Rethinking Representation:
Toward Democratic Governance In Canada

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Executive Summary

This project is located in the reality that Canada's system of democratic governance and representation excludes the interests, identities, and ideas of certain groups such as women, the poor, people of colour, and Aboriginal peoples. One of the main goals of this report is to explore different understandings of representation and how they might enable us to develop more democratic governance in Canada.

In the report, we make two arguments. First, despite a number of recent and growing challenges to notions of representation, we maintain that representation, through electoral politics, continues to be relevant for democracy, specifically for marginalized groups. Second, however, a restricted notion of representation, that encompasses only electoral politics, is inadequate. We put forth an understanding of representation that includes not only elected politics, but also non-elected structures of the state, such as the legal system and the bureaucracy, and non-state realms, like participatory democracy and popular movements and groups. It is our contention that in order to further democracy, attention must be paid to alternative forms of representation, particularly those more open to marginalized groups, and to those where marginalized groups are most disadvantaged.

In advancing these arguments, our report unfolds in four sections. Part one reviews some theoretical and contextual questions around the relevance of representation that arise from post-modernism, the legalization of politics, and globalization. Part two examines differing notions of representation, noting that while most studies are preoccupied with electoral politics, some feminist contributions take a wider representational focus, which we embrace in our study. In suggesting a more nuanced view of representation, part three explores the relationship between representation and civic engagement. We submit that representative and participatory

democracy need not be at odds with each other, and can, in fact, be quite complementary.

Part four elaborates and applies our approach to representation to a variety of areas: the elected state, the non-elected state, and non-state structures. In part four, we first discuss the elected state, specifically, electoral and campaign finance reform. Given the unrepresentativeness of Canada's Single Member Plurality (SMP) electoral system, we look to alternatives, such as the Party-List Proportional Representation (PR) system, and other important cultural and political structures that are known to be more representative. We also note that our current system of campaign finance, highly dependent on wealthy donors, encourages corporate influence over policy, and acts as a structural impediment for marginalized groups to access the electoral system as candidates. We suggest that while current federal legislation is a good start, full public funding of elections is more democratic.

Second, we examine the non-elected state, beginning with the legal system. It is our view that similar to the electoral system, the legal system serves an essential representative function. Citizens engage with the state in a variety of ways, through multiple avenues, and for marginalized groups their interactions with the legal system are especially problematic. We identify two areas as particularly egregious and undemocratic: racial profiling and mandatory arrest policies around domestic violence. We point out that racial profiling is a violation of human rights, and it threatens democracy. It creates a loss of legitimacy and respect for the system by those targeted, as well as the community at large, and further marginalizes those who are already excluded from Canada's structures of representation. We find a similar result with the policy of mandatory arrest around instances of domestic violence, where a disproportionate impact is felt by Aboriginal, poor and communities of colour.

Also serving an important, albeit presently inadequate representative function, we turn to the bureaucracy, and to the prospects for democratizing it through democratic administration. To envision the bureaucracy as a more democratic structure of representation, we explore how to better involve citizens in the policy process; the role of "femocrats" in Australia and Canada, the cuts to women's policy machinery across Canada; gendering policy analyses and budgets; and rethinking representation beyond the categorization of interests.

Finally, we move outside of the state to participatory democracy and social movement consultation and state funding. Taking the Worker's Party (PT) in Brazil as a starting point, and moving to local examples in Canada, we submit that these experiments with participatory budgets and democracy serve to strengthen citizen confidence in representative democracy. We also note that Britain's experience with the Greater London Council (GLC), with substantive consultation with people and organized groups, had a similar relationship to representative democracy. Hence, we look to comparable cases in Canada. Further, the case of the GLC brings us to the importance of state funding for groups to participate democratically. Notwithstanding ongoing debates with respect to state funding for a more extensive version of representation, we maintain that because community and popular organizations serve an invaluable representative purpose, especially for marginalized groups, state funding is a basic element of a democratic political system. We consider these points to be crucial in beginning the project of renewing democracy and rethinking representation.

INTRODUCTION

As people become more alienated from formal political processes, extra-parliamentary action becomes increasingly significant. As postmodern and other theorists are questioning the concept of representation itself, it becomes appropriate to interrogate our system of representation in Canada and its relationship to democracy. It is clear that systemic power inequalities have acted as an obstacle to the representation of diverse interests and identities, a reality that seriously challenges the democratic claims of our political system. Therefore, the purpose of this report is to examine the meanings of representation in contemporary Canadian society to develop new approaches and understandings of representation and democracy. The report argues that, despite a number of recent and growing challenges to notions of representation, representation through electoral politics continues to be relevant. However, an expanded understanding of representation that goes beyond elected politics to include non-elected structures of the state, such as the legal system and the bureaucracy, and non-state forms like participatory democracy and popular movements and groups, is necessary for democratic governance in Canada.

The report is divided into four sections. Part One examines the relevance of representation. We argue that while representation is still relevant, it will only remain so if it is understood more broadly. Parts Two and Three elaborate on this expanded notion of representation by making connections between representation and civic engagement. Part Four applies our approach to representation to a number of areas within the elected state (electoral and campaign finance reform), the non-elected state (democratic legal system and democratic administration), and non-state structures (participatory

democracy and social movement consultation and state funding). By looking at these

three fields, we seek to expand the notion of representation within Canadian democracy.

PART ONE: IS REPRESENTATION STILL RELEVANT AND WHY?

There are currently several challenges to representation. Some critics, post-modernists in particular, pose a theoretical challenge to the very concept of representation. Postmodern feminists argue that representation is, on the one hand, based on liberalism, individualism and a belief in rationality, and on the other hand, an attempt to speak for others, thereby assuming fixed identities that can be represented, when in reality, they are shifting and unstable (Vickers, 1997). For Anna Yeatman, postmodernism is a critique of traditional views of representation, which rely on an underlying truth or meaning. Such a view of representation involves a relationship between master and subject: one who represents, or speaks on behalf of another, and where certain voices are silenced. Postmodernism sees representation as historically contingent, and constantly contested. It must embrace a politics of difference, which creates political space for excluded voices (Yeatman, 1994). Chantal Mouffe agrees with Yeatman, and also emphasizes a politics that accounts for differences (Mouffe, 1993).

Jill Vickers voices her concern that questions about the nature of representation are happening when feminists call for state representation are finally being heard. As Vickers notes,

> [m]any feminist theorists have observed the irony that, just as women and 'others' come to be recognized as 'subjects' in history and demand to be taken into account in politics, culture, and the academy, someone has declared that the rules of the game have changed, as a consequence, their representational claims are declared inauthentic (1997: 41).

Pringle and Watson also acknowledge "essentialist notions of women's political 'interests' and of the 'state' are under challenge just as the point when feminist political scientists are gaining a hearing in their discipline, on the importance of gender as a central analytic category" (Pringle and Watson, 1992: 54). Susan Bordo makes a

comparable point in the context of feminism in academia (Bordo, 1990). Thus, we argue that despite postmodern critiques, representation through the state and political parties remains relevant for marginalized groups to have a voice in the political decision-making process. It should also be noted that neither Yeatman nor Mouffe seek abandonment of the politics of representation. Rather, their critique is of the current form that representation takes, and its inadequacy in articulating a diversity of interests and identities, which, we will see, corresponds with our findings.

Rather than questioning the notion of representation itself, other critics draw attention to competing political avenues, which supplant the traditional representative function of political parties and electoral politics. In this case, concern over the "legalization of politics," is the focus of our discussion. For example, Rainer Knopff and F.L. Morton argue that the *Canadian Charter of Rights and Freedoms*, with its vague language being subject to interpretation by judges and lawyers, has brought increasing politicization of the law (Knoff and Morton,1992). Their assertion is not only that "the *Charter* has substantially enhanced the status of the courtroom as a political arena" (Knopff and Morton, 1992: 2), but that judicial activism is also supplanting the role of elected representatives (Knopff and Morton, 1992). Further, and probably more problematic for these authors (which distinguishes them from a Left critique), the *Charter* has transformed the symbolic order of politics in Canada from regional considerations, toward other identities based on gender, race, ethnicity, etc. Interest groups, or what Knopff and Morton call the "Court Party,[1]" have switched "their lobbying energies from governments to the courts," and have used courts as an end-run around democracy, turning to them when they lose out through "the normal process" of elected politics (Knopff and Morton, 1992: 3, 79).

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[1] Morton and Knopff elaborate this argument in their book, *The Charter Revolution and the Court Party*, Peterborough: Broadview Press, 2000.

Marxist legal scholar, Michael Mandel, also addresses what he considers to be the undemocratic nature of the *Charter*.

> Canadian democracy used to consist of government through representative Institutions such as Parliament, the Legislatures, municipal councils, and so on, elected by universal suffrage and answerable to those who elected them by those very means (Mandel, 1994: 2).

Now, "the [*Charter*] has merely handed over custody of our politics to the legal profession" (Mandel, 1994: 455). Like Knopff and Morton, Mandel submits that the power of elected representatives has been usurped by unelected, unaccountable, and unrepresentative judges and lawyers, who have considerable scope in interpreting ambiguous legal language (Mandel 1994). This shift in the process, or form of politics, toward legalization, has been accompanied by problematic outcomes, or contents in politics, having a conservatizing impact on social movements, and favouring powerful interests (Mandel 1994).

