

The Canadian Dictatorship

by

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1. INTRODUCTION

Recently, some have found it illuminating to think of Canada as a dictatorship. Jeffrey Simpson's recent book *The Friendly Dictatorship* (2001) asks if "Canada is de facto a one party state" (p. x), noting that no party was capable of replacing the Liberals and offering an alternative government in the last election. Moreover, he suggests that "The Canadian Prime Minister is more powerful within the [Canadian political] system than any democratically elected leader in other advanced industrial countries" (p. 4).

Donald Savoie's work (1999a and b) may have been the inspiration for Simpson's musings. His work focuses on the power of the prime minister within the government and not on the dominance of the Liberal party per se. Both authors agree that the process of centralizing power in the Prime Minister's Office -- a practise which Savoie labels "Court government"-- seems to have reached its apogee under the Chretien government.

A third line of thought which has received considerable attention lately is that Canada is becoming undemocratic in a different way, namely through the power of unelected judges to make policy as a result of the Charter of Rights and Freedoms. Thus an influential recent book by the political scientists F.L. Morton and Rainer Knopff (2000) suggests that Canadian policy is increasingly being made through "the Court Party", the name they give to various organizations which increasingly push their agenda through court challenges.

Can we use a model of dictatorship to understand Canadian politics? Does this give us any new insights into how it functions? To an economist, what makes an analysis interesting is not its exactness to real life. Economists know that the usefulness of a model is only partly

related to the plausibility of the assumptions used in it! No, what makes a “model” or way of thinking interesting is if applying it yields insight.

This paper thus explores three questions:

1. Is there some sense in which Canada can be likened to a dictatorship? It is interesting to look at Canada as if it were a dictatorship and compare how it functions to the functioning of real world dictatorships. I compare the workings of the Canadian polity with regimes like the Former Soviet Union, South Korea under the generals, Saddam Hussein’s Iraq, and other unsavory examples of the genre

2. If Canada is not a dictatorship, how can this be explained, since at the federal level Canada currently appears to lack what many take to be the *sine qua non* of democracy, namely elections in which the ruling party faces a genuine alternative government which is capable of defeating it in the polls?

3. Are there circumstances where Canada could become more like a dictatorship? In other words, what are the threats to Canadian democracy? I consider four phenomena which have been alleged to threaten democracy recently: (1) The use of the Charter by judges to make law; (2) Declining trust or “social capital”, both among citizens, and by citizens in the government, a phenomenon much talked about recently in the United States, most notably by Robert Putnam in his book *Bowling Alone*, and generalized to other countries in subsequent work by Putnam and others (see for example the papers in Pharr and Putnam (2000)); (3) Globalization; and (4) The proximity and behaviour of the United States.

One key to understanding these issues is not to repeat the error made by many in popular culture, common in much of social science and of which my own discipline, economics, is

probably most guilty, and most famously attributed to Margaret Thatcher (e.g., in Clarkson (2002), p.), who said “There is no society, there are only individuals and the state”. In fact, while democracy can formally be identified with the existence of individual rights, constitutionally guaranteed, I contend that one can only understand the workings of democracy, and how it differs from dictatorship, by understanding the role and functioning of groups and the dynamics of group behaviour. Thus, throughout, I will emphasize the role of groups and group competition, sometimes in sustaining Canadian democracy, sometimes in threatening it.

The structure of the paper is as follows: the next section explores the idea that Canada is a dictatorship. Section 3 continues this line of thought by asking the question, if Canada is a dictatorship, what type is it? I identified four types in my (1998) book on dictatorship: tinpots, totalitarians, tyrants, and timocrats. They behave differently, and so to understand the implications of thinking of Canada as a dictatorship, one has to understand which type one has in mind. Section 4 finally gives up the pretense, openly acknowledges that Canada is obviously a democracy, and asks the question, just how can that be? That is, what is it that makes Canada democratic, given that a central feature of democracy, namely electoral competition, seems to be structurally weak at the federal level.? Two features are identified as particularly important: human rights and competition among groups. Section 5 describes how competition among groups fosters democracy. Section 6 then asks if Canada could become undemocratic, and what kinds of pressures could produce this outcome. I emphasize group pressures for conformity, and the dynamics of groups, especially the contagiousness of group behaviour, as particular dangers. Section 7 concludes the paper.

2. THE NATURAL GOVERNING PARTY

To begin with, let us play the game of thinking of Canada as a dictatorship. The idea is not completely ridiculous: There is a natural governing party, the Liberals. Much, though certainly not all, of the media is controlled by it, if not directly by the Prime Minister, as in Italy, but by forces loyal to the Liberal party. The media differ on who should lead the party, but this is no different from the competition for leadership inside the Communist Party of the Former Soviet Union, for example. Finally, of course there is opposition to the Liberal Party but this is fragmented, and there is no serious alternative to the Liberals at the federal level.

How do dictatorships work? The standard view of the difference between democracy and dictatorship in political science (eg, Friedrich and Brzezinski (1965)) is that dictators can use the tool of repression to stay in power. Thus dictators typically impose restrictions on the rights of citizens to criticize the government, restrictions on the freedom of the press, restrictions on the rights of opposition parties to campaign against the government, or, as is common under totalitarian dictatorship, simply prohibit groups, associations, or political parties opposed to the government. To be effective, these restrictions must be accompanied by monitoring of the population, and by sanctions for disobedience. The existence of a political police force and of extremely severe sanctions for expressing and especially for organizing opposition to the government such as imprisonment, internment in mental hospitals, torture and execution are the hallmark of dictatorships of all stripes.

