the recipient of aid (OECD 2011, 5). Significant aid relationships are measured by the DAC based on two criteria. First, for a relationship to be considered significant the donor must allocate "a higher share of aid to the partner country than the donor's overall share of global aid". Second, a significant relationship

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1. *Official Development Assistance Accountability Act, Statutes of Canada* 2008, c. 17. http://laws-lois.justice.gc.ca/PDF/O-2.8.pdf.

means "the donor is among the largest donors that cumulatively account for at least 90 percent of the partner country's aid" (5). Through these criteria, the OECD measures what percentage of a donor's aid relationships are significant, and in turn gives a metric of the level of fragmentation across donors. The results of this study show that the total concentration ratio amongst bilateral DAC donors is 55 percent, meaning 45 percent of all bilateral ODA is allocated to insignificant relationships, contributing to fragmentation (10). As well, the concentration ratio suggests that very large and very small donors have the highest share of significant relationships, while mid-sized donors typically have highly fragmented aid. In 2009, Canada's concentration ratio ranked last amongst DAC bilateral donors, with just 33 percent of Canadian bilateral ODA allocated to significant relationships (10).

As the results of the concentration ratio demonstrate, aid fragmentation is a widespread issue that affects nearly every aid donor. More importantly, however, is the destructive nature of aid fragmentation on the efficiency and effectiveness of ODA. Fragmentation is harmful for several reasons, the first and foremost of which is the increase in redundancy and overlap it creates. Essentially, as the number of recipients that each donor allocates ODA to increases, the number of donors operating in each recipient country increases as well. In 2009, the DAC found that 64 developing countries had aid relationships with at least 25 multilateral or bilateral donors each (OECD 2011, 5). With so many donors operating in the same country to achieve similar goals, there becomes a tendency for aid projects and programs to overlap with one another. As the various agencies often do not cooperate on these programs, the high number of donors per recipient creates redundancies in aid implementation (Easterly and Pfutze 2008, 40). This is an issue fundamentally rooted in fragmentation, as aid consolidation would lead to fewer donors with larger budgets operating in each developing country, leading to greater coherence and less redundancy. In turn, this would improve the effectiveness of aid.

Importantly for Canada, aid fragmentation is harmful to donors as well as recipients. One of the biggest issues created by aid fragmentation is an increase in transaction costs incurred through aid allocation (Anderson 2012, 799). As the number of aid recipients per donor grows, donors begin to incur a high level of overhead and administrative costs that could otherwise be avoided by consolidated relationships. In attempting to measure the effect of fragmentation on increased transaction costs, economist Edward Anderson designed an economic model measuring transaction costs under an efficient aid allocation structure based on consolidation. He estimates that in total, bilateral donors could collectively save anywhere from US$1.4 to US$2.5 billion annually in transaction costs if a more consolidated approach to aid were adopted globally (801). As well, Anderson estimates that Canada could save as much as US$188 million annually through reduced transaction costs, if aid allocation reform is adopted (802).

Two other detriments caused by aid fragmentation in recipient countries are reduced bureaucratic quality and slowed economic growth (Kimura et al. 2012, 1). Bureaucratic quality is

shown to suffer from aid fragmentation, because it requires a large number of government administrators to manage every aid relationship. Studies have shown there is an inverse correlation between the number of administrators hired by a recipient government to manage aid, and the share of aid per donor in that country (Knack and Rahman 2007, 176). Essentially, this means as the number of donors acting in a country increases, the government is forced to increase the size of their bureaucracy, creating unnecessary public expenditure. Furthermore, the growing bureaucracy hinders the efficiency of governance in recipient countries. One example occurred in Vietnam, where the purchase of five government vehicles funded by aid programs required the input of 150 government employees to ensure the procurement process met all donor requirements (178). The overall result of the increased government expenditure and reduced efficiency in management caused by aid fragmentation can be slowed economic growth. In addressing the relationship between growth and aid, studies have found that a high number of donors operating in a country can result in less economic growth for the recipient (Kimura et al. 2012, 6). The effects of fragmented donor-ship on economic growth are found to be particularly strong in Africa.

Clearly, due to the costs it inflicts on both recipient and donor countries, fragmented aid warrants attention as a key obstacle to improving the efficiency and effectiveness of ODA. In the Canadian policy environment, fragmentation has not been ignored as an issue. However, statistics regarding Canadian fragmentation suggest that past policy regarding the issue has largely failed to reach its objective of consolidated Canadian aid. Further policy reform is still needed to address aid fragmentation, and improve Canada's performance as a bilateral aid donor.

Focus Countries

Historically, the response applied by the Canadian government to address aid fragmentation has been the creation of focus countries. Focus countries typically refer to a set of countries that a bilateral donor has highlighted as the central recipients of the donor country's aid flows. Jean Chrétien issued the first set of focus countries Canada would concentrate aid on in 2002, listing nine recipients. Three years later, the Paul Martin government expanded this list to 25 countries (Brown and Raddatz 2012, 331).