We concur with the view that there are serious democratic deficiencies in our legal system (some of which we will elaborate on later) and that the avenue of electoral politics is essential for representative democracy. However, these authors tend to overstate the influence of the *Charter* and the extent of the legalization of politics. They also mistakenly locate representation primarily within the structures of the elected state. This is a mistake for at least two reasons. First, as we will see throughout this report, there are multiple avenues of representation. Second, the fixation on electoral politics, and the lament at their supposed demise, tends to exaggerate the democratic nature of the representation offered by electoral politics,[2] and to downplay the serious limitations for marginalized groups in Canada. For example, currently only 20.6% of the representatives in the House of Commons, and 35% of Cabinet members and Senators

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[2] Knopff and Morton (1992, 2002) and Mandel each make only brief reference to the democratic weaknesses in electoral politics (Mandel ,1994).

are women; 1% of House of Commons members, 0% of Cabinet members, and 6% of Senators are Aboriginal peoples; and less than 5% of the House of Commons, and 7% of Cabinet consist of members who are people of colour (Government of Canada, 2003).[3] As Table 1 demonstrates, women's provincial representation across Canada shows a similar pattern. In comparison to other countries, Table 2 shows that Canada ranks number 36 in terms of women's representation at the national level. This seriously challenges the democratic claims of our system of elected politics.

Table 1: Women's Political Status across the Provinces (July 2002)*				
Province	**Women in Legislature**	**Governing Party**	**Women in Governing Party Caucus**	**Women in Cabinet**
Newfoundland	16.7	Liberal	25.9	27.7
PEI	22.2	Conservative	23.1	20.0
Nova Scotia	9.6	Conservative	9.7	8.3
New Brunswick	18.2	Conservative	17.0	20.0
Québec	23.2	Parti Québécois	26.1	20.0
Ontario	17.5	Conservative	15.8	24.0
Manitoba	24.6	NDP	28.1	31.3
Saskatchewan	22.4	NDP	24.1	13.3
Alberta	20.5	Conservative	20.3	20.8
British Columbia	22.8	Liberal	20.8	28.6
Average	**19.8**		**24.1**	**21.4**

*Note: All entries are percentages. Data current to July, 2002.
*Source: Trimble & Arscott (2003).

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[3] We calculated percentages based only on full Cabinet members, not Secretaries of State: therefore, a 28-member Cabinet. Because the federal government does not provide statistics on the representation of people of colour, we do not have numbers for the Senate, and calculated for the House of Commons and Cabinet through information that was provided on the Government of Canada website.

Table 2: Women's Representation at the National Level – Canada in Comparative Perspective*					
Rank	Country	%W (lower house)	Last election	%W (upper house)	Last election
1	Sweden	45.3	09/2002	-	-
2	Denmark	38.0	11/2001	-	-
3	Finland	37.5	03/2003	-	-
4	Netherlands	36.7	01/2003	26.7	05/1999
5	Norway	36.4	09/2001	-	-
6	Cuba	36.0	01/2003	-	-
7	Costa Rica	35.1	02/2002	-	-
8	Iceland	34.9	05/1999	-	-
9	Austria	33.9	11/2002	21.0	N.A.
10	Germany	32.2	09/2002	24.6	N.A.
11	Argentina	30.7	10/2001	33.3	10/2001
12	Mozambique	30.0	12/1999	-	-
13	South Africa	29.8	06/1999	31.5	06/1999
14	Seychelles	29.4	12/2002	-	-
15	New Zealand	28.3	07/2002	-	-
"	Spain	28.3	03/2000	24.3	03/2000
16	Viet Nam	27.3	05/2002	-	-
17	Grenada	26.7	01/1999	7.7	01/1999
18	Namibia	26.4	11/1999	7.7	11/1998
19	Bulgaria	26.2	06/2001	-	-
20	East Timor	26.1	08/2001	-	-
21	Turkmenistan	26.0	12/1999	-	-
22	Rwanda	25.7	11/1994	-	-
23	Australia	25.3	11/2001	28.9	10/1998
24	Uganda	24.7	06/2001	-	-
25	Belgium	23.3	06/1999	28.2	06/1999
26	Switzerland	23.0	10/1999	19.6	10/1999
27	Laos	22.9	02/2002	-	-
28	Saint Vincent	22.7	03/2001	-	-
29	Tanzania	22.3	10/2000	-	-
30	Eritrea	22.0	02/1994	-	-
31	China	21.8	1997-98	-	-
32	Pakistan	21.6	10/2002	17.0	02/2003
33	Latvia	21.0	10/2002	-	-
34	Monaco	20.8	02/2003	-	-
35	Nicaragua	20.7	11/2001	-	-
36	**Canada**	**20.6**	**11/2000**	**34.7**	**N.A.**
49	UK	17.9	06/2001	16.4	N.A.
59	US	14.3	11/2002	13	11/2002

*Source: Inter-Parliamentary Union (2003).

A third group of scholars question the relevance of nationally-based politics of representation in an era of globalization. For them, globalization threatens the sovereignty of the nation-state, and provides challenges to the strategies of political movements. Conceptualizing globalization as an "epochal shift" beyond the nation-state, Roger Burbach and William Robinson maintain that "[i]n this period of extraordinary conflict, upheaval, and uncertainty, the role of popular classes will be crucial. But their struggles must take on a transnational perspective and engage in transnational organizing" (1999: 10). Similarly, Held et al. maintain that "[t]he idea of a political community of fate - of a self-determining collectivity can no longer meaningfully be located within the boundaries of a single nation-state," and thus advocate "civilizing and democratizing globalization" (1999: 447). Saskia Sassen also believes that due to globalization, the state is losing sovereignty, so feminists should shift their focus elsewhere (1998). For her, globalization presents the opportunity to "unbundle" sovereignty from the nation-state and to confer it on non-state actors such as transnational legal regimes, regulatory institutions, and "international civil society" (Sassen, 1998: 83, 97, 99).

Within this context there has been much debate about the continued relevance of political parties. In the current era of restructuring, the Canadian bureaucracy has had a larger role to play in policy innovation than the political parties, resulting in a decline in the importance of the party system in policy development (Clarke et al., 1996). In addition to the bureaucracy, two other important venues for policy innovation have emerged - the royal commission and social movements (Clarke et al, 1996).

Clarke et al. argue that there is a "good deal of skepticism" about the durability of parties and the party system (1996: 186). The public wants to maintain and extend the spaces of democratic politics, through direct democratic actions such as referenda, and involvement in interest groups and social movements. The idea that the political party

system can provide this extension of democratic politics remains unknown (Clarke et al., 1996). In addition, Meisel and Mendelsohn note that the importance of parties in formulating policy, organizing opinion, integrating citizens, and brokering interests has declined in comparison to other agencies and forces within the political sphere (2001: 168). This means that citizens now look to a variety of actors, such as interest groups and social movements to provide linkages between themselves and the state (Meisel and Mendelsohn, 2001). Thus, citizens themselves are demanding the broader, more inclusive, vision of representation that our report is calling for. We will return to this in our discussion of social movement consultation and state funding.

Canadian voters' experiences with parties' unfulfilled promises have led to skepticism, cynicism, and disbelief that politicians can do very much (Clarke et al., 1996). In surveys of voter opinions in 1993, 65% reported strong feelings of being ignored; 80% believed that their elected representatives quickly lose touch with their constituents; 81% believed that parties pay too much attention to winning elections, and not enough to governing afterwards; 91% believed there was a big difference between what a party promises and what it delivers; 87% believed that parties confuse the issues rather than provide a clear choice; 81% thought that parties squabbled too much; and only one-third of those surveyed gave parties high marks on general democratic activities (Clarke et al., 1996). Meisel and Mendelsohn argue that globalization has resulted in a reduction in national sovereignty, which has led citizens to question the continued relevance of political parties (2001).

We do not share this view of globalization as it leaves little room for agency and discussion of the state's agenda and willingness to give up power to enter into economic arrangements, such as the North America Free Trade Agreement (NAFTA). Instead, we draw from those such as Leo Panitch (1994), Stephen McBride (2001), and Janine Brodie (1995), who emphasize the active role that nation-states have taken in pursuing

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globalization. Brodie aptly refers to Canadian governments as the "midwives of globalization" (1995: 16). Furthermore, she insists that rather than accepting the claim that states are in decline, this period of restructuring is precisely the time when feminists must maintain their focus on the nation-state (Brodie, 1995). Brodie demonstrates that this process of restructuring has disproportionately disadvantaged Canadian women (Brodie, 1996). Evidence shows that women everywhere are more dependent on state action and are more likely to be state employees (Vickers, 1997). Therefore, most feminist concerns, including health, equity, and security, are necessarily state-centred (Brodie, 1996). As such, we underscore the continued relevance of nation-states, and national political projects, particularly those aimed at the democratization of the very state structures that have embraced globalization and facilitated many of the concomitant democratic challenges we currently face.

Overall, representation is still relevant. It is relevant because we need to articulate diverse political interests and identities and translate them into concrete policies. It is relevant because despite the *Charter*, electoral politics continue to be a central locus of political action. It is particularly relevant in this era of globalization, because we need methods of holding states responsible and accountable for the decisions that they make. But are our current forms of representation adequate? Certainly not. We must broaden our understanding of the meaning of representation.

PART TWO: WHAT ARE THE DIFFERENT UNDERSTANDINGS OF REPRESENTATION?

Common approaches to representation can be grouped into two general categories: those that look at the role of the representative, and those that look at who/what should be represented. Judith Squires points to three differing views of representation - ranging from representation by geographical constituencies to representatives serving the interests of the nation, to representation of party supporters and ideological allies (Squire, 1996). Hanna Pitkin points to three differing definitions of representation - the descriptive representation of identities, symbolic representation, and representatives who act on behalf of his or her principal (Pitkin, 1967). Iain MacLean presents two conceptions of representation - principal-agent representation and microcosm representation (Squires, 1996). While their categorizations may differ slightly, all three look at the difference between representativeness and decision-making by elected officials (Squires, 1996).