However, the use of repression creates a problem for the autocrat, and this problem was the starting point for my own (1990, 1998) work on dictatorship. This is the “Dictator's

Dilemma” -- the difficulty facing any ruler of knowing how much support he has among the general population, as well as among smaller groups with the power to depose him. The problem arises from the fact that the use of repression breeds fear on the part of a dictator’s subjects. Because they are afraid, they are reluctant to criticize the dictator's policies. This fear on their part in turn breeds fear *on the part of the dictator*, since, not knowing what the population thinks of his policies, he has no way of knowing what they are thinking and planning, and of course he suspects that what they are thinking and planning is his assassination. In short, the more the dictator’s repressive apparatus stifles dissent and criticism, the less he knows how much support he really has among the population. Because of this, dictators, just like democratic leaders, have to build loyal support among groups in the population.

Now Uncle Jean doesn’t suffer from the Dictator’s Dilemma with the *public* – he knows exactly the size of the majority which is eager to see him leave office¹. And he is unlikely to be assassinated – that is not the Canadian way! But *within the party* he does have exactly this problem, and individuals within the party, though emboldened recently by his formal announcement of an end to his reign, have been famously afraid to criticize the pronouncements or policies of the leader. Of course, Uncle Jean is denied the luxury of mounting a show trial in which Paul Martin is forced to confess his disloyalty and is subsequently liquidated.

What is the reaction of the Canadian public to this situation? Though some are agitated, I think it is fair to say that on the whole they are completely bored by it. Some political scientists (e.g., perhaps most famously Almond and Verba (1963)) see the general apathy and boredom of

¹Perhaps by the time the reader sees this article, Uncle Jean will have been indeed been replaced by Uncle Paul. But competition within the governing party occurs under many dictatorships, and is not necessarily a sign of democracy.

the public with politics in many democracies as a sign of democratic strength. But I don't find this reassuring. Apathy and boredom were the most notable features of the USSR as it entered into its terminal decline.

In addition, at the federal level, Canada does seem to fail the basic test of democracy, as formulated in public choice: the capacity to throw out the government. To elaborate this point, recall the classic Schumpeter - Downs definition of democracy as "that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (Schumpeter (1976), p. 269). This definition is commonly used today (although it is not the only way of thinking about democracy²). Thus, Larry Diamond and Marc Plattner define the minimum requisites of democracy – what they call *electoral* democracy-- as a system in which "the principal positions of political power are filled through regular, free, and fair elections among competing parties, and it is possible for an incumbent government to be turned out of office in those elections".³ Przeworski, et.al. suggest that "Democracy is a system in which incumbents lose elections and leave office when the rules so dictate."(Przeworski, *et. al.*(2000), p.54).

Thus, as soon as we consult the classic definition of democracy, it seems obvious that Canada is not very democratic. Of course, it could be argued that if we really wanted to we

²For example Anthony Arblaster's (1987) text still subscribes to the Rousseau concept of democracy as a system which implements the "will" of the people. On the problems associated with this concept (Here are two: (1) Unless there is unanimity on a particular issue, in what sense can a the people be said to have a "will"? (2) And if a dictator did implement a policy which most of the people approved of, would that regime therefore be a democracy?) see the classic discussion by Schumpeter (1943, 1976), chapters 20 and 21..

³Diamond and Plattner (2001), "Introduction", p. x

could throw out the Liberals. But how would we do it?

I don't have anything new to say about what the structural features of Canada are that have given rise to the dominance of the Liberal party. It seems clear that this dominance was considerably strengthened by the collapse of the Conservatives as the result of the trio of 1) the dishonesty of Mulroney, most notably in campaigning against free trade and subsequently implementing it⁴, coupled with the failure of Meech Lake and the Charlottetown accord, which lost him the Quebec wing of his party in the East and contributed to the rise of Reform in the West; 2) the ineffectual campaign of Kim Campbell and 3) the return of Joe Clark. But the dominance of the Liberals may be exaggerated: as the section on contagion effects below (6.3) amplifies, public opinion can sometimes change very rapidly.

3. THE NORTHERN TIGER

Given the supremacy of the Liberal party, if Uncle Jean is a dictator, we can ask what type. I defined 4 types in my book: tinpots, who rule with low levels of repression and low loyalty, and are therefore easily deposed; tyrants, with low loyalty but high repression, totalitarians, high on both counts, and the possibly mythical case of timocracy, where the ruler uses little repression, and survives in office because the people are loyal to him. Almost all

⁴This cannot be the only factor, as it was neither the first nor the last time such deception was practised on the Canadian public. From a mountain of possible illustrations, I note Pierre Trudeau's implementation of wage and price controls after vigorously campaigning against them. (I recall the line: "Zap! You're frozen!" as he mimicked the foolishness of the policy, a line which may have come back to haunt him after he implemented that very policy.)

dictators claim to be timocrats, but few, if any are. Thus Saddam Hussein recently suggested that the 100% vote in favor of his regime is easy to explain: the Iraqi people simply adore him⁵.

Now, Uncle Jean is obviously not a totalitarian. Even the Liberal government doesn't have the machinery to put its critics in jail or torture them (although the Prime Minister may sometimes succeed in blocking them from getting a peerage and thus effectively exile them from the country).

Nor is he a tinpot. Tinpots generally are incapable of building a mass party, and the Liberal party is a hugely successful and long lasting organization, perhaps the most successful political party in the world today.

Is Canada a timocracy, then? I repeat that this is a rare breed, and as a form of government not merely extinct. It probably never existed⁶.

This leaves tyranny. Canada could be like Chile, perhaps, or even better (since that case is too confrontational to fit the Canadian image), South Korea. One thing about tyranny is that of all the types of dictatorship, it is the most likely to be good for economic growth. In this context, John Manley's recent remark referring to Canada as a "northern tiger" acquires new meaning.