In 2010, the Canadian International Development Agency (CIDA) released "Canada's Aid Effectiveness Agenda". The agenda, aimed at reforming Canadian aid to increase efficiency and effectiveness, described a number of policies CIDA would implement to improve the quality of Canadian ODA. Among other policies, the Aid Effectiveness Agenda revised the Canadian ODA focus countries, reducing the number from 25 to 20 (3). As part of the agenda, CIDA (which has since been amalgamated into the Department of Foreign Affairs, Trade and Development) committed to allocating 80 percent of all Canadian bilateral ODA to these 20 countries (6).

The announcement that 80 percent of Canadian ODA would be allocated to just 20 focus countries was an important step in addressing fragmentation in Canadian aid allocation. However, while the commitment is important from a discourse perspective, it has largely failed to translate into action. In 2012, the top 20 recipients of Canadian ODA received just 46 percent of bilateral ODA, well below the 80 percent target outlined in the Aid Effectiveness Agenda (DAC 2012, 4). Furthermore, in 2005-2006, the top 20 recipients of Canadian bilateral ODA accounted for 68 percent of total bilateral expenditure (DAC 2007, 12), showing that Canadian aid has become more fragmented in recent years. This suggests that existing policy regarding fragmentation has been largely ineffective, and is in need of reform.

Other indicators of the failure of existing policy to address Canadian aid fragmentation are based on the fact that even within its focus countries, Canada is contributing to global aid fragmentation. This is evidenced once again through the OECD concentration ratio. According to the ratio, Canada's presence in at least 25 percent of its focus countries is considered insignificant (OECD 2011, 10). This points to one of two possible problems. The first explanation is the most likely, indicating that Canada must increase the share of its aid directed to the focus countries in order to push them into the realm of significance. The second explanation for Canada's insignificant relationships with focus countries argues that 20 countries is still too large a number to support, suggesting Canada must further reduce its focus country list to reach acceptable levels of aid consolidation. However, reducing the number of focus countries is unlikely to facilitate effective consolidation of Canadian ODA. As a donor with an annual budget of over five billion dollars for ODA, Canada has the necessary funds to maintain significant aid relationships with at least 20 countries. Furthermore, while reducing the number of focus countries would benefit Canada's relationship with a small number of countries, it would not truly address the fragmentation issue, as a substantial portion of Canadian aid would remain allocated to non-focus country relationships. The ineffectiveness of such an approach is demonstrated by Canada's historical policies, as fragmentation persisted from 2002 to 2005 when Canada listed just nine focus countries (DAC 2007), and when Canada reduced the number of focus countries from 25 to 20 in 2009 (DAC 2012, 51). Instead, recommitting aid to the currently listed focus countries is the best policy option available to reduce fragmentation.

Indicated by Canada's inability to reach its target of 80 percent aid allocation to 20 countries, and the insignificance of Canadian bilateral aid in its stated focus countries, it is clear that Canada has not effectively addressed fragmentation through aid policy. This failure can largely be traced to two policy issues hindering Canada's ability to consolidate aid. The first reason consolidation policy is ineffective is because it is often overruled by other aid policy objectives. David Carment, Rachael Calleja, and Yiagadeesen Samy (2013) argue that while actors in the Canadian development sector recognize the importance of allocation to a small number of countries, there is also an incentive for Canada to maintain an aid presence in as many countries as possible. The incentive for many aid relationships is based on the idea that a

widespread aid presence maximizes Canada's ties to foreign governments and serves Canadian foreign policy and trade objectives (15). Canadian foreign policy has prioritized this goal of international relations over aid quality, counteracting the effectiveness-through-consolidation agenda.

The second aspect of the current Canadian ODA structure that contributes to aid fragmentation is a high percentage of unallocated aid. According to the DAC, 37 percent of all Canadian bilateral ODA is unallocated by country, 10 percent higher than the DAC average (DAC 2012, 52). Instead, this aid is distributed based on global programs, earmarked funding for regional programs, and other mandates that redirect aid flows away from Canada's focus countries. As a significant portion of that 37 percent is unlikely to be allocated to focus countries, it largely explains why Canada has failed to reach its 80 percent consolidation target.

Reforming Canada's Aid Program

As Canada aims to improve the efficiency and effectiveness of its aid program, addressing its policy shortcomings regarding aid fragmentation must be a central focus of reform. To do so, the Canadian government must look to other donors to understand how best to address fragmentation. In this process, the ODA program in place in the Netherlands can act as an exemplary model for Canada to follow to address the fragmentation problem. The Netherlands is an ideal example for Canada to follow because of their similarity in budget size, and the Netherlands' recent policy changes that have reduced fragmentation in Dutch aid.

Budget size is an important aspect of bilateral donor comparisons regarding aid fragmentation because fragmentation is highly related to a country's aid budget. Generally, very small donors do not face fragmentation problems because their aid budgets are too small to spread across more than a few recipients. As well, very large donors do not face fragmentation problems, because their presence in any recipient country is likely to be significant in almost all cases (OECD 2011, 10). As such, Canada cannot follow the policy structure of either large or small donors, as it has neither the small budget that by necessity can only support a small group of recipients, nor the massive budget that influences every recipient country it allocates to. Instead, Canada must model itself after a similar sized donor that has successfully fought fragmentation. The Netherlands' aid budget is almost identical to that of Canada, rendering it a highly comparable country to Canada regarding aid fragmentation (OECD 2013).