Three major debates currently exist over the meaning and nature of representation - the debate over the degree of autonomy of representatives in relation to electors; the debate over the representation of constituents' interests versus the representation of constituents' opinions; and the debate over the extent of the function of the representative to promote the "national interest" rather than the interest of particular constituents (Squires, 1996). There are also debates around issues such as quotas and fair representation. These debates relate to the three distinct conceptions of what it is that is being represented - interests, ideologies, and identities. Traditionally, politics has been based on the belief that interests and ideologies will come together within a geographically defined area, but the concept of quotas challenges this belief by focusing on the often-neglected identities category (Squires, 1996).

Within the quotas debate, there tends to be a focus on what MacLean terms "microcosm representation," which is when the group of representatives includes the same proportion of each relevant subgroup or population from which it is elected - things such as sex, class, and race (Squires, 1996). However, while such representation guarantees an increase in the proportion of women or people of colour in parliament, it does not guarantee that the concerns of these groups will be represented more effectively (Squires, 1996). This view of quotas and fair representation is based on the assumption that there is a direct correlation between gender (or class or race) and interests (Squires, 1996), which is not always a safe assumption. However, Lovenduski argues that it has historically been women who have brought women's issues such as child care, violence against women, employment equity, and reproductive rights onto the political agenda (Lovenduski, 1993).

Echoing some of the theories discussed above, Manon Tremblay and Linda Trimble note that women's pursuits around representation have been concerned with two aspects; increasing the numbers of women elected into politics (descriptive), and improving the way in which women's demands, needs and identities are represented (substantive). Descriptive representation, Tremblay and Trimble explain, focuses on the attributes of the representative - her or his gender, race, or ethnicity, and posits that elected representatives should mirror the demographics of those s/he is representing. Substantive representation, on the other hand, seeks representatives that not only resemble their constituents demographically, but also pursue the concerns and interests of those constituents once elected (Tremblay and Trimble, 2003). This connects to Arscott and Trimble's distinction between the two aspects of women's representation - representation by women, which can be done only by women, and representation for women, which could be done by anyone (Tremblay and Trimble, 1996). Although she does not use the same terms, Jane Arscott also distinguishes between a feminist

conception of representation based on numbers, which she refers to as procedural, and one based on policy outcomes (Arscott 1995), and Anne Phillips makes a similar intervention (Phillips, 1991). These definitions make meaningful distinctions between our different expectations of the role of elected representatives, but they focus entirely on electorally-based representation.

Vickers shows that there are women in most liberal democracies who are involved in the electoral project of getting more women elected (Vickers, 1997). These women see the state and state institutions as potential allies for attaining their goals, and they believe that the feminization of the state is possible. State-focused women's movements accept this as an obvious strategic choice in achieving their goals. However, authentic gender parity requires a different style of representation in which interests of a more diverse set of women (and men) can be articulated, and the electoral project as a strategy of achieving feminist goals can only be part of an overall strategy. Within the women's movement, feminists are exploring how to transform representation, citizenship, and politics (Vickers, 1997).

Feminist theorists have attempted to go beyond electorally-based representation by looking to more complex visions of representation. Identity politics, or a cultural politics of difference, increased in importance throughout the twentieth century, as did the subsequent demands for group-based special rights (Squires, 1996). However, there remains debate over how to achieve group-based special rights or group representation. As Squires notes, Iris Young advocates a type of symbolic representation in order to achieve group representation, where a certain number of seats in the legislature must be reserved for members of marginalized groups (Young,1996). However, Young's idea is disliked by many as it attempts to simply graft identity politics onto the existing mechanism of representative government (Squires, 1996). In the end, Squires argues for a more expansive vision of representation, suggesting that multiple

sites of representation, not just the nation-state, would allow for multiple criteria of

political difference to be accommodated, and would result in fair representation (Squires,

1996). This is a concept supported by this study - the focus of representation should not

be narrowly defined to electoral representation, but should be broadly defined to include

the elected state, the non-elected state, as well as non-state structures.

One of the most important feminist contributions to the field of political science

has been to broaden our definitions of the political beyond the institutions of the state to

include other political terrain including non-governmental organizations (NGOs), social

movements, and relations once considered to be private, such as the family. As

Alexandra Dobrowolsky maintains:

> women's representational interventions crisscross institutional/non-
> institutional or formal/informal divides. They transcend public/private
> spaces and theorizations (the public refers to the state as well as
> public discourses, whereas the private encompasses both the
> market and the family). Standard distinctions fail to take into
> consideration that feminists have engaged in activities and
> advanced concerns previously excluded from the conventional,
> formal political sphere, the world of public institutions and officials,
> governments and political parties, with their state-sanctioned
> powers, practices, and discourses. In seeking representation,
> women have bridged private and public, civil society and state,
> cultural and political (Dobrowolsky, 2000: 3).

Correspondingly, Jill Vickers identifies four main sectors of women's representation:

Institutions of Official Politics (i.e. legislatures, bureaucracy, judiciary); Institutions of Civil

Society (i.e. churches, unions, universities, media); Institutions and Organizations of

Autonomous Women's Movements (i.e. The National Action Committee on the Status of

Women (NAC), the Fédération des Femmes du Québec (FFQ), grassroots groups); and

Pressure Groups and Social Movements (i.e. environment, peace, anti-racism

movements, lobby groups) (Vickers, 1997: 22), all being components of a feminist

understanding of representation.[4]

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[4] Also see Arscott, 1995.

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Our report advances this comprehensive feminist approach to representation. We consider electoral politics as a significant avenue of representation, but insist that truly democratic representation must move beyond the electoral system, and look seriously at the current limitations, and the possibilities for transformation that exist in our legal system, our structures of bureaucratic administration, in our channels for popular participation, and in our social movements and organizations. We will now briefly explore the connection between representation and citizen engagement.

PART THREE: WHAT IS THE RELATIONSHIP BETWEEN REPRESENTATION AND CIVIC ENGAGEMENT?

It might seem antithetical to discuss participatory democracy as a component of representation, since direct participation by citizens has become an alternative to representative democracy. But participatory democracy does not necessarily by-pass representative democracy. Anne Phillips points out that feminist approaches have challenged liberal thinking about democracy, based on the creation of false dichotomies: public vs. private, or representative vs. participatory democracy (Phillips, 1991). Representative and participatory democracy do not have to be at odds with each other. There is an important role for representatives to play in facilitating civic engagement. Hilary Wainright links participatory and representative democracy in a way that the state (both elected and un-elected) acts as "provider of public support and protection for a variety of forms of popular self-government. In terms of traditional debates about democracy, such an approach would imply a combination of participatory and representative forms" (Rebick, 2000: 32-33). One view of representation that conceptualizes elected and non-elected representatives as facilitators of citizen participation advances democracy, as will be seen later in examples of the Worker's Party (PT) in Brazil, the Greater London Council (GLC) in Britain, and local examples in Canada.

Furthermore, many commentators are finding that participatory democracy fosters a sense of democratic legitimacy in elected officials, and enhances representative democracy (Rebick, 2000). Benjamin Barber argues that community grows out of participation, while at the same time making participation possible (Barber, 1984). Barber suggests that representative democracy makes politics a sphere of

specialists and experts whose only qualification is that they engage in politics. Within a

representative democracy, "citizens become subject to laws they did not truly participate

in making; they become the passive constituents of representatives who… usurp their

civic functions and deflect their civic energies" (Barber, 1984: 147). Politics has become

about what politicians do, while what citizens do is vote for politicians. Citizens vote for

politicians but rarely do they vote for policies; there is little room for citizens to create

their own agendas through public discourse. Barber believes that the taste for

participation is whetted by participation, that democracy breeds democracy. And while

citizens are generally distrustful of politicians, they desire concrete participation and an

expansion of the scope of participation (Barber, 1984). Thus, citizens want participatory

democracy as it would increase the legitimacy of the political system, including

representative democracy, as we will explore in section four.

PART FOUR: DIFFERING NOTIONS OF REPRESENTATION: MORE DEMOCRATIC GOVERNANCE

This section will focus on three broad areas of representation: the elected state (i.e. electoral reform, campaign finance reform), the non-elected state (i.e. democratic legal system and democratic administration) and non-state structures (i.e. participatory democracy, social movement representation).

I. REPRESENTATION IN THE ELECTED STATE: ELECTORAL REFORM AND CAMPAIGN FINANCING

A. Electoral Reform

The issue of electoral reform is very broad and covers many issues, from different types of electoral systems to the representation of women, Aboriginal peoples, and people of colour. The issue of electoral reform is of such importance that it warranted a 1991 Royal Commission on Electoral Reform and Party Financing (RCERPF), under the direction of Pierre Lortie. However, Rebick argues that those desperately needed reforms to the electoral system that were set out in the Royal Commission have simply faded away (Rebick, 2000). Rebick also argues that despite the fact that Canada has had majority governments elected with a minority of votes, there is little discussion of the need for a more democratic electoral system, such as proportional representation (PR) (Rebick, 2000).