Of course, the comparison is insulting. It is very rare for Canada to quell demonstrations with pepper spray or tear gas the way the South Korean government did when the generals were

⁵As cited in the New York Times, October 20, 2002.

⁶In my 1998 book I used the example of Ancient Rome under the reign of Marcus Aurelius to illustrate the type, based on Gibbon's idea that his reign was "the happiest time the world has ever known". Indeed, Aurelius used to say things like "Let every action aim at the public good."

in power. But the comparison is insulting to South Korea too! Look at those growth rates!⁷ Moreover, among the most prominent hypotheses about how the tigers achieved that growth is the idea that the fruits of growth there are *shared* (Campos and Root (1996)). On this line of thought, equality is good for growth. Perhaps Canadian policymakers could take a lesson from South Korea here.

4. WHAT MAKES CANADA DEMOCRATIC?

Of course, Canada is not a dictatorship of any kind but one of the world's great democracies. Indeed, many of our institutions are admired around the world, perhaps as never before, and often serve as a model for countries searching for effective models of democratic institutions (Ignatieff). But how can this be?

At the most basic level, Canada is not a dictatorship because the people are not subject to political repression here. Nor, I think, could they be repressed in any serious way without creating a public outcry. In other words, *human rights* are entrenched here, and protected by an independent judiciary. While to a considerable extent this has of course been true for a long time, the arrival of the Charter of Rights and Freedoms in 1982 seems to have strengthened the commitment of many Canadians to human rights.. What the Charter explicitly spells out is that the citizens are supreme, not the government. At the constitutional level, it is indeed the question of the rights of the individuals vs that of the state. The fundamental meaning of Hannah

⁷Korea's average annual growth rate of GNP per capita was 8.9% a year from 1955 to 1975, 13.8% from 1975 to 1985 (Kang (2002b, p. 41). From 1990 to 1997 South Korea's real GDP grew at over 7% a year (Hong and Lee (2000)). It contracted during the crisis (1998) by 5.8%, but growth returned in 1999.

Arendt's monumental *The Origins of Totalitarianism* is that when residual rights reside in the state, rather than in the individual, that mass persecution becomes possible. In my view, the Charter is invaluable for the development of Canadian democracy and is worth paying the price of what sometimes appears to be endless litigation over specious rights claims⁸.

Just as secure property rights are the key to economic growth, so secure political rights are the key to development as a democracy. The Peruvian scholar Hernando de Soto (2000) argued that a major obstacle to economic development was what he called "dead capital". By this he meant that even though a piece of property was formally owned by some individual, the number of obstacles to selling it or altering it in any way were so large that for all practical purposes the capital was useless. To take one example, in the Philippines, if a person has built a dwelling in a settlement on either state-owned or privately owned urban land, to purchase it legally could necessitate 168 steps, involving 53 public and private agencies and taking 13 to 25 years. The political analogy might be "dead rights" like the human rights that were there on paper in the Former Soviet Union but impossible to exercise. The right to freedom of speech, a free press and freedom to organize political movements or parties are not just essential for democracy ; it is essential that they be specified and enforced by powers independent of the government.

Of course, rights such as the freedom to vote, to organize and to participate in politics

⁸Of course, another important reason why Canada is not a dictatorship is the division of powers among different levels of government and between the elected government in Parliament and "independent" agencies like the Bank of Canada. As this subject is discussed in detail in Albert Breton's chapter in this volume, I will not dwell on it further. I pause only to note that in real dictatorships, typically the first move by the government is to get rid of competing "centres of power", to use Breton's phrase.

in other ways have existed in theory in democracies such as the US, Canada or the UK for many years. However, their existence in law is insufficient for their existence in practice, and therefore for democracy to be complete. One example is blacks in the U.S. south, who were largely disenfranchised until the civil rights revolution of the 1960's. Two recent books by Michael Ignatieff (2000) and Charles Epp (1998) describe the emergence of these “new” rights or the broadening of political power to new groups -- *The Rights Revolution* (as they are both titled) -- which has occurred since then in the US, Canada and elsewhere.

Ignatieff traces the emergence of human rights on an international level to the experience of the Second World War and the promulgation of the Universal Declaration of Human Rights in 1948, the first of a “spreading canopy” of laws which altered the balance between individual sovereignty and individual rights. With the declaration, the rights of individuals were supposed to prevail over the rights of states when those states engaged in abominable practices (Ignatieff, p. 48).

Charles Epp notes that constitutional rights in the past had been primarily the rights of property and contract. The “new rights” encompassed, among other rights, the freedom of speech and the press, free exercise of religion, prohibition of discrimination on the basis of race, sex, the right of privacy; and the right to due process in law-enforcement and administrative procedure (Epp. p. 7). In Canada, for example, rights cases constituted 13 percent or less of the [Canadian Supreme] Courts' agenda before 1975 and about 60 percent by 1990. (Epp, p. 172). In the United States cases involving the rights of the accused and women's rights mushroomed from forming less than 10 percent of all decided cases by the U.S. Supreme Court in the early 1930s to between 45 and 70 percent in the period 1970- 1990 (Epp, p.28).

In brief, the Charter strengthens the rights of individuals against the state. I find the notion that someone, somewhere is suing the Canadian government and that others are busy digging away to find new grounds for doing so enormously comforting. And in the first instance, I don't care what the grounds are, and I find it even more comforting that some person has found yet another angle to argue that their rights were violated.