Second, the Netherlands succeeds as a comparative tool for Canadian aid policy because it is currently successfully addressing a similar fragmentation problem to that of Canada. In 2009, while Canadian aid was significantly more fragmented than Dutch aid, the Dutch were still below the DAC average on the concentration ratio scale, with just 51 percent of Dutch aid considered significant (OECD 2011, 10). However, since then the Dutch have implemented a series of policies to reduce fragmentation in their ODA. The results of this policy reform

regarding fragmentation have put the country on a path towards consolidation. While almost every donor country is currently seeing an increase in fragmentation, the Dutch are one of just two countries globally that are successfully reducing fragmentation in their aid program (Aldasoro, Nunnenkamp, and Thiele 2010, 935). This suggests that following the Dutch policy model can contribute to Canada's efforts to decrease fragmentation.

The most important determining factor in Dutch policy that has contributed to the country's reduced fragmentation is a successful phase out strategy from insignificant recipients. In addressing fragmentation, the DAC recognizes two central policy routes for aid consolidation. The first option is to scale up aid in insignificant aid relationships, and the second is for donors to phase out their aid programs in recipient countries with insignificant relationships (OECD 2011, 16). The Dutch have chosen this second strategy, and have done so with success. In 2012, the Dutch implemented their phase out program in Colombia, among other countries (Government of the Netherlands 2012). This was done based on the notion that Colombia did not rely on Dutch aid, and the aid dollars allocated there could be better spent elsewhere. Following this model of consolidation is the most appropriate route for Canada, as the alternative option of increasing overall ODA expenditure to create more significant aid relationships is not possible, due to financial constraints. Considering that Canada currently maintains humanitarian aid relationships with 54 countries (CIDA 2013, sec. B2), and has a significant aid relationship with fewer than 20, the budgetary increases required to reduce fragmentation through increased expenditure are too large for Canada to meaningfully pursue. While increasing the overall ODA budget may contribute to improvements in Canada's aid policy as a whole, the far more effective strategy to address this particular issue is to consolidate existing aid.

The Dutch phase out program has enjoyed success in reducing fragmentation because it adheres to a thorough policy regarding how and where phasing out should occur. In 2011, the Netherlands Ministry of Foreign Affairs outlined phase out strategies for Dutch ODA (16). The strategies included an analysis of the recipient's ability to function without Dutch ODA, and the institutional capacity of the recipient government. As well, the policy calls for consultation with recipient governments regarding phase out programs, and structured timelines to end Dutch aid in applicable countries. The clear and structured nature of these policies has allowed the Dutch to successfully reduce the number of recipient countries receiving Dutch ODA. This represents a stark contrast with Canadian aid policy, wherein aid allocators are instructed to reallocate aid to the focus countries, yet are given little to no direction on where to proportionately reduce aid funding (Carment, Calleja, and Samy 2013, 8).

It is important to note that while Dutch policy reform has resulted in positive change regarding aid fragmentation, the Netherlands must undergo further policy change to reach acceptable standards for aid fragmentation. Similarly to Canada, the Netherlands has high (approximately 50 percent) unallocated aid portions, contributing to aid fragmentation much in

the same way it does in Canada (DAC 2011, 46). This indicates that further policy reforms are possible in both countries, and that the institution of effective reform in Canada will require policy changes beyond phase out programs. However, the fact that the Dutch have seen improvement regarding fragmentation while Canada has not suggests that following the Dutch phase out based policy is a proven, effective, and attainable policy route for Canada, and an important aspect of future attempts to reduce fragmentation.

Another aspect of improved aid consolidation focuses on international policy, rather than internal changes to Canada's aid structure. In the OECD Report on Division of Labour (OECD 2011), the DAC suggests that increased international cooperation is an important policy route to address fragmentation. Essentially, the DAC argues fragmentation occurs because donor governments have varying priorities that they apply in a wide number of countries (3). In turn, if bilateral donors worked in greater cooperation in crafting aid policy, they could each focus aid on fewer recipients with the knowledge that other bilateral donors are carrying out their objectives. If this were the case, donor countries, including Canada, would likely feel more comfortable focusing aid on fewer countries, amounting to a division of labour approach to aid allocation.

Ultimately, to improve aid efficiency and effectiveness in Canadian ODA, Canada must focus policy reform on reducing aid fragmentation. To do so, the best policy route available to the Canadian government is to focus aid on the 20 recipient focus countries designated by CIDA in the 2010 Aid Effectiveness Agenda. To achieve the reallocation of Canadian ODA towards those countries, the Canadian government should adopt three central policies. First and foremost, Canada must design and implement a comprehensive phase out policy for eliminating aid directed at Canada's insignificant aid recipient relationships. This policy will give guidance to aid allocators in choosing the countries Canada should no longer partner with, and in turn increase the availability of funds to allocate to Canada's focus countries. Second, Canada should reduce its portion of unallocated bilateral aid. The large portion of Canada's bilateral aid that is designated towards regional or global programs hinders Canada's ability to focus aid on a small number of countries. As such, reducing unallocated aid would allow Canada's development officials to reroute that funding towards Canada's focus countries, and in turn help consolidate Canadian ODA. Finally, to reduce fragmentation, the Canadian government should advocate for increased international cooperation amongst bilateral donors. In doing so, Canada could ensure that aid donors acting in other countries adequately address Canadian aid objectives. In turn, Canada would be able to rely on others to act on its behalf, and reduce the need for widespread aid presence in a large number of countries. This would then allow Canada to refocus aid to a smaller number of countries, reducing fragmentation. These three policy changes can work in compliment to one another, help Canada reach its goal of 80 percent aid allocation to 20 countries, and ultimately reduce the fragmentation of Canadian ODA.