Electoral systems are crucial to the composition of legislatures. Electoral arrangements are not neutral - they are the means used to exclude or include groups, including women (Rule, 1994). Wilma Rule, one of the leading scholars on electoral systems, argues that the Canadian electoral system is not "woman-friendly" (Rule,

1993). She argues that the type of electoral system is still the major predictor of women's representation and that the party-list PR system is the most favourable (Rule, 1987). As Roger Gibbins argues, Canada's electoral system erects substantial barriers to the direct representation of most minority groups in the legislature (Gibbins,1991). Gibbins argues that the population size of federal ridings precludes minority-group control in most cases, with the exception of Aboriginal voters in the Northwest Territories (Gibbins, 1991) and Nunavut. The fact that the Canadian legislature does not reflect the composition of the Canadian electorate raises questions of political legitimacy, as those affected by policy are not involved in the decision-making process (Gibbins, 1991).

Pippa Norris argues that there are three factors in electoral systems that affect women's representation: ballot structure (i.e. party list or single candidate), district magnitude (i.e. the number of seats in a district), and the degree of proportionality (i.e. the allocation of votes to seats) (Norris, 1993). Norris concludes that women tend to do best under multi-member constituencies with a high number of seats per district, and with a national party-list system (Norris, 1993). While one must always recognize the importance of the broader cultural and political context (i.e. culture of equality, population and geographic factors) (Norris, 1993), these may act to overcome structural barriers, or further hinder women's representation. Canada's first-past-the-post electoral system is the least favourable to women's representation (Norris, 1993).

While not true of all systems, proportional representation and large multi-member constituencies are generally leaders among democracies in proportions of women in parliament (see Table 3), as parties have the incentive to place women on their lists to broaden their appeal (Squires, 1996). In fact, Rule's comparison of twenty-three democracies demonstrates empirically that the party-list system of PR is the most significant predictor of women's political opportunity for election to parliament (Rule, 1987).

Table 3: The Representation of Women in National Parliaments, Selected Countries, September 2002*		
Country	Women in Lower House of Parliament (%)	Type of Electoral System**
Sweden	42.7	List-PR
Denmark	38.0	List-PR
Finland	36.5	List-PR
Norway	36.4	List-PR
Iceland	34.9	List-PR
Netherlands	34.0	List-PR
Germany	31.7	MMP
New Zealand	29.2	MMP
Spain	28.3	List-PR
Austria	26.8	List-PR
Australia	25.3	AV
Belgium	23.3	List-PR
Switzerland	23.0	List-PR
Canada	**20.6**	**SMP**
Portugal	19.1	List-PR
United Kingdom	17.9	SMP
Luxembourg	16.7	List-PR
WORLD AVERAGE	**14.8**	**-**
United States	14.0	SMP
Ireland	13.3	STV
Israel	13.3	List-PR
France	12.3	SMM
Italy	9.8	Mixed
Greece	8.7	List-PR
Japan	7.3	MMP

**List-PR=List-Proportional Representation; MMP=Mixed-Member Proportional;
AV=Alternative Vote; SMP=Single-Member Plurality; STV=Single Transferable Vote;
SMM=Single-Member Majority
*Source: MacIvor (2003).[5]

PR systems are successfully used to achieve a legislature which is relatively reflective of

the differences within the electorate, both in terms of identity and ideology (Seidle,

1996). Squires argues for the adoption of multi-member constituencies and a party-list

system as mechanisms for achieving greater recognition of differences within a country's

political structures, as PR allows for greater inclusiveness and party-list systems make

for a more balanced line-up of candidates (Squires, 1996).

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[5] For a full explanation of these electoral systems, see MacIvor (2003).

Under the Swedish PR system, more than one candidate is elected from each constituency, providing voters with the opportunity to elect both men and women to represent them in local, regional and national governing bodies. Other features of the Swedish electoral system that encourage women's increased political representation include the use of large multi-member constituencies and the size of the parliament, with 349 members representing six and a half million voters (Maillé and Wangnerud, 1999). Also, the party system in Sweden has played an important role in increasing women's representation. The political parties voluntarily adhere to a 40/60-quota rule, which aims to have no less than 40 per cent of one sex and no more than 60 per cent of the other sex on representative bodies (Eduards, 1991).

In addition, the prevalence of left-wing parties and ideology in Sweden has played an important role in women's increased representation. The Social Democratic Party (SAP), in particular, has been very supportive of women's increased representation, and has worked towards this goal during their over 60 years in power since 1932 (Jenson and Mahon, 1993). The dominance of left-wing ideology and of a left-wing party has also resulted in a "contagion from the left" in Sweden, where all political parties feel pressure from the SAP to improve women's standing in the political system. Table 1 shows that Sweden has the highest proportion of women in its national legislature, a feat that it has laid claim to for many years now.

Within party-list PR systems, such as Sweden, parties have the ability to consciously compose and balance their lists, which facilitates women's entry into politics (Norris, 1993). Women do not have to be in a top position on the list to get elected (Rule, 1993), but they are added to the list as a means of broadening the party's general appeal (Rule, 1987; 1994). These mechanisms allow for an increase in women, or any minority group representation, without resorting to adopting quotas (Squires, 1996). Thus, if Canada were to adopt a system of PR it could mean a more representative

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democracy with greater room for parties reflecting diverse interests (Maillé and Wangnerud, 1999).

The operation of PR through a party-list system involves parties presenting lists of candidates, usually the same in number as seats to be filled, and in the order set by the party organization (Seidle, 1996). This list system also allows voters to judge the degree to which the lists are reasonably representative, as a party's entire list of candidates is laid out before them (Seidle, 1996). A mathematic calculation is used to determine which candidates are elected, with many countries adopting a minimal threshold that parties must pass in order to gain representation in the legislature (Seidle, 1996). In addition, a one-party government is rare under PR, meaning that PR systems are generally run by a coalition government (Seidle, 1996), which is also an important factor in improving the representation of minorities and minority interests. There are generally more political parties involved in the system representing a wider range of interests and identities, and there is a stronger emphasis placed on compromise and consensus.

Access to elected offices in Canada, which runs its provincial and federal elections using the single-member plurality (SMP) or first-past-the-post system, has been easier for both women and visible minorities at the municipal level, where political parties are not involved. The reasons for this include the lower financial costs of running for municipal election, as well as the elimination of the party structure as a barrier, and the reduced personal sacrifices required at the municipal level (Blais and Gidengil, 1991). "Levels of power which are less structured and where the stakes are lower present fewer obstacles for women, and are thus a better choice in their quest for integration" (Maillé and Wangnerud, 1999: 186). While this quote could refer to both women's participation in women's organizations or in municipal politics, the point is the

same - where the stakes and the prestige are lower, there are generally fewer obstacles to women's participation.

Pressure for enhancing democracy within Canada come from a variety of sources, both inside and outside government (Phillips, 1993). Foremost are social movements, including women's, ethnic, racial, environmental, gay and lesbian and disabled persons movements, which are fighting for the democratization of governance (Phillips, 1993). Social movements place a great value on citizen participation, direct participation, accountability, empowerment and change (Phillips, 1993). For instance, the Green Party of Canada has launched a court challenge, arguing that Canada's electoral system "counts votes towards representation in ways which are among the most arbitrary and unjust in the free world" (*Russow and the Green Party of Canada v. The Attorney General of Canada*, 2001). In other words, Canada's electoral system violates the guarantee of democratic rights under the *Charter*. Pressure for enhancing democracy also comes from international social movements (and the anti-globalization movement) (Phillips, 1993). Pressure also comes from within the public service itself, which has expressed an interest in increasing consultation and increased democracy (Phillips, 1993).

One recommendation for improving the Canadian electoral system is to move towards a party-list proportional representation electoral system. However, the creation of a more participatory and democratic government is also necessary, through the expansion of mechanisms for citizen participation (Phillips, 1993). In addition, good relations between the federal government and the emerging governments of Aboriginal peoples, from the territory of Nunavut to continuing demands for self-government, are necessary (Phillips, 1993). Finally, as the Royal Commission on Electoral Reform and Party Financing observed, the democratization of our electoral system must be accompanied by reform to our system of campaign finance.

B. Campaign Financing

Jean-Pierre Kingsley, the Chief Electoral Officer of Canada, reminds us that "the principle of the equality of citizens constitutes the foundation of liberal democracies. In practice, however, equality is affected by other forces that set the tone for the electoral process. One of those forces is money" (2002). According to the *Charter,* every citizen has the right to run for public office. However, the ability to run for election is not guaranteed, and in many ways, is quite circumscribed. As Robert MacDermid argues, "[h]ow well a society controls and diminishes the structural advantage of the wealthy is a measure of its commitment to democratic principles and political equality. Nowhere is the advantage of the wealthy more easily observed than in the area of political party and campaign financing" (MacDermid, 1999: 7; also quoted in Rebick, 2000: 222).

In 1991, the Royal Commission on Electoral Reform and Campaign Financing (Lortie Commission) identified a series of gaps in Canada's election finance regulations. In particular, the Commission noted that there were no limits on spending in leadership and nomination campaigns, and no regulation of third party advertising, trust funds, and riding associations (Stanbury, 1991). In the Commission report, Stanbury shows that before the 1984 election, each party's leading leadership candidate spent over $1 million in this campaign, and that "for the Liberal party's 1990 leadership race, the top two contenders each spent about $2.4 million, and all candidates together spent about $6 million" (Stanbury, 1991: 368). Despite the absence of restrictions on this spending, much of the donations for leadership races receive tax credits, without adequate disclosure of spending or revenue. In addition, questions were raised by the Commission with respect to the characterization of an "election expense" and a "personal expense" (which has no limit), and of the spending prior to the official

campaign period (Stanbury, 1991). Until recently, there has been no serious legislative

attempt to remedy these problems at the federal level, and the recent Liberal leadership

race has become indicative of many of the lapses in the regulation of money in our

electoral system.