By contrast, in modern Russia, there are indeed elections, and to begin with Putin probably faced more opposition than Chretien did in the last election. But human rights are not entrenched in modern Russia, and one sees the consequences of this in all kinds of ways, such as the willingness of the government to close down opposition media and to persecute other groups. Most recently, one could see it in the strategy used by the government to combat the terrorist attack on a Moscow theatre. The government's main aim seemed to be the protection of the supremacy of the state, rather than the people in the theatre. Some signs of this are that no plan had been put in place for the effective treatment of victims of the gas, and indeed the identity of the gas was not even released to hospitals for a couple of days after the attack ended, preventing effective treatment. Government sentiment was nicely expressed by the title of an article by the Russian deputy minister of the interior, Vladimir Vasilyev, "We saved the bulk of the hostages, and dealt a blow to terror"⁹. The word "bulk" aptly characterizes the attitude of a dictatorship towards its citizens as "stock" rather than as individuals with inalienable human rights. Of course, the population apparently supports the Russian government in its war against terrorists. That is not a sign of democracy but all the more reason to entrench human rights. They are there to protect individuals from the state, even when, and perhaps most especially

⁹Printed in the Globe and Mail, October 30, 2002, p. A19.

when, the bulk of the population backs the state.

5. THE GLORY OF GROUP POWER

5.1 Securing human rights

While human rights are essential to democracy¹⁰, most individuals would be powerless, acting by themselves to get them and to keep them. Consequently *groups* are necessary both to obtain these rights and to exercise them. Whether they view the “new” rights favorably or not, scholars seem to agree that what made them possible was not just the arrival of the Charter, but of what Epp calls a “support structure for legal mobilization”, consisting of rights advocacy organizations, willing and able lawyers, financial aid of various types, and in some countries, governmental rights enforcement agencies. Epp puts the case for this in a straightforward manner:

“ Ordinary individuals typically do not have the time, money or expertise necessary to support a long-running lawsuit through several layers of the judicial system. ...at the level of the individual cases, the cost of pursuing a rights case has usually exceeded any monetary award to the plaintiffs [at least in the early phases of the rights revolution] so lawyers have had little monetary incentive to take such cases on a contingency basis.

¹⁰Let me emphasize that throughout this paper I am talking about political rights, not economic rights.

Organized rights advocates, however, have developed a range of sources of support..... and have made them available to potential rights claimants. These sources of support..... form what I called the support structure for legal mobilization. (Epp, p.18-19).

Thus, the existence of effective human rights is due to the presence of activists who make it possible for individuals in large groups who might otherwise face an insoluble free rider problem to obtain their rights. This includes groups as diverse as women's groups, gays and lesbians, aboriginals, criminals, and many ethnic groups. Of course, rights are still incomplete in Canada and to that extent we are not a perfect democracy.

5.2 Competition among groups

What do economic models say about group competition? Early work in the "Chicago School"¹¹ argued that interest group competition is inefficient because the policies typically demanded by interest groups are inefficient and wasteful. In "rent-seeking" models¹² it is the contest itself which is inefficient and wasteful. However, Becker (1983) showed that democratic politics does take account of the losses from inefficient policies. To see his point, suppose we can divide the population into "winners" and "losers" from government policies. Then it follows that the larger the losses from a policy, the more the groups who lose by it will oppose it, and

¹¹See for example the classic papers by Stigler (1971), Peltzman (1976) or Olson's (1982) book.

¹²Tullock (1967) or Posner (1971)

the less likely it is to be adopted.. Alternatively the smaller the gains from a subsidy, the less the “winners” (the group which gains from the subsidy) will exert pressure to obtain it.

Consequently, the democratic contest is not wasteful; on the contrary, it tends to select efficient (good) over inefficient (bad) policies. Thus, as bad as many of the policies of the Liberal government might seem to some, these policies won out over worse policies!

Note that competitive elections are not necessary for this result, and indeed in Becker’s theoretical model there are no elections, only interest group pressures. What is necessary that the pressures from both sides are taken into account, that groups which can exert more pressure be relatively successful in getting their policies adopted, and that pressures do accurately represent the social value of gains and losses.

We will return to the last qualification in the next section. But first, to see the basic argument in a different way, let us apply this way of thinking to the case of political dictatorship. It can immediately be seen that the tendency for competition to select efficient policies is severely attenuated. The reason lies in the dictator’s capacity to silence dissent and to repress the losers from the regime’s policies. These powers are unavailable to democratic politicians. Autocrats typically ban dissenting political organizations, refuse to permit their views to appear in the media, refuse to allow them to meet or organize, and jail, torture or even execute their leaders. The result is that there is no reason why efficient policies would be adopted. For example, Saddam Hussein could end his various weapons programs and in other ways adopt policies that would result in the sanctions against the regime being lifted. But the losers from sanctions under Saddam Hussein are repressed, and the small group of producers

who benefit from the sanctions¹³ are the winners in the game played under his regime.

It is worth repeating that for the competitive mechanism to work in Canada, the Liberal party would have to be open to pressures from all of the different groups in society. And it is easy to see the role of the Charter here. It is twofold. First, and most important, it prevents the Liberal party from silencing its critics. Second, it opens up a second front (the courts) for the competition among interest groups, and to the extent that the Liberal party is closed to pressures from certain groups, which do not form part of its majority coalition, the Charter makes it possible for the public sector to take their preferences into account. In general, the more every group is represented in the competition for public policies, and the fairer their representation, the more likely it is that the correct policies will be adopted. Of course, Canada is not a perfect democracy. It would be, though, on this way of thinking, if every group is represented, and their “weight” in the allocation of public policies exactly represented their weight in the population, just as we would like in a perfect democracy.