Conclusion

In the struggle to improve the efficiency and effectiveness of Canadian ODA, fragmentation must play a central role in the policy reform discussion. In particular, addressing the insignificant nature of the majority of Canadian aid relationships, and the underfunding of Canada's 20 focus countries will require significant policy reform. The burdens placed upon aid by fragmentation, namely high transaction costs, redundancy, reduced bureaucratic quality, and slowed economic growth are too great to ignore in the Canadian policy environment. To address these issues, Canada must look to the Netherlands as well as the global bilateral donor community for potential policy options to address fragmentation. Examination of Canadian aid effectiveness highlights Canada's need to allocate more aid to the 20 focus countries of the 2010 Aid Effectiveness Agenda, and ultimately shows that a policy route comprised of phase out programs, reduced unallocated aid, and increased international cooperation is the most effective way to do so. Implementing these policies will reduce aid fragmentation, and increase the overall quality of Canadian ODA.

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The Child as Investment: An Analysis of Manitoba's Discourse on Child Care

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Abstract

This paper offers a critical analysis of the language employed in the Government of Manitoba's child care policy from 1999 to 2013. Building from prior research undertaken by Susan Prentice, this study employs a textual analysis of provincial public documents, with a view to examining whether it can be maintained that there is an official child care discourse suggestive of the Social Investment State (SIS) model. A total of 34 public documents were analyzed for the frequency of SIS language and terminology, which were also coded by theme. The analysis demonstrates the prevalence of SIS language related to child care within key Manitoba government policy documents, and suggests that non-reflective perpetuation of discourse on the part of policy makers presents risks to effective policy development.

Keywords: Manitoba child care policy, Social Investment State model, discourse analysis

Introduction

Family Choices: Manitoba's Five-Year Agenda for Early Learning and Child Care touts the economic benefits of "investing in our children and our future" (Healthy Child Manitoba 2008, 2). The agenda, which outlines 12 commitments designed to expand and improve child care provision, employs language that seems in keeping with the characteristics of the Social Investment State (SIS) model. It has been argued that the SIS or "Third Way" approach is evidence of a demonstrable shift from the social democratic welfare model towards one that equates social spending with labour market integration (Saint-Martin 2007). The SIS model has been criticized for its potential to create generational divides through the redefinition of state functions (293), for its conceptual limitations (Nolan 2013), and for its potential to reinforce stereotypes through policy interventions (Vandenbroeck, et al. 2009). Susan Prentice (2009) offers a feminist critique of the SIS model with respect to child care, arguing that the economic framing of child care displaces the needs of women (mothers). Her paper on the investable child focuses on the SIS tendencies found within advocacy and academic research on child care. She

contends that through the adoption of this economic frame, the conception of child care is shifting from a service to women based on principles of social justice, to one of investment in children designed to yield human capital returns. This, Prentice concludes, has significant implications for the future development of child care systems.

In advancing Prentice's argument from the focus on academia and advocacy, this paper seeks to explore her critique of the SIS model through an examination of the Manitoba government's discourse surrounding child care. Can it be maintained that SIS framing is a feature of the governmental discourse on child care, and if so, what impact might this have on policy development from a public administration perspective? This paper will begin with a brief overview of child care in Manitoba, followed by a discussion of the SIS model. The paper will then present the findings of a discourse analysis of key Manitoba government child care policy documents, from 1999 onwards. The research intention is two-fold: first, to critically analyze the language used in provincial child care policy, and secondly, to posit the argument that the SIS model is a feature of the Manitoba government's child care discourse and that this presents risks to effective policy development.

Child care in Manitoba

Child care services are used by families for a variety of reasons and the rationale for these services have been characterized in a multiplicity of ways. Prentice (2009) states that, beginning in the 1960s, child care formed part of the women's liberation movement and was conceived of as a way in which mothers could participate in the workforce. However, she contends that more recently the rationale for child care provision has also included other aims such as social integration, poverty reduction, child development, employability, school readiness, and the "business case" for child care as a means of prosperity (687).

Publicly funded child care in Manitoba is largely delivered by independent, not-for-profit organizations that offer learning and care for children ages from 12 weeks to 12 years old. In this way, the Manitoba child care system is not public (in the sense of government-operated), but rather is a system made up of family providers and board-run centres that are part of the province's voluntary sector (Prentice 2004, 196). The independent child care centres and family child care homes in Manitoba are overseen by Manitoba Early Learning and Child Care (MELCC), which is a branch of the Department of Family Services. Child care is also a central component of the province's Healthy Child Manitoba strategy (Healthy Child Manitoba 2014b).