Democracy Watch is an organization that seeks to improve Canadian

democracy. One of their current projects, the "Money in Politics" Campaign is based on

the need to introduce greater fairness and equity into the system of election finance in

Canada (Democracy Watch, 2003). Presently, there are wide inequalities among those

parties that rely heavily on corporate donations (the Liberals, the Progressive

Conservatives, and increasingly the Canadian Alliance) and those that do not (the New

Democratic Party and the Bloc Québécois). The Lortie Commission also identified a

systemic bias against female candidates. In addition to anecdotal evidence from women

who have been unable to keep up with their male colleagues' fund-raising (Sheila

Copps, for example), we can see that women are at a significant structural disadvantage

in a system so controlled by the wealthy. Women, especially Aboriginal women and

women from racialized groups, as well as Aboriginal men and men from racialized

groups, disproportionately live in poverty (Hadley, 2001). Accordingly, Brodie and

Chandler see campaign finance as the greatest obstacle to women's participation in

electoral politics. In their contribution to the Lortie report, they point out that,

> [I]t is widely accepted that the cost of competing for the nomination
> in a winnable urban riding may exceed $50 000. This severely
> disadvantages many groups that have traditionally been under-
> represented in Canadian politics, particularly women, who, on
> average, earn 40 percent less than men and who have fewer links
> to financial backers … Running for a party nomination in a winnable
> urban riding has become a major financial risk that few Canadians,
> let alone women, are able to afford (Brodie and Chandler, 1991:
> 40).

Their study found that:

> Three quarters of the female candidates indicated that women have special financial burdens when seeking election. The candidates identified several reasons for why financing was a special problem for women. First, many identified the costs of child care, the carrying costs of homemaking, and the expense of buying clothes for the campaign. Second, they pointed out that more women than men have low-paying jobs, less financial security, and greater difficulties securing a bank loan. Third, many suggested that men have greater access to business contacts, corporate donors and moneyed networks (Brodie and Chandler, 1991: 46).

The problems with campaign finance in Canada reveal the way in which women's economic disadvantage, due to a combination of inequality in the labour market, the household, and society in general, limits women's access to structures of representation and democracy. Instead of addressing this problem, our regulations have amplified them. Simply put, our lax election finance regulations have acted as a structural impediment to equal access to the structures of representation and democracy in Canada.

Unfortunately, the recommendations from the Lortie Commission were not very helpful in dealing with the structural problems for women in election finance. The main proposal, beyond extending spending limits to include nomination races, and allowing tax deductions for candidates for childcare, was to encourage parties to finance female candidates, particularly in winnable ridings (Arscott, 1995). But this is an individually-based solution to a systemic problem, leaving the inaccessibility and corporate influence in the system in-tact. The argument of Democracy Watch is that "entities that cannot vote should not be permitted to finance parties" (Rebick, 2000: 221). In order to limit corporate influence over public policy, both Québec and Manitoba have banned contributions to political parties by corporations and labour unions. MacDermid recommends a similar ban, but adds that donations from public sector institutions, like universities and hospitals should also be prohibited (MacDermid, 1999: 44). There is some movement at the federal level in this direction.

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Bill C-24, an *Act to [A]mend the Canada Elections Act and the Income Tax Act*, is currently in the process of becoming law. At the time of writing, the Bill had been passed by the House of Commons on June 11, 2003, and was awaiting approval by the Senate. Bill C-24 amends the *Canada Elections Act* in a number of important ways. It places greater limits on spending and contributions, capping individual donations at $5 000 per year, and extends the regulations to cover, not only parties and candidates, but also leadership races, riding associations, and nomination contests. It strengthens provisions for disclosure, and restricts donations from unions and corporations. The Bill also increases the public funding of elections by introducing a quarterly allowance to registered political parties, calculated as a percentage of the votes obtained by the party in the previous general election. It increases the maximum tax credit from $500 to $650 for political donations (Elections Canada, 2003). Finally, the Bill explicitly lists childcare, and other care expenses as acceptable claims for "personal expenses," something the Lortie Commission also recommended (Brodie and Chandler, 1991).

This Bill certainly moves in the desired direction, taking up some of the concerns of the Lortie Commission, and of the Chief Electoral Officer (CEO). However, the limit for individual donations ($5 000) is quite high, and it includes an additional allowable $5 000 for individual donations to leadership candidates. The Bill does not really address the problem of the escalating costs of campaigns. Although there have been claims to ban corporate and union contributions, the new law prohibits such donations only to the national party or to leadership contests. It still allows $1000 donations from corporations and unions to registered associations, nomination contestants and candidates. In addition, the Bill introduces a provision for "unincorporated associations" to give up to $1000 to registered electoral district associations, candidates and nomination contests. So rather than a complete ban on corporate and union

contributions, the law only limits them, and opens up a new realm for contributions and influences through unincorporated associations.

The persistent problem of third party advertising continues, with no coherent approach to the legal questions surrounding the possibilities of regulation, or a clear answer on whether the Supreme Court of Canada will consider the issue. This Bill deals only with problems at the federal level. In some provinces, Ontario, for instance, as MacDermid has shown, the regulation of campaign and party finance has been moving in the opposite direction - control over corporate influence has been significantly weakened, and democracy along with it (MacDermid, 1999), pointing to the need for provincial reforms as well.

The Committee for '94, a feminist group organized around the electoral project in Canada, "pressured for complete public funding of nomination contests, elections, and party leadership campaigns, arguing that the present system of tax credits for election contributions makes it difficult for women and other disadvantaged groups to raise money and hence hold public office" (Bashevkin, 74). In addition, Democracy Watch also recommends public financing of elections where parties receive funding based on their popular support (Rebick, 2000). Bill C-24 stops short of this. The continuing use of tax credits, rather than direct public funding, perpetuates some of the transparency problems that the Bill was intended to correct. Judy Rebick submits, for example, that "most people don't realize … that political parties received $30 million in public money in the last election" (Rebick, 2000: 221). Stanbury also provides that tax credits from 1985-1988 amounted to $47.96 million (Stanbury, 1996). In response to Canadian Alliance's charges that the Bill would force taxpayers to fund political parties, Bloc Québécois (BQ) member Michel Gauthier clarified that with our system of tax deductions for contributions, the public has already been financing political parties. Gauthier added that with publicly funded elections, "taxpayers are being asked to pay for democracy"

(Gauthier, 2003). Fully publicly funded elections take us much further democratically, and would better limit the inequality in our system of election finance, where the exclusion marginalized groups is structural. Hence, as we have seen, there are serious representational flaws in our electoral system. However, we emphasize that even if proposals for electoral reform were implemented, democratic representation would still be incomplete.

II. REPRESENTATION IN THE NON-ELECTED STATE: DEMOCRATIC LEGAL SYSTEM AND DEMOCATIC ADMINISTRATION

A. Democratic Legal System

With regards to the non-elected state, the legal system will be explored first. However, since the legal system is such a broad category, deserving of an entire paper of its own, the focus here will be on two particular aspects of the legal system - racial profiling and mandatory arrest policies around domestic violence. Each of these aspects of the legal system are complex, but were chosen for their particular focus on race and gender, and the inequalities and representative shortcomings that still exist within the Canadian legal system. This is important to our argument that the legal system is a structure of representation – a structure that is currently marked by racial bias – a clear failure of the democratic system. As outlined earlier, representation must not simply be descriptive nor procedural, it must also be substantive, or concerned with policy outcomes and their differential impacts on marginalized groups.

1. Racial Profiling

In October 2002, The <u>Toronto Star</u> ran a series of articles suggesting that the Toronto Police Force engages in racial profiling. The <u>Toronto Star</u> found that "Blacks arrested by Toronto police are treated more harshly than whites" and that "a disproportionate number of black motorists are ticketed for violations that only surface following a traffic stop" ("Singled Out," Oct. 19, 2002: A1). The Toronto Police Force and Police Chief Julian Fantino continue to claim that "we do not do racial profiling" ("There is No Racism," Oct. 19, 2002: A14). Former Toronto Mayor Mel Lastman denied any problems in stating: "I don't believe that the Toronto police engage in racial profiling in any way, shape or form" ("Police Target," Oct. 20, 2002: A9). The denial of racial

profiling is a major obstacle to eliminate the problem. Marie Chen, a lawyer with the

African Canadian Legal Clinic, claims that racial profiling is particularly insidious in

Canada because authorities refuse to acknowledge that it exists ("Police Target," Oct.

20, 2002: A9).

The representation of diversity requires that marginalized voices be taken

seriously. While Toronto Police Chief Fantino denies charges of racial profiling, the

experiences of many people of colour indicate that there is racial bias in the criminal

justice system across Canada. As Grace-Edward Galabuzi demonstrates:

> Numerous studies have considered the differential treatment of
> racialised groups in the criminal justice system. The evidence is
> overwhelming that racialised group members receive different
> treatment in the criminal justice system. The numerous Royal
> Commissions, task forces and studies confirm the systemic nature
> of racial discrimination in the administration of justice as manifest
> through the over representation of racialised group members in
> arrests by police, imprisonment before trial, differential treatment in
> how charges are managed by crown attorneys and in sentencing by
> judges, overrepresentation in prison admissions and differential
> treatment while incarcerated. Policies such as targeted policing
> impact the poor and racialised communities disproportionately
> (Galabuzi, 2001: 94-95).

Most of this research has focussed on the experiences of Blacks and Aboriginal

peoples with the Canadian criminal justice system. To further investigate this problem,

the Ontario Human Rights Commission is conducting a province-wide inquiry into the

effects of racial profiling on individuals, families, communities, and society as a whole

(Ontario Human Rights Commission, 2003). The Commission is working closely with

community partners to publish a report on the initiative in the fall of 2003. Increasingly,

with Canada's anti-terrorism legislation, and growing profiling at Canadian borders, there

is a pressing need to deepen our understanding of racial profiling.