To conclude, it is worth emphasizing that in these simple static models¹⁴, competition among interest groups is efficient from the economic point of view. If there were a better way of allocating rights to Quebec, for example, the political process would tend to find it. That is, a

¹³See Kaempfer, Lowenberg and Mertens (2001) for details

¹⁴Newer, dynamic models of democratic decision-making cast doubts on the efficiency of democracy in a dynamic context. The basic problem discussed there (e.g., in Besley and Coate (1998) is the inability of a representative democracy to commit to future policy outcomes. The question from the point of view of this paper is of course, whether a dictatorship could be expected to do better in this respect. To my knowledge nothing has been written on this issue but it is worth noting the evidence in Przeworski et al. that the average life of a dictatorship is less than democracy. Moreover, dictatorship does not enshrine outcomes; democracy does. For example, Jorge Dominguez (2001) shows that the turnaround to market friendly policies in Argentina, Chile and elsewhere in Latin America was only consolidated when successive democratically elected regimes agreed to the policy. As he puts it “Only democracy can commit to the future” (p.252).

political party or any other group which can invent a new solution which gives Quebec more in the way of group rights at lower cost to ROC, or to aboriginals or women at lower cost to the rest of society will see the government leap on and adopt this solution.

6. WHAT COULD MAKE CANADA UNDEMOCRATIC: THE DANGERS OF GROUP POWER

With the framework outlined in the previous section in mind, it is worth considering the kinds of things which can go wrong in democratic politics.

6.1 Asymmetries: those left out, and those who are always in

The basic problem is that in real democracies the power of groups is typically unequal. One kind of asymmetry arises when some are left out in the competition among groups for public policies. For a number of reasons, politicians are not "open" to bids from all groups but tend to have long term arrangements with certain groups. One reason is ideology. An example is the Conservative revolution in Ontario. It would have been difficult to imagine that the Ontario teacher's union, for example, could have become among the main supporters of the government, and the recipient of favorable government policies, no matter how much they might have offered in terms of campaign funds. Another example is Canadian federal prisoners, whom the federal Liberal government had deemed unworthy of the right to vote. Presumably the government thought there were more votes to be had from excluding this group than from allowing them

basic democratic rights. The Supreme Court has recently, and entirely correctly, on my view, over-ruled the Liberal party on this point and restored this right.

Groups which are excluded sometimes take dramatic actions to try and demonstrate that they are not willing to live with this situation. Normal “bidding” being closed, their leaders may resort to theatre, to shock, to radical positions and even to violation of existing norms, in order to be “heard”. As Uncle Jean has himself mentioned in some oft noted remarks, it is not surprising that those who are left out of the prosperity that has accrued to the winners in the globalization game may act in ways that are a threat to the world’s democracies.

Many of the groups that Morton and Knopff refer to collectively as “the Court Party” are composed of or represent those who have been left out or who have been disadvantaged in domestic policymaking or domestic society: criminals, gays and lesbians, refugees, prisoners, women, aboriginal groups, and so forth. In any case, Gregory Hein (2001) has produced some evidence that seems to invalidate the Morton and Knopff thesis: by far the largest number of Charter cases brought to the Supreme Court are not brought by groups who make up “the Court party” but by corporations¹⁵. Still, my guess, and it is only a guess, is that, despite this, the charter still tilts in the direction of equalizing political power *among* citizens and groups, and also of equalizing it between citizens and the government. That is, the situation would be even more favorable to corporations and to the government in the absence of the Charter.

This brings us to the second problem, which arises if some groups have too much power. The group most often accused of this in Canada is the corporations. To the extent that

¹⁵Of 819 claims presented by organized interests between 1988 and 1998 to the Supreme Court, 468 were brought by corporate interests. The next largest groups were “Charter Canadians” who brought 80, aboriginals (77), and labour interests (58) (Hein (2001), p. 223.

corporations and the government work in tandem and in secret¹⁶, aggravated by the first past the post electoral system, which gives the median voter and the majority party a disproportionate amount of power, we may not be back in South Korea under the generals (General Jean?), but we are headed that way.

Recent work on South Korea illuminates the causes of the spectacular growth in that country. Oddly enough, as David Kang has demonstrated convincingly (2002a, 2002b), one of the main causes of this growth appears to be the massive corruption of the government. Not all the tigers were as corrupt as South Korea, (for example, they are all over the map in their scores on the Transparency International Index). But in South Korea there was an alliance between big business (chaebols) and government in which the chaebols bribed the governing party on a very large scale. The policies pursued bore no relation to the “Washington consensus.” Of course, corruption is not unknown in Canada. But it is inconceivable that the Bank of Canada, for example, would act as the “bagman” for the Liberal party the way the Bank of Korea did for the Democratic Republican Party of Korea (Kang (2002a), p. 187).

6.2 Declining Social Capital, Trust and Conformity

Another way of looking at the “health” of a democracy which has recently become fashionable is to examine the state of “trust” or “social capital” among the citizens, and by

¹⁶Stephen Clarkson suggests that this is how we got NAFTA’s chapter 11. Of course, the details of the deal were subsequently made public and it could be argued that the electorate could have repudiated them at the next election. However, this assumes such deals are easily reversible. One could argue that in such cases (where secrecy may be necessary to conduct negotiations) the electoral mechanism is inadequate and should be supplemented by popular referenda.

citizens in the government. Putnam's work (eg, 1993, 2000) on social capital has received a lot of attention, and provides a convenient place to start our inquiry. Putnam believes social capital is good for democracy and for society. Indeed, he has said that "happiness is living in a society where horizontal trust is high." In *Making Democracy Work* (1993), he argued that social capital is beneficial for governing capacity. In his latest book *Bowling Alone* (2000) he deploys a battery of indicators to show that social capital has been steadily falling in the U.S. since the 1960s. The evidence that social capital in the U.S. has fallen is compelling, but the analysis of why this has happened appears less so. The main reasons appear to be the growth of television consumption and "generational change"-- a catch all phrase referring to the passing of the "great civic generation" born in the years 1925-30 and who became adults during the 1950s. There is no doubt that many of the correlations Putnam presents are fascinating, especially the ones between those who agree relatively strongly with the statement "Tv is my primary form of entertainment" and various measures of civic engagement, such as the number of club meetings attended, whether the person worked on a community project, and even the mean number of times a driver "gave the finger" to another driver last year.