MELCC is responsible for the licensing and monitoring of child care facilities, disbursing grant funding to eligible centres and homes, regulating the profession of Early Childhood Educators and providing subsidies to families in need of financial support for child care (Manitoba Early Learning and Child Care 2013). Between 1999/2000 and 2012/2013, Manitoba increased its grant funding for child care by 181 percent, a budget that now totals $143,388,000

per year (Manitoba 2013a, 90). This funding supports over 31,000 child care spaces across the province (Department of Family Services and Labour 2013, 74). Communication is a significant factor in the delivery of this large, geographically dispersed child care system. The Manitoba government requires an ongoing dialogue with not only the over 1,000 licensed providers (homes and centres), but also has a need to communicate with stakeholders, parents, and the public at large.

Unpacking the Social Investment State

Before delving into the analysis of these communications, it is important to first define our understanding of the SIS model. Denis Saint-Martin (2007) presents the argument that we are witnessing the onset of a paradigmatic shift from the welfare state to a social investment state. The welfare state is broadly understood to encompass an approach to government that provides "citizens with physical, financial, health or other assistance" (MacLean and Wood 2014, 46). Saint-Martin (2007) presents the new SIS paradigm as a contrast to its predecessor: where the welfare state was worker-centric and designed to protect the individual against market forces, the SIS model is child-centric (future worker) and designed to ensure market integration as a means of social inclusion (284).

Other authors, most notably Nathalie Morel, Bruno Palier, and Joakim Palme (2011), present a more evolutionary development of the SIS, tracing its origins to Swedish policy development during the Great Depression. Conceptualized less as a stark contrast to its predecessor, the authors understand the SIS to be part of the ongoing reform of the welfare state, which has developed through periods dominated first by Keynesianism and then neoliberalism (14). Although Morel, Palier, and Palme allow for the notion that there are some features and trends emerging within welfare state policy that may indicate the growing importance of social investment, they are not entirely convinced that the SIS model is yet the new dominant paradigm. Given that this model remains somewhat unconcretized, this paper will borrow both from Saint-Martin (2007), as well as from Morel, Palier, and Palme (2011) in conceptualizing three key features of the SIS model for purposes of the analysis of child care discourse.

Responsiveness to the Knowledge-Based Economy

Saint-Martin (2007), and Morel, Palier, and Palme (2011) contend that the SIS model is in some way a reflection of, or a reaction to, the new knowledge-based economy that has arisen in Western states. The latter focus their edited book entirely on the OECD and European experience, given the European Union's Lisbon Agenda in 2000, which had the strategic aim of making Europe "the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion" (European Council 2000, section I). One of the three pillars of that goal was the modernization of the European social model by "investing in people and combating social exclusion."

This knowledge-based economy, it is argued, requires a workforce that is more flexible and highly skilled. At the same time, Morel, Palier, and Palme (2011) contend that the SIS model aims to address new societal realities, such as the prevalence of single-parent families and the "lack of continuous careers" (1). Reconciling the labour needs of the knowledge-based economy with new societal realities, SIS social policies are generally framed around the development of human capital (education and training) and the improved use of human capital (for example, policies that encourage single parents to participate in the labour market; Morel, Palier, and Palme 2011, 10).

Child-Centric (or Future-Worker Centric)

Related to the emphasis on supporting the knowledge-based economy is the SIS focus on child-centred policies. If social inclusion is equated with participation in the knowledge-based labour market, then investments in preparing individuals to that end are most profitable if directed towards children; early investments and interventions yield higher returns (Saint-Martin 2007). However, the SIS model can also feature later interventions, for example policies designed to promote labour market attachment among "high-school dropouts, welfare recipients, and other disadvantaged workers" (292). These policies are also "future-worker" centric, albeit the economic frame of SIS encourages policies that will earn the greatest returns and therefore tends to direct social spending towards the young.

Future-Oriented

A pivotal feature of the SIS model is its necessarily future-oriented focus. Contrasted with the social safety net concept of the welfare state where support is provided when needed, the SIS model sometimes uses the metaphor of a trampoline, where social investment does not merely catch individuals in dire circumstances, but also propels individuals upward. Saint-Martin (2007) emphasizes this temporal element, stating that it relies on the assumption that "for state spending to be effective, and therefore worthwhile, it must not simply be consumed in the present, to meet current needs: it must be an investment that will pay off and reap rewards in the future" (286).

These three features of the SIS model (responsiveness to the knowledge-based economy, child-centric and future-oriented) are somewhat imperfectly conceived, in that they are all inextricably interrelated. That being said, identification of these themes is helpful, as it will form the basis of the discourse analysis in this study.

The Scope of Study

There are many scholars who have argued that political language is by its very nature biased. John Miller (1965, 178) contends that political ideas cannot be understood independent

of politics itself and William Connolly (1993), in his work on the *Terms of Political Discourse*, and maintains that political language is intersubjective and that politics is essentially a debate over imperfectly shared meanings. In using a particular term (e.g. handicapped) over another term (e.g. differently-abled), the articulator is fundamentally making a judgement and is not merely participating in the act of description. In the public administration literature, this constructivist understanding of language is sometimes captured under policy framing, recognizing the relationship between how issues are framed and the resulting policy outcomes.