David A. Harris' work on racial profiling in the United States demonstrates that

profiling remains a police tactic even though it has been controversial for some time, and

even though visible minorities assert that it is dangerous, damaging, and humiliating

(Harris, 2002). Furthermore, Scot Wortley and Julian Tanner, professors at the University of Toronto, conclude that "racial profiling directly contributes to the over-representation of black people in the criminal justice system" ("Police Target," Oct. 20, 2002: A8). Indeed, "[t]he over-representation of racialized group members in the penal system contrasts sharply with the under-representation in the ranks of lawyers, crowns, judges and police officers" (Galabuzi, 2001). Another outcome of racial profiling is a loss of respect for police and the entire criminal justice system by those targeted by racial profiling (Harris, 2002), as well as by society as a whole. As such, the basic legitimacy of the entire justice system is called into question (Harris, 2002).

Therefore, Harris promotes an alternative approach to law enforcement based on accountability, and not on racial and ethnic bias (Harris, 2002). Accountability-based policing assures greater public accountability for police behaviour and for the actions of police departments, as well as greater communication between the police and the community (Harris, 2002). In addition, within the Toronto context, many recommendations have been put forward since the Toronto Star's racial profiling series. Alan Borovoy, counsel to the Canadian Civil Liberties Association, has called for the creation of a provincial body with power to independently audit police files to ensure that racial profiling is not taking place ("Singled Out," Oct. 19, 2002: A13). Following the example of the United States, and the state of New Jersey specifically, some recommendations for Canada include: government and police must recognize that racial profiling exists; an open and effective complaint system must be put in place; police training must reflect the reality of the streets and a concern for civil rights; and all traffic stops should be documented, including who is being stopped, why, and what action is taken by police (Quinn, Oct. 21, 2002: A6). Susan Eng, a Toronto lawyer and former head of the Toronto Police Services Board, as well as North York's race relations committee, has also recommended that police begin to systematically document and

make public the race, age, and other personal details about everyone pulled over, along with justification for the stop ("Police Target," Oct. 20, 2002: A8). Documenting this information, to support the lived evidence of racial profiling already known, serves to formally recognize the voices of those marginalized, rather than denying their legitimacy, as seems to be the current practice. This is essential in representing diversity, and in fostering a system where all have faith in, and access to, democracy.

Instead, the Toronto Police Force's main strategy to improve race relations has focused on hiring more people of colour, but this strategy is slow and few visible minority police officers are promoted into more senior jobs ("Singled Out," Oct. 19, 2002: A13). While increasing the number of visible minority police officers is obviously an important aspect of making the legal system more representative, this strategy does not guarantee an end to racial profiling. As we discussed earlier, the feminist view of representation that we support, stresses that representation is not only about numbers (descriptive or procedural), but also about policy outcomes (substantive). As we will see in the next section, public policy outcomes are distorted by the racialization of our legal system.

2. Mandatory Arrest Policies around Domestic Violence

Another aspect of the unrepresentativeness of our legal system, which demonstrates structural inequalities, is mandatory arrest policies around domestic violence. Mandatory arrest policies are partly a response from women's movement in Canada, particularly the anti-violence movement, which saw the state's reluctance to intervene in cases of domestic violence as highly problematic. In addition, the law regarding domestic violence requires that women place charges against their partners, resulting in women deciding not to do so for a number of reasons, including a sense of loyalty, economic dependence, community pressure, or fear of retribution by a violent partner. Mandatory arrest policies moved the onus away from individual women experiencing

violence, to police, which was intended to make violence a public, rather than a private issue. Mandatory arrest policies around domestic violence are very complex and a number of differing issues are raised when one takes race and class into account. Scholars such as Caroline Forell argue that mandatory arrest policies around domestic violence is a good idea, when accompanied by adequate support services and counseling (Forell, 1991). Forell believes that mandatory arrest is positive in that it removes discretion from police officers in deciding what to do when they intervene in domestic violence. While acknowledging the problems with mandatory arrest policies, Forell concludes that with police training and education, more shelters, and women being encouraged but not forced to participate in the prosecution of their batterers, that the situation will improve for all women (Forell, 1991).

However, many disagree with this suggestion, as it recognizes but discounts the experiences of poor women and women of colour as less important than the experiences of white middle-class women. Mandatory arrest policies fail to acknowledge the importance of intersectionality, as the violence many women experience is often shaped by other dimensions of their identities besides gender, such as race and class (Crenshaw, 1995).   In other words, substantively, the outcomes of public policies are unequal for different groups of women. Kimberlé Crenshaw considers how the experiences of women of colour are the product of intersecting patterns of racism and sexism (Crenshaw, 1995), which means that women of colour may experience domestic violence differently than white women. One must also consider reasons why women of colour or working-class or poor women might stay in abusive relationships, as their ability to create alternatives is hindered by the racism, classism, and sexism prevalent in society (Crenshaw, 1995). Immigrant women are also especially vulnerable in an abusive relationship, as they may depend on their husbands for information regarding

their legal status, and language barriers can prevent them from accessing available services (Crenshaw, 1995).

With reference to mandatory arrest policies around domestic violence and women of colour, many anti-racist feminists worry that such policies will only serve to confirm stereotypes about men of colour, particularly Black men, as unusually violent, which would seriously damage the Black community as a whole (Crenshaw, 1995). As such, women of colour must weigh the interests of the community against the self, being a woman of colour. Other issues that affect women of colour in abusive relationships, specifically, include their reluctance to call the police, as there is a general distrust of law enforcement within many communities of colour due to a history of hostility and racism expressed by the police (Crenshaw, 1995). Despite this distrust in the criminal justice system, some women would contact the police to intervene before a violent situation escalates were it not for the mandatory arrest policies.

Many of these same issues are also relevant for Aboriginal women in Canada. Jennifer Koshan argues that the solutions proposed and implemented, particularly police and prosecution policy directives, such as mandatory arrest policies, are not responsive to the needs of Aboriginal women (Koshan,1997). Mandatory arrest policies are based on the assumption that the "battered woman" is powerless to make decisions about involvement in the criminal justice system; therefore, they take the decision away from her. This type of policy removes control of the process from survivors, which is one of the central feminist critiques of mandatory arrest policies (Koshan, 1997).

Mandatory arrest policies also cause forced engagement with the public realm for women who have experienced domestic violence (Koshan, 1997). This is particularly problematic for Aboriginal peoples who do not necessarily accept the Canadian state as a legitimate entity. In addition, Aboriginal families have been particularly susceptible to state intervention in the area of child welfare, which has led to a level of distrust of state

intervention in personal matters. Mandatory arrest policies are often enforced most severely against non-middle-class and non-white offenders. Also, non-white, non-middle-class women may be adversely affected by such reforms in practice. Factors such as poverty, age, disability, and sexual orientation also affect how Aboriginal women experience violence and what solutions to this problem would be appropriate to their needs (Koshan, 1997).

Some Aboriginal women say that violence by Aboriginal men against Aboriginal women is the result of the process of colonization and was not prevalent or accepted in their traditional communities (Koshan, 1997). As such, many Aboriginal women see 'violence' as both state violence against First Nations people and male violence against women. The Canadian criminal justice system's racism and lack of cultural sensitivity towards Aboriginal peoples play a crucial role in any dealings between the state and Aboriginal peoples (Koshan, 1997). The history of the criminal justice system's relationship to Aboriginal people must be understood as a relationship of violence (Monture-Okanee, 1991). The correctional system marginalizes those individuals who do not occupy mainstream status and/or share a respect for incarceration and rehabilitation (Monture-Okanee, 1991). Aboriginal women are often unwilling to subject their partners to a system that has resulted in the significant over-representation and incarceration of Aboriginal men (Koshan, 1997). Aboriginal women often lack confidence in the justice system and its ability to stop violence (Koshan, 1997). This is a recurring theme amongst non-white, non-middle-class women - a lack of faith in the state and in the criminal justice system due to a history of state intervention based on racism and classism.

In terms of which type of approaches Aboriginal women would like to see for dealing with domestic violence in their communities, it is clear that mandatory arrest policies is not the solution. Aboriginal people want a judicial system that recognizes their

way of life – their values and beliefs (Monture-Okanee, 1991). Reform of the criminal

justice system must include the rejection of the very basis on which the non-Aboriginal

system is constructed (Monture-Okanee, 1991). Aboriginal women often want a healing

process to end the violence, not an adversarial, punitive process which puts an end to

their families (Koshan, 1997). In addition, Aboriginal women often desire to maintain

their domestic relationships because of their importance to the community (Koshan,

1997), which makes mandatory arrest particularly difficult. Many Aboriginal women feel

that it is the offender that is most in need to help break the cycle of violence, but it is he

who is most ignored within the system (Native Women's Association of Canada, 1991).

This points to serious problems with how the current system deals with the issue of

domestic violence and to the current legal system as a structure of inadequate

representation. Another aspect of the non-elected state that poses a challenge to

representation is our system of bureaucratic administration.