The approach has been applied to other countries as well (see Pharr and Putnam (2000)). However the correlations with the tv variable for other countries are tiny (Norris, in Pharr and Putnam (2000)). I have seen no detailed estimates for Canada.

A related problem uncovered by the social capital school is that, increasingly, in Western democracies, no one seems to trust *the government* any more. And there seems to be no doubt that satisfaction with government is falling while the size of governments have been rising in many democracies. (Alesina, et. al. in Pharr and Putnam (2000)). The implication often drawn is that governing capacity has fallen.

Lack of trust, both in one's fellow citizens and in the government, is a central characteristic of dictatorships. This is sometimes referred to as the "vacuum effect" between the leader and the population. To illustrate, contemporary Russia is not a dictatorship but it hardly lives up to the democratic ideal. A Russian scholar, Anton Oleinik, entitles one of his papers on Russia "A Trustless Society" (Oleinik (n.d.)). He reports surveys for 1999 in which only 3.4% of the respondents think that they can trust the state. Indeed, Oleinik suggests that it was the "non-reciprocal behaviour of the state confirmed during the August 1998 crisis [which] led to a dramatic decline of the citizens' willingness to pay the taxes." (Oleinik, n.d., p. 22). By contrast people in Canada do trust each other to a remarkable extent¹⁷ (Inglehart (1999), p.102) .

A related problem with groups arises from their internal dynamics. In groups where the individual's welfare depends positively on the average level of effort or participation, each member has an incentive to "free ride" on the contributions of others. Group leaders will typically want to take steps to counter this behaviour. One strategy which is often practised by the leaders of many extremist groups is to deliberately create mistrust between the membership of the sect and the rest of society. By making it more difficult for the members to associate with the rest of society, the leader hopes to increase their participation in and dependence on the group. Religious sects and cults often try to limit the information available to members in order to successfully control them, and control association with outsiders in order to do this as well.¹⁸ But strategies like these are not only used by sects; they are often practised by mainstream ethnic groups as well. The upshot is that *within* ethnic groups there is often great pressure for

¹⁷The level of interpersonal trust among Canadians appears, along with that in the Nordic countries, to rank among the highest in the countries listed in Inglehart's charts.

¹⁸See for example Knoke's *Political Networks* (1990), p. 71

conformity. One of the great virtues and responsibilities of democracy is to protect the rights of individuals against group pressures of this kind.

Pressures like these were most apparent in Yugoslavia under Milosevic. Some think it would be impossible that what happened there could ever take place in Canada. Ethnic groups in Canada do not try to wipe each other out as they did in Milosevic's Yugoslavia. But it is worth remembering that Yugoslavians are not necessarily warlike, that indeed that Serbs and Croats lived in peace there for many years and that there was no overt nationalism in Yugoslavia. Instead it exploded, because nationalism can be contagious (see section 6.3 below).

Perhaps this point about group pressures on individuals suggests a different explanation for Putnam's evidence about the decline of solidarity in the U.S. It's worth recalling after all that what Putnam labels "the great civic generation of the 1950s" was noted also for its conformity. The 1950s witnessed little in the way of attempts to break up discrimination against blacks. 1947 saw the release of the film *Gentleman's Agreement*, which described the process by which Jews were excluded from the mainstream of American society. American society presented a homogeneous front, it was preoccupied with the fight against communism [in which Elia Kazan, the director of the film *Gentleman's Agreement*, took part by testifying to the House Un-American activities Committee], and dissent or alternative lifestyles were not particularly welcome.

Solidarity in the United States has partially returned now that a new external threat has appeared. Whatever the causes, it is hard to argue that the effect has been healthy for American democracy. Alexis de Tocqueville's classic *Democracy in America* is often referred to in studies of social capital. Indeed, Putnam (2000) refers to him as its "patron saint" for the way in which he glowingly spoke about the American proclivity to join associations. However, de Tocqueville

also described America as “the most conformist society he had ever seen.” In my view, conformity and the proclivity to join associations are related.

Today the man in the grey flannel suit has been replaced by the imperial CEO, to use Krugman’s¹⁹ phrase, and the CEO’s backstabbing underlings. It is hard to be salutary about the decline of trust in the workplace, but I don’t see the decreased faith in authority as a threat to democracy. Moreover the increased litigiousness in Canada as a result of the Charter appears to me to be a good thing, to use Martha Stewart’s phrase.

6.3 Contagion

There is one proposition about social capital which has not yet been noted, and which gives us further insight into the role of groups. This is that social capital is contagious: like any other form of “network externality”, its value is larger, the larger the stock. Thus social capital is like computer software. The more that others have it, the more valuable it is and the more any individual will want it and be willing to take steps to preserve it.

The contagion property is particularly important in politics, where genuine information is weak and the incentive to collect it is not there because of the free rider problem. Indeed, it is well known that ideas and political support are contagious: hence the name: bandwagon effects. In general, bandwagons and fads can be explained in terms of the desire for social cohesion. People often adopt an idea or join a political movement in order to be “in”, that is, to be either in the vanguard of or at least a part of the group or movement that promotes the idea. It need have

¹⁹In the New York Times Magazine, October 20, 2002, p. 64)

nothing to do with the logical case for the idea (if any) at all. Thus, there has never really been a case on esthetic, medical or logical grounds for hula hoops in the 1950's, tie-dyed tee shirts in the 1960's, disco culture in the 70's, backward baseball caps (the 80's) or wearing earrings in your tongue (the 90's, and growing). In the same way, the more everyone else seems to favor Paul Martin as the new leader of the Liberal Party (“Uncle Paul”), the more any individual tends to favour it as well. On the other hand, the contagion property means that the Liberal hold on power may be more tenuous than might be thought, as small events might cause a loss of confidence and a massive turning away from the party.