As language involves constructed and imperfectly shared meanings, analyzing discourses can offer a unique and critical approach to the study of the SIS model. Discourse analysis is a method through which bodies of textual, oral, and sometimes symbolic language are studied in order to understand social reality (Phillips and Hardy 2002). However, discourse analysis is a contested concept, lacking not only an agreed-upon definition but also conceived of as at once both a method and theory (or as a method that is embedded within a particular theoretical framework). Marianne Jørgenson and Louise Phillips contend that discourse analysis must be understood as a "theoretical and methodological whole - a complete package" (4). At its core, discourse analysis understands that language and discourses construct social realities, that they can create a structure of social meaning and that they are historically contingent (Milliken 1999). It relies on an understanding of social science where language and its use are not neutral.

Although discourse analysis can encompass varying approaches, the methodology employed in this study is a textual analysis of key government policy documents. This paper uses an understanding of policy in the tradition of Thomas Dye, who defines policy as "whatever governments choose to do or not to do" (quoted in Pal 2010, 5). The methodology allows for a substantial body of official government documents to be systematically analyzed, with a view to identifying to what extent SIS language is featured with respect to child care.

The analysis spans from 1999 until 2013, which reflects an unbroken period of New Democratic Party (NDP) rule. The documents selected fall into three categories: 15 budget speeches (Manitoba Finance 1999-2013), 15 Speeches from the Throne (Manitoba 1999-2013), and 4 other policy documents (Healthy Child Manitoba 2008, 2013a, 2013b, 2014a). These documents were chosen specifically for their importance in terms of articulating government policy and priorities. The Budget Speech is delivered annually by the Minister of Finance, setting out the spending priorities of the government for the fiscal year. The Speech from the Throne is a statement of government priorities and commitments delivered by the Lieutenant-Governor at the opening of a new legislative session. Although read by the Lieutenant-Governor, this document is drafted by the Premier and the government (Manitoba 2013b). While it may be argued that both the Budget Speech and Speech from the Throne are largely symbolic in nature, I would contend that they do elucidate government priorities and policy, while offering a consistent medium for analysis. In her article examining the Province of Manitoba's approach to

post-secondary education, Andrea Rounce (2013) employs Budget Speeches and Speeches from the Throne, arguing that "[u]nderstanding where a province spends its money, and the language that it uses to describe these expenditures and their rationale, is key to understanding its priorities for public policy" (227). Beyond these two forms of broad government policy, this paper also examines four other key policy documents, in the form of child care-related policy papers from MELCC and Healthy Child Manitoba.

Each document was analyzed and coded along major themes of the SIS model, namely: investment, labour market outcomes of the child, future success of the child, parental workforce participation, and parental participation in education. Each document was also analyzed for the frequency of the following key terms: child, future, economy, skill, and invest.[1] These terms were specifically chosen to reflect the major themes of the SIS model identified earlier in the study, namely that it is responsive to the knowledge-based economy, child-centric, and future-oriented. "Child", "future", and "economy" were each selected to represent those themes in a direct fashion, with the addition of "skill" and "invest" in recognition of the overall worker-development thrust of the SIS model.

Analysis

An analysis of the 34 policy documents reveals that a high proportion include at least one mention of SIS language related to child care (see figure 1).
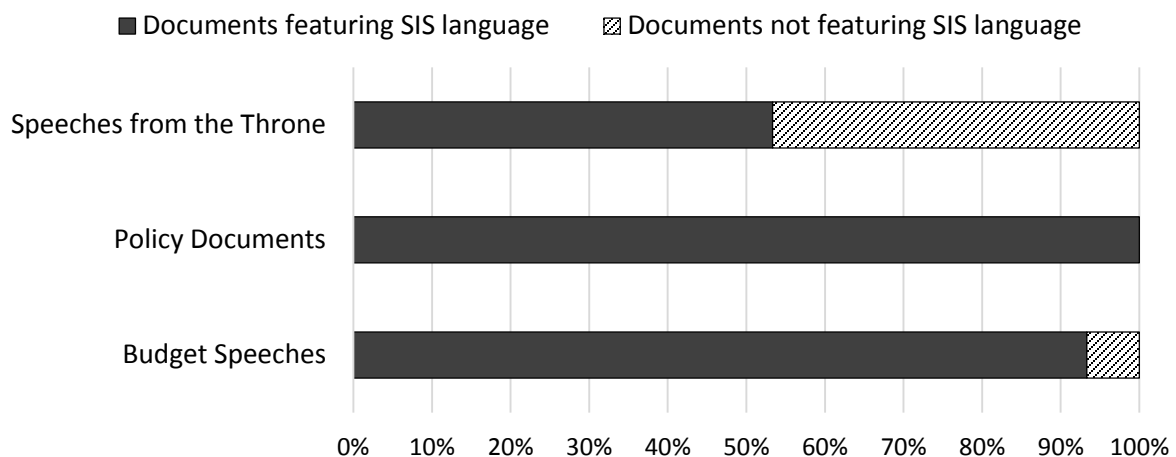
Figure 1: Proportion of 34 documents featuring Social Investment State language related to child care.