B. Democratic Administration

A fundamental aspect of the argument in this paper is that representation is not solely

about electoral politics. Susan Phillips refers to democratic governance, while others use

the term *democratic administration*,[6] to signal a definition of democracy that goes

beyond representative democracy in electoral politics, to include citizen and group

participation in the policy process (Phillips, 1993). Due to the "fundamental inequality of

society,"

> the task of creating a more participatory and democratic
> government might involve several interrelated steps: 1) expansions
> of mechanisms for citizen participation that provide realistic
> opportunities for large segments of society to participate; 2)
> extension of a regime for regulating fairness in representation which
> both regulates the privileged and assists the disadvantaged; 3)
> provision of open access to information; and 4) development of the

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[6] See Albo, Panitch, and Langille, eds., 1993.

capacity for self-management of policies by groups and communities (Phillips, 1993: 13).

Sue Findlay also demonstrates that structures of representation exist in non-elected realms of the state, such as the bureaucracy and therefore they too (or maybe especially), must be the objects of democratization (Findlay, 1993).

Democratic administration entails a reconfiguration of the relationship between state and society. It emerged as a critique of traditional Weberian bureaucracy based on hierarchy, secrecy, expertise, neutrality, etc. It is also a reply to neoliberalism, positing that only a more democratic and participatory public administration can challenge the growing inequality and polarization in Canada. Democratic administration means, among other things, that public sector workers have closer contact with citizens and social movement organizations (Findlay, 1995); that positions are elected whenever possible (Panitch, 1993), and representative of the full diversity of Canadian citizens in terms of race, gender, class, sexuality, nationality and ability; that the use of referenda on major policy decisions (such as free trade) is encouraged (Rebick, 2000; Rebick and Roach, 1996); and that a decentralization of power and a leveling of hierarchies is pursued (Albo, 1993).

It must be noted though, that efforts at developing democratic administration often fail to consider specific issues of gender, race, class, nationality, sexuality, ability, and age. A feminist democratization of the state is necessary, and a number of scholars have been building a body of literature that seeks to understand what that might look like. Alexandra Dobrowolsky argues that "the input of femocrats (i.e., feminists within the bureaucracy) is a significant, if underacknowledged, aspect of the women's movement in this country" (Dobrowolsky, 2000: 9). Sue Findlay has been charting this territory by analyzing and problematizing the experiences of feminists working in women's policy machinery (federal, provincial and municipal) in Canada and their

interactions with the women's movement (1997, 1995, 1993, 1988,1987). Others are

beginning to explore this terrain as well. Canadian feminists are learning from the

experiences of Australian femocrats, where the bureaucracy has been a main strategic

focus of feminist politics.

The femocrat strategy in Australia grew out of the Women's Electoral Lobby

(WEL), who diversified their political strategy beyond temporary electoral politics, to

establish permanent women's policy machinery in the bureaucracy at both the state and

national level (Sawer, 1990; Eisenstein, 1991). Some of this machinery includes the

Office of Women's Affairs, the Office for the Status of Women, the Women's Bureau in

the Department of Labour, the women's coordinator in the Office of the Prime Minister,

women's advisor, departmental units to monitor the impact of programs on women, and

advisory bodies (Sawer, 1991). Hester Eisenstein, a former Australian femocrat, while

identifying some of the contradictions and challenges for feminists working within

bureaucratic forms of organization, emphasizes concrete policy gains for women in

areas ranging from child care to violence to employment (Eisenstein, 1996). The origins

of the gender budgeting in the early 1980s can also be linked to Australian femocrats

(UNIFEM, 2000).

It must be noted that in Canada, similar women's policy machinery as in Australia

were created at both the federal and provincial levels, partly in response to the Royal

Commission on the Status of Women (RCSW). Over the 1980s and 1990s, however,

much of this machinery has been "restructured," or more accurately, dismantled. At the

federal level, since 1993, the Canadian Advisory Council on the Status of Women

(CACSW) and the Women's Programs were dismantled, with their responsibilities

purportedly transferred to the now-small and strained Status of Women Canada. The

Native Women's Program has disappeared. The Minister Responsible for the Status of

Women went from a full-fledged Cabinet Minister to a Junior Minister. These 'shuffles'

were accompanied by drastic funding cuts. Similar changes have been made in many provinces: in New Brunswick the Women's Directorate was dismantled, with significant cuts to the New Brunswick Advisory Council on the Status of Women; in Ontario, the Ontario Advisory Council on the Status of Women was dismantled, with significant cuts to the Ontario Women's Directorate (OWD); in Saskatchewan, the Women's Secretariat of Saskatchewan was rolled into the Department of Labour; in Alberta, the Alberta Advisory Council on the Status of Women was dismantled; in British Columbia, the Women's Ministry was rolled into Ministry of Community, Aboriginal and Women's Services, and the Women's Minister demoted to a Junior Minister; in the Yukon, the Yukon Women's Directorate was dismantled last year; and in the Northwest Territories (NWT), the NWT Women's Directorate was dismantled (Mitchell, 2001).

Such changes are significant because these structures, despite their flaws, provided arenas of representation for women, beyond electoral politics, and served as democratic points of convergence for feminists inside and outside of the state. In the Australian context, Eisenstein does not focus all of her attention on the state, which is important for feminist representation and feminist democratic administration. She emphasizes the relationship between those working "without" and "within," and on the need for mobilization outside of the state (Eiseinstein, 1996). Chantal Maillé makes a similar point about the importance of the Québec women's movement in bringing about progressive policies for women (Maillé, 1997). Alexandra Dobrowolsky also notes how inside/outside ties have been essential in women's constitutional struggles in Canada (Dobrowolsky, 2000). These ties have been weakened by both internal government restructuring and by related cuts to funding for popular organizations, which seriously challenges democratic representation.

Beyond exploring the democratic potential of structures of representation within the bureaucracy, efforts have also been aimed at pushing for gender-based policy

analysis and for gendering budgets (Bakker, 1998; Bakker and Elson, 1998;

Teghtsoonian, 2000). Both gender-based policy analysis and gender budgets are based

on the idea that policies that seem gender-neutral may very well have a disproportionate

impact on women, because they are situated differently in society. As Isabella Bakker

shows, often policies have underlying assumptions about the family and women's unpaid

work, which result in gendered policies. For instance, the downloading of social services

to the family and/or voluntary sector does not consider the costs in terms of women's

unpaid work, and thus Bakker suggests that

> policy makers must make explicit their assumptions which underpin
> macro-economic policies ... When governments choose to forego
> lost revenues in exchange for savings on health expenditures partly
> realized through unpaid activities in households and communities,
> such a policy decision should be stated clearly (Bakker, 1998).

A formal (and binding) process for reviewing policy and budgets for gender-bias should

be a basic requirement for democratic governance and administration.

The federal government has accepted gender policy review since 1995, when it

signed onto the UN Platform for Action in introducing the five-year Federal Plan for

Gender Equality, and with the Convention on the Elimination of All Forms of

Discrimination Against Women (CEDAW) in 1997. It has introduced gender-based

policy analyses into areas such as the Department of Justice, Health Canada, the

Canadian International Development Agency (CIDA), and Human Resources and

Development Canada (Rankin and Vickers, 2001). Yet the process must be

universalized to all government policies and programmes (and across the provinces as

well). We continue to have clear examples of systemic gender discrimination in federal

policies. For instance, Employment Insurance (EI)[7] is one which indicates that such

initiatives must not simply go through the motions, they must be binding.

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[7] See, for example, Pulkingham & Ternowetsky (1998), Vosko (1996), Women's Legal Education and Action
Fund (LEAF) (2003), Canadian Auto Workers (CAW) (2003), Canadian Labour Congress (2000).

It should be discussed that some observers are beginning to highlight the exclusionary and elitist nature of these measures, which rely heavily on feminist "experts," and raise questions around representation. Rankin and Vickers voice the concern that "gender-based analysis may evolve into a status quo approach that represents the perceptions of well-educated, majority women" (Rankin and Vickers, 2001: 35). However, gender-sensitive budgets and policy making need not be exclusionary. In South Africa, the women's budget is conducted by several non-governmental organizations (NGOs) and the Parliamentary Joint Committee on the Improvement of the Quality of Life and Status of Women, and "popular education initiatives" have been developed, with material written in plain language, to de-mystify the budget for people. In Switzerland, the gender budget is the result of collaboration between labour unions and NGOs, and in Uganda between the Parliamentary Women's Caucus and an NGO called the Forum for Women in Democracy. The United Nations Development Fund (UNIFEM) also provides assistance through workshops and technical support in gender budgeting (UNIFEM, 2000). These are good steps that can be expanded beyond organized groups to communities. The ultimate goal should be participatory gender-based policy analysis and gender budgets: a democratic budget and policy process that represents the priorities of people.

Feminist concern around representation is also beginning to filter into calls for a more representative bureaucracy (Vickers, 1997). But feminists are also insisting that numerical representation is not enough. We need to re-think the forms that representation has traditionally taken. Of particular interest is the work that has been done to show how current public bureaucracies and structures of representation are organized in defiance of 'intersectionality' (the idea that citizens have overlapping experiences of class, race, gender, sexual orientation, ability, nationality, and age). Christina Gabriel has shown that within the Ontario Women's Directorate (OWD) and the

Race Relations Department (RRD) "racism and sexism were … largely conceptualized as separate and distinct," and so "women of colour … often fall between the mandates of those advocacy offices promoting gender and racial equality" (Gabriel, 1996: 185, 191).