One might object that where there is lots of social capital, i.e., lots of horizontal associations a la Putnam, this acts as a bulwark against instability. But that may be exactly wrong: there is some evidence that the more social capital there is, the more *unstable* the polity. The classic example is the Weimar Republic. It was thought Hitler rose because Germany was an “atomized” society with few individuals members of groups or voluntary associations—but in fact exactly the opposite was true: Germany was particularly rife with horizontal associations, i.e., there was lots of social capital in precisely Putnam’s (2000) sense in Weimar Germany²⁰!! Perhaps most important, many of the groups themselves joined the Hitler movement *as a group*, encouraged by their leaders. And these were not necessarily groups of uneducated individuals, easily prey to simplistic and vicious political ideas: among the first groups to declare their loyalty to the Nazis were the medical doctors.

It follows that, paradoxically, the more social capital there is, the greater the demand for constitutional protections in the form of checks and balances. One important application of these

²⁰See Wintrobe (1998) and references therein.

ideas is to the reasoning of Madison and others in *The Federalist Papers* about the design of the American Constitution. There the case for a constitution is made on grounds of the instabilities due to passions. And one big source of instability was said to be bandwagon effects, especially under the influence of the wrong kind of political leaders. Hence Madison's statement that "it is the reason, alone, of the public, that ought to be controlled and regulated by the government. The passions ought to be controlled and regulated by the government"²¹

The Founding Fathers were especially worried about demagoguery: the notion that citizens could be "misled by the artful misrepresentations of interested men", or by the "wiles of parasites and sycophants, by the snares of the ambitious, the avaricious, the desperate."²²

As far as the contemporary United States is concerned, this reasoning shows why the decline of social capital in the United States could have been so precipitous as it appears in Putnam's charts: since it is contagious, once it starts to decline the process sets up expectations which are self fulfilling. And there are also applications to other problems and to other societies²³. Thus, in in Russia, the fall of the communist system left lots of social capital, now unconnected to the Communist hierarchy, and these connections gave birth to the oligarchic

²¹James Madison, Federalist Paper no. 49, p. 317, quoted in Page and Shapiro (1989), p. 57.

²²Federalist Paper no. 71, p. 432, quoted in Page and Shapiro (1989), p. 57

²³The most successful solution to a social problem that I know of also originates with the contagion property of groups, namely the "Fixing Broken Windows" approach to crime prevention first applied in the New York Transit Authority, and subsequently implemented in New York City. Indeed, "zero tolerance" might be worth trying as a solution to problems of political and corporate corruption. But racial profiling and other stigmatizing policies which were later adopted in New York are obviously anti-democratic. And they contradict the spirit of the "Broken Windows" approach, which emphasized the importance of having the community onside in fighting crime (see Kelling and Wilson (1982) or Kelling and Coles (1996)). Indeed, perhaps the closest life in Canada could get to life under dictatorship occurs if people were to be arrested for no reason other than their skin color.

capitalism and weak democracy of contemporary Russia. The same type of phenomenon allowed Slobodan Milosevic to pit one ethnic group against another and launch four wars in order to sustain his rule in post communist Yugoslavia.

6.4 Globalization, the United States and group dynamics

If Canada can be compared to a dictatorship, what about the hereditary monarchy next door? And what about globalization? Do these powerful forces threaten Canadian democracy? These matters are obviously complex. One reason for considering them together is that to some extent they act in opposing ways. Thus, on the one hand, globalization is to a considerable extent driven by the US and US institutions (Friedman (1999)). But globalization also makes it easier for small countries like Canada to build coalitions with other countries against the United States (Clarkson). Similarly, I have already argued that domestic corporate power is a threat to democracy. But globalization reduces the power of this group. Finally, globalization obviously acts as a check on Uncle Jean by tying the hands of the Canadian government in many ways. Conversely, it could be argued that the strength of the Liberal party makes it easier to resist American demands. And nothing appears to build solidarity among Canadians better than anti-Americanism.

While I cannot sort all these forces out in a couple of pages here, some things do stand out. First of all, and most obviously, free trade agreements like NAFTA does imply that the Canadian government has ceded its power to supranational organizations. Democracy is particularly threatened when provisions of these agreements are made with the assistance of

some groups and not others. Of course, supranational organizations also act as a check on the power of the United States, as mentioned above, but there would seem to be a net loss of democratic decision making power under many circumstances²⁴. Second, fundamental to globalization is the increased feasibility for companies to diversify production internationally. That is, globalization results in an increase in the elasticity of demand for labor as firms can increasingly substitute foreign for domestic labour (Rodrik (1997)). In this way, globalization can undermine group domestic bargains which make it possible for various groups to live together. As Rodrik points out, the consequence is a withdrawal from these understandings and the undermining of solidarity or social cohesion in the society (Rodrik (1997)). Globalization also detaches the CEO from relations within the firm, inflates executive salaries and gives the firm a greater incentive to substitute non-specific for specific human capital. Put differently, and more simply, both of these factors imply that the firm's demand for trust within the firm falls (Wintrobe (2000))

Globalization thus appears to reduce solidarity (trust) within the society. To understand the ramifications of this more deeply, let us look more carefully at how solidarity is built. Broadly speaking, there are three ways to generate group solidarity:

(1) The first is through *mechanisms that ensure equality among the group* such as common pensions, medicare, etc. The more everyone receives exactly the same treatment, the less energy individuals in the group will put into trying to increase their own advantage at the expense of the group and the more they will put into seeking benefits for the group. Of course free riding will limit the extent to which individuals will work for the group's advantage but, as a

²⁴Clarkson, 2002, gives some examples.

substantial literature now demonstrates, there are various ways to overcome the free rider problem, including mobilization through networks and social ties (Opp and Hartmann (1989)), and group leadership and the promise of rewards from successful action (Uhlaner (1989), Morton (1991), Chong (1991), Shachar (1999)). Given a constant level of these incentives, more equality of treatment within the group means more solidarity and more effort directed at group goals.