Over 50 percent of Speeches from the Throne and 90 percent of Budget Speeches feature at least one instance of SIS child care-related language, and all four child care policy documents feature at least one instance. It is notable that in all three types of documents analyzed, the

2. The terms child, skill and invest also include counts for words in which the identified term was a root. For example, counts for "child" would also include "children" and "childcare".

majority included SIS language in relation to child care. Furthermore, in one budget speech and in four throne speeches, the child care content was included under an SIS sub-heading (for example, "Training for the jobs of tomorrow, today" in the 2010 Speech from the Throne).

The 2001 Budget Speech spoke to the link between early years' investments by stating "studies indicate that children raised in nurturing environments have higher graduation rates, higher incomes, lower crime rates, and less reliance on social services. For these compelling reasons, our Government has been allocating resources to important programs for communities and families" (Manitoba Finance 2001, 7). Similarly, the 2003 Budget Speech bolstered its rationale for early years programming by stating that "in total, Budget 2003 will invest $115 million in early childhood development. With the continued support of the federal government, we are helping families meet the needs of today to ensure success into the future" (Manitoba Finance 2003, 8).

When broken out by theme, the most frequent theme of SIS language related to child care spoke to an investment in children or in the economy (see figure 2). In a similar vein, 12 of the documents included language equating child care with success or developmental outcomes for the child. Although slightly less prevalent, other important themes found within the documents addressed the need for child care in order for parents to pursue participation in the workforce or in their own education. For example, the 2011 Speech from the Throne indicated that "our government will ensure that Manitoba families have access to safe, convenient child care, which is essential to improving education and employment opportunities for parents" (Province of Manitoba, 3). There was also language related to the eventual positive labour market outcomes for children in the child care system. For example, the 2010 Speech from the Throne included the statement "Early learning is critical to a child's success in school and later in life" (Province of Manitoba, 5).
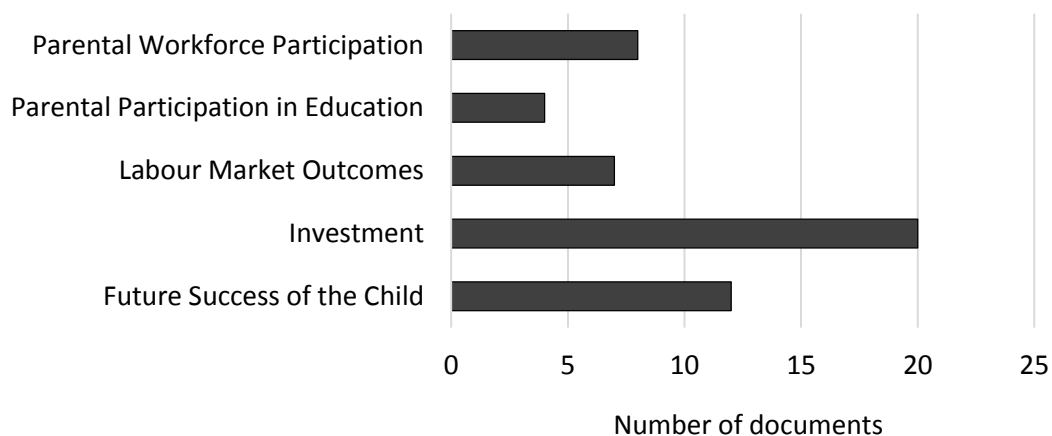

Figure 2: Use of Social Investment State language related to child care in 34 documents, by theme.

A pivotal example of this SIS framing is found at the outset of *Family Choices*, Manitoba's most recent child care platform, where the document sets out the economic case for child care, stating that "every dollar invested in child care leads to a two dollar benefit to the economy" (Healthy Child Manitoba 2008, 2). Additionally, in *Starting Early, Starting Strong*, the document that sets out the early childhood development index, there is a quotation by Dave Angus, the President and CEO of the Winnipeg Chamber of Commerce who states:

> I can't think of an investment that would provide a greater return than one at the stage of a child's life in which their life-long capacity, both intellectual and emotional, is so defined. The employer community must recognize that by supporting early childhood development, they are in fact supporting their future workforce. (Healthy Child Manitoba 2013b, 6)

When analyzing solely the child care policy documents (see figure 3), by far the most frequently employed SIS key term was "invest". As well, the term "future" was very common within the documents, with "skill" and "economy" featuring to a lesser extent. Overall, all four child care policy documents included frequent use of key SIS terms.
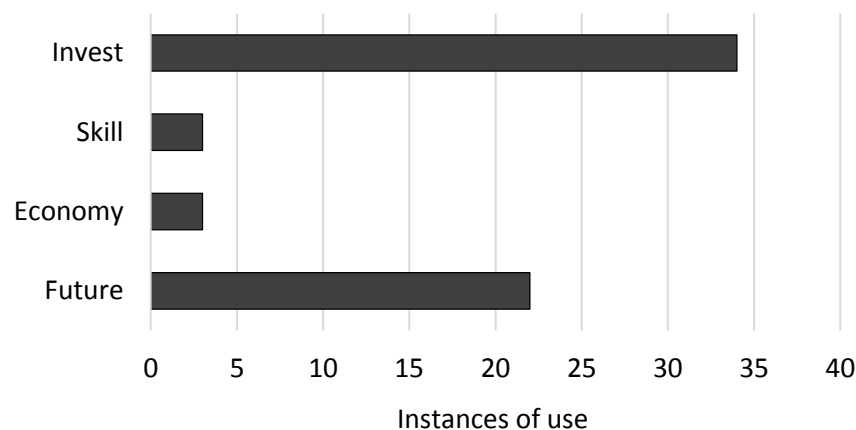
Figure 3: Use of Social Investment State key terms in four child care policy documents.