Similarly, Ann Tobin found that in Britain's Greater London Council (GLC), "formal support for gay rights often ended up coming from either the Women's Committee which encompassed lesbianism within its remit or from the Ethnic Minorities Unit which employed gay rights workers" (Tobin, 1990: 60). The Women's Committee did not encompass the existence of a lesbian who is also a woman of colour and a worker. The Ethnic Minorities Unit took for granted a unity of interest between lesbians and gay men (Tobin, 1990). In neither case was there much room for women with disabilities; a situation analogous to that outlined by Sue Findlay. Findlay gives an example from the municipal administration of the Mayor's Committee on Community and Race Relations and the Interdepartmental Action Committee on People with Disabilities in Toronto. The operation of the two separate entities demonstrated to Findlay that

> categorization is obviously not a solution that 'makes sense' for the representation of 'women with special needs.' Their lived realities visibly challenge the separation of race, gender, abilities - and obscure class differences … 'women' is a highly differentiated category that can be defined only in terms of the interrelationships of class, race, gender, abilities, and sexual orientation in the everyday lives of women (Findlay, 1993: 159-160).

Feminist democratization involves moving beyond the categorization of interests and identities, toward transferring power to the people and making states accountable (Findlay, 1993).

Borrowing from the work of Rianne Mahon, and conceptualizing the bureaucracy as an "unequal structure of representation," Findlay draws attention to the ways in which the same power inequalities of gender, race, class and ability are reproduced inside the state that exist outside of it (Findlay, 1993). For instance, the position of women's policy machinery at the federal level (Status of Women Canada, for instance) is marginal in the

state's power structure. Therefore, "[w]ithout an understanding of the limits of representation - of the particular way that democracy has been liberalized and embedded in the very forms of representation for which we have struggled long and hard - democratization is impossible" (Findlay, 1993: 162). Thus, democratizing the administrative side of the state, and representation within it, requires not simply resurrecting what was lost to restructuring, but rather creating new, accountable, and participatory structures of representation and linking these strongly to popular movements outside of the state.

III. REPRESENTATION BEYOND THE STATE: PARTICIPATORY DEMOCRACY AND CONSULTATION AND STATE FUNDING

A. Participatory Democracy

Participatory democracy is not a new concept; it was one of the central features of the New Left in the 1960s, and was further developed by the women's movement which recognized the wisdom of everyday experience (Rebick, 2000). In fact, the original concept of democracy was that all citizens would participate fully in decision-making and public life (Rebick, 2000). To illustrate participatory democracy, we will discuss a variety of approaches, from referenda to participatory budgets, like in Porto Alegre, which serve to enhance democracy.

The political mechanism of referenda is useful only when they are available for any major issue that either elected politicians or a significant number of citizens believe is worth putting to a vote (Rebick, 2000). However, most parliamentary democracies have been hesitant to use referenda for direct citizen participation, as they are viewed as interfering with the work of elected representatives (Rebick, 2000). In fact, theories of democracy have often emphasized the dangers inherent in wide popular participation in politics (Pateman, 1970). One major problem is that the current democratic process only gives citizens choices developed by elite groups; there is no room for the development of citizen ideas (Rebick, 2000).

Rebick argues that there must be a number of changes to enable participatory democracy. These changes include the urgent address and reversal of the growing gap between rich and poor; the opening up and democratizing of international institutions; the reduction of the work week; and the creation of pools of capital that can be

democratically invested in the community based on community priorities (Rebick, 2000).

It is clear how such changes enable all to participate - citizens need the financial

resources to be able to focus on public life without having to devote all of their efforts to

simple survival; citizens must also have the time to devote to public life, which is where

the reduction of the work week plays an important role. In this time of increasing

globalization, the democratization of international institutions is critical so as not to

undermine local or national gains in the area of participatory democracy. There must be

enough resources to implement community decisions, a problem faced and dealt with by

the Worker's Party (PT) in Porto Alegre, Brazil, in 1988, through the creation of a more

progressive tax system, to which we will now turn.

Representation and participatory democracy are often posed in oppositional

terms. But current developments in Brazil, as well as Canada are demonstrating that the

two can be linked together in democratically effective ways. With reference to Brazil, it is

the PT, under the leadership of Luiz Inacio Lula da Silva, or Lula, which is pushing for

more participatory democracy. Lula took office as President of Brazil on January 1,

2003, becoming the first president in Latin America of working-class background (Polzot,

2003). Lula's victory will encourage and facilitate a critical mobilization of grassroots

activism and civil society mobilization (Polzot, 2003). While the PT has already enjoyed

power in different areas of Brazil since its formation in the 1980s, Lula's victory is viewed

as potentially an important step forward in the process of building democracy that Brazil

has undergone in the past decade, through the cultivation of participatory democracy

(Polzot, 2003).

The PT has been broadly considered to represent "the new working class

organization of the twentieth century," distancing itself from both the non-democratic

model of centralized state communism and the formalism of parliamentary social

democracy (Polzot, 2003). The PT is different in that its approach is based on the

mobilization and organization of the masses, empowering them to organize from within the Brazilian state system (Polzot, 2003). The PT is seeking an alternative to the politics of corporate globalization and encourages people to develop a new vision of a fairer society, one where the democratic participation of the people is at the core (Rebick, 2000).

In cities and regions where the PT has been in power for years, they have put their ideas into practice by involving ordinary citizens in the decision-making process (Rebick, 2000). A large part of this participatory democracy revolves around the idea of a participatory budget, or OP. The shining example of this is, of course, Porto Alegre, a city of one million, where ordinary citizens participate in identifying their city's priorities through the OP. When the PT was elected in Porto Alegre in 1988 they committed to govern through popular councils, but had no experience or resources, so they brought together existing groups within the region, as well as the previous administration and came up with a plan for a more progressive tax system and a system of open meetings. The people of Porto Alegre participate in the process because they know that they will influence decisions and policies. In the current era, participatory democracy works only when citizens see results - that their work is affecting political decisions. While the organization of the participatory budget is quite detailed and complex, it is important to understand just how much power citizens have in this process and, as such, a brief outline of the participatory budget process will follow (Rebick, 2000).

The participatory budget of Porto Alegre begins with the election of citizens to serve alongside city councilors (Rebick, 2000). At the beginning of the process in March and April, a progress report on the previous year is presented and debated by citizen forums, where all are invited, encouraged, and welcome to attend. At these citizen forums, each person who shows up gets one vote. Once the budget process begins, representatives are elected to serve on the OP council, and each forum decides which

service and spending priorities it wants to see that year. These proposals are forwarded

to the municipal council where a budget is drafted, which goes back and forth between

municipal bureaucrats and the OP council before the final version is sent to the mayor

and municipal council for approval. Between October and December, the OP debates,

discusses, and amends the plan for the next year (Rebick, 2000).

The participatory budget of Porto Alegre is a great example of how direct

democracy and representative democracy can work together to strengthen one another

(Rebick, 2000). The results of this are evident in the social advances of Brazil, such as

a one-third decrease in infant mortality and a significant decrease in the spread of HIV

(Polzot, 2003). The PT's approach is also gaining popularity elsewhere, with

Venezuelan President Hugo Chavez embracing participatory democracy, stating "[w]hat

we are trying to do is move from a representative democracy… to a participative one;

one in which the people are more fully involved at all levels of the power structure"

(Rebick, 2000: 30-31). The PT's strategy for achieving participatory democracy has

been cited as an example by many around the world who consider the participatory

budget process as a model to be implemented elsewhere.

The participatory budget in Porto Alegre has stimulated interest around the world,

and Canada is no exception. In local communities across Canada, citizens are exploring

ways to involve people in important decisions about resources and priorities.

Shannon Devine provides that Canadians, influenced by the message from the World

Social Forum that "another world is possible" are insisting that "another Canada is

possible," and are seeking ways to pursue local democratization (Devine, 2003). Devine

uses the participatory budgets in Guelph and Toronto as examples.

In Guelph, with a population of 100 000, "members of six neighbourhood

associations annually decide on projects for their area, for which the city provides

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$60 000 in funding. All projects are decided upon by consensus" (Devine, 2003). In

some instances, Guelph goes even further than Porto Alegre does, because decisions

made by Guelph neighbourhood associations cannot be vetoed by the city council. The

municipality has engaged in widespread consultations with residents, as part of "Smart

Guelph," an effort in identifying community priorities and values. Some of the results

include projects ranging from collective kitchens to family literacy programs and

counseling. While some have noted that democracy could still be strengthened by

extending consultation beyond the initial stages of the policy process, the Guelph case

provides some promising democratic lessons (Devine, 2003).

In Toronto, the Toronto Community Housing Corporation (TCHC) has also

explored participatory decision-making for tenants. As Devine explains,

> the 164 000 residents of public housing decide on $10 million of the
> TCHC's annual expenses. Buildings are divided into Community
> Operating Units (COUs), which meet to brainstorm and elect a
> representative to the budget council. This council considers their
> ideas and awards funding to each COU (Devine, 2003).

Toronto citizens, including a group called the Toronto Participatory Budgeting Network,

are seeking to expand this process to all policy areas, where 10 per cent of the

municipal budget would be assigned by the people. Many hope that these local efforts at

democracy can bring participatory budgeting to the federal level (Devine, 2003).

Participatory democracy can exist outside of the budget process too. Judy

Rebick discusses her experience as then-president of the National Action Committee on

the Status of Women (NAC) with the citizen forums for the Charlottetown Accord, as well

as study circles, used to bring citizens directly into the policy decision-making process

(Rebick, 2000). In Manitoba and Saskatchewan, there is a tradition of public

participation in planning, decision-making, and policy development, and in certain policy

areas, like waste management, education, and health, public participation is also

common in New Brunswick (Connor). Connor has found that one federal Member of

Parliament (MP) from New Brunswick "holds a monthly all-day People's Forum, which breaks up into workshops and reports to a plenary meeting at the end of the day, and he is working on an electronic process to link constituencies across the country to discuss key issues" (Connor).

While not strictly an example of participatory democracy, the establishment of the territory Nunavut in Canada is