(2) Group solidarity will also be larger, the larger the *barriers to entry and exit* from the group. The reasoning is similar: the harder it is to leave the group, the more members will be motivated to take measures that take care of it. The more membership is restricted, the less it will be felt that any improvement in the group's fortunes will be dissipated through opportunistic entry. Thus, the peculiar solidarity of ethnic groups comes from the fact that entry to and often exit from the group are essentially blocked²⁵. Other groups find other ways to limit entry: among these must be included obfuscating the way the group works to outsiders, including in- group rituals and practices and in- group signals and symbolism. Such practices and make it more difficult for members of the group to interact pleasurably with outsiders and raise the value of in- group interaction.

(3) Finally, and most obviously, group solidarity is most famously built through group *jihad*, defined as struggle against an external enemy, whether another nation, ethnic group, civilization, etc. Solidarity tends to be greater, the larger the perceived threat to individuals in the group from outside²⁶.

²⁵For more details, see Wintrobe (1995)

²⁶ I leave it to another occasion to consider the individual rationality of this response. After September 11th, it is particularly hard for North Americans to maintain that it does not

To summarize, barriers to entry and exit, mechanisms to ensure equality and struggle against an external enemy are three alternative methods to raise solidarity. It follows that if one of the mechanisms becomes more costly to use, one or both of the others will be substituted for it. Globalization reduces the capacity to generate solidarity via the mechanisms of equality of treatment within the group, or raising barriers to entry and exit. It follows that the demand for solidarity via struggle against some external enemy is increased. Thus, as Benjamin Barber has argued in his prescient book, *Jihad vs McWorld* (1995), globalization (McWorld) and *jihad* are not necessarily opposing forces. In some ways, McWorld stimulates *jihad*. The mechanism just described is one way in which this can happen.

Jihad is the greatest threat to democracy. *Jihad* tends to make the large group behave like the small group and crushes internal differences. It is a favorite tool of dictators—indeed this is probably the main way Saddam Hussein stays in power. But its use is not limited to dictatorship. With George II granting enormous tax cuts to the rich²⁷ even as income inequality in the United States reaches heights not seen for over 60 years (Krugman 2002), internal solidarity might become frayed at the edges, and an external enemy is more desirable than ever. Canada and the European welfare states build solidarity by providing pensions, medicare, unemployment insurance and so forth. The United States has fewer of these and considerably more inequality and real poverty (Alesina, Glaeser and Sacerdote (2001)). The welfare state thus protects democracy within a country by insulating it against the desire for *jihad*.

The process of globalization, which to some extent spreads American style values

exist.

²⁷According to Paul Krugman (2002), more than one half of the Bush tax cut will go to the top 1% of families within the United States (p.77)

(Friedman (1999)) of small government and flexible labor markets makes it more difficult for other countries to sustain different systems. If they do lose them, they may find that if their citizens have a real demand for solidarity, as I am suggesting in this paper, *jihad* might have to take its place²⁸. On this line of reasoning, it may be no accident that the previous peak of globalization occurred just before World War I.

7. CONCLUSION

Canada is not a dictatorship, despite what sometimes appears to be a near - monopoly of federal power by the Liberal party. The main reason is that human rights are entrenched in Canada, most notably by the Charter of Rights and Freedoms. Other mitigating factors include competition from the provinces and municipalities, and a free press. Most of all, I have emphasized the role of groups in obtaining and maintaining and enhancing individual rights and freedoms. I have also suggested that group competition is efficient- that is, it will result in the best policies being adopted by the government. By contrast, competition among groups does not exist under dictatorship, where groups who oppose the policies of the government are typically repressed. Still, the “allure” of dictatorship remains, and is perhaps never stronger when it can be argued that a “little bit” of dictatorship is good for economic growth, or fighting terrorism.

The functioning of groups is not always salutary. Rather, the greatest danger to

²⁸To the extent that there are other ways to raise solidarity besides the three discussed here, other substitutes might be found besides *jihad*. However, the mechanisms identified do seem to me to be the main ones available. For more details on this subject see Wintrobe (2002) (b).

democracy lies in the pressures for conformity that are characteristic of the internal workings of groups. The internal workings of terrorist groups often illustrate this precisely. The danger to democracy is amplified by the fact that conformity is contagious. This is one explanation for how social capital could have declined so precipitously in the US. I know of no evidence that social capital is declining in Canada and indeed, the opposite might be true, perhaps because of the incentives provided by the Charter to participate in group politics. And I do not see “Charter politics” as a threat to democracy in any case – rather, the increased litigiousness of Canadians as a result of the Charter appears to me a sign of democratic health.

While Canada is not a dictatorship, democracy is never something to be taken for granted and can always be improved. I have suggested two main lines of thought about this in this paper. The first one is that I think it is worth paying the price of occasionally spurious litigation to spread political rights more equally among citizens. From this point of view, the Charter of Rights and Freedoms is the best thing that has happened to Canadian democracy. Secondly, I have emphasized that understanding the role of groups and group dynamics is vital to an understanding of how democracies work. Groups are necessary for individuals to obtain individual rights. But group behaviour can also produce a stampede to dictatorship. In sum, understanding group behaviour helps us to understand what the “glue” is that holds a society together, and how that glue can sometimes strengthen authoritarian forces as opposed to democratic ones.

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