Beyond the aggregate numerical analysis of these 34 documents, there are also other notable instances of SIS-related language applied to child care. One aspect is the use of SIS language within key child care policy titles. In 2011, MELCC introduced a child care curriculum that was titled *Early Returns*, connoting a return on the investment in early childhood education. Also in 2011, Manitoba passed *The Preparing Students for Success Act*[2] which (among other things) featured provisions for including child care centres in newly built public schools. Healthy Child Manitoba has a primary overview document of its various programs, titled "Healthy Child Manitoba: Investing in our Future" (2014a) and another on its early childhood development instrument, which is named *Starting Early, Starting Strong* (2013b). These titles form part of the

3. *The Preparing Students for Success Act*, *Statutes of Manitoba* 2011, c. 3. http://web2.gov.mb.ca/laws/statutes/2011/c00311e.php.

larger discourse and are significant in that they provide the overall frame for some of the government's most significant child care communications.

Discussion

The textual analysis undertaken in this study demonstrates the prevalence of SIS language related to child care within key Manitoba government policy documents. This prevalence exists across multiple authors/speakers (MELCC, Healthy Child Manitoba, the Premier, the Lieutenant-Governor, the Minister of Finance) and the span of time from 1999 until 2013. Taking together the proportion of documents that feature this language, the SIS themes identified therein, and the use of SIS key terms within exclusively child care-focused documents, I contend that the data suggests a governmental child care discourse influenced by and perpetuating the SIS model.

This is not to suggest that all provincial child care policies in Manitoba are in fact designed within the SIS model, but rather that the discourse surrounding these policies, and used to promote these policies, is sometimes demonstrative of SIS framing. I would further suggest that the use of this discourse in and of itself can impact upon policy development. Susan Prentice (2009) identifies some of the risks inherent in adopting the SIS frame and applying it to child care. Discourses "are more than neutral vehicles that simply reflect reality. They also play an active role in shaping how we think" (702). Prentice warns advocates against the wholesale adoption of the business case argument for child care, in that it risks limiting child care development to only those policies that amount to good investments and that this can marginalize already marginalized groups (702-03). In structuring the discourse as an investment yielding future economic returns, we might risk excluding policies that address other social goods, disproportionately impacting certain groups like immigrants, persons with disabilities, or those who are unemployed.

I would also argue that this risk of policy limitation exists not only from an advocacy standpoint, but also from within the civil service. The prevalence of discourses can circumscribe what is considered possible, feasible or even conceivable from a policy development perspective. As SIS discourse is used and perpetuated by the Manitoba government with respect to child care, this risks impacting future child care policy development. This impact is, arguably, more substantive in respect of practitioners within the civil service, in that the discourse is implicitly "official"; it can be perceived as the dominant discourse by virtue of its author, which is the government itself.

A more fundamental concern with the SIS model, as it applies to child care and early years' investments, was highlighted by Morel, Palier, and Palme (2011). They suggest that there is something concerning with the notion that "children have become instrumentalised as 'citizen-workers' of the future, rather than 'citizen-children' of the present, that is, as 'becomings' rather

than 'beings' with social rights in their own right, as (non-productive) children" (16). I would agree that a challenge of SIS discourse is of its future-focus; relying on the longer-term outcomes risks neglecting policy development that may serve the more immediate needs of children in child care settings.

Despite the risks identified in employing SIS language as it relates to child care, there are some key advantages in its use. In relying on SIS discourse, governments are able to avoid retrenchment of social spending and advocate for the continuation of such spending by framing it as an economic advantage (Nolan 2013, 460). The future-oriented focus of the SIS model can also provide for extended time horizons and/or justification for increased social spending that may yield higher returns over a longer period of investment. Furthermore, SIS discourse can also be adopted from an advocacy standpoint, as has been done by health and neuroscience experts, who have aligned their issues with that of early childhood programs and services, including child care (Prentice 2009, 688).

Conclusion

Through an analysis of Manitoba government documents from 1999 to 2013, this study has demonstrated a government child care discourse suggestive of the SIS model. This study does not purport to be an all-encompassing survey of Manitoba government policy documents and its scope of study could be expanded to explore whether a larger dataset would yield similar results. Moreover, this paper does not suggest that the SIS discourse within Manitoba's child care policy must necessarily be an impediment to innovative and effective policy development. In fact, the existence of a particular discourse does not preclude other competing discourses. Rather, this paper aims to serve as a check on the non-reflective perpetuation of SIS discourse by policy practitioners. As Connolly (1993) warns, "to adopt without revision the concepts prevailing in a polity is to accept the terms of discourse loaded in favor of established practices" (1-2). For policy makers, what is important is to recognize the existence of these discourses, in order to understand both their advantages and risks in delimiting policy options.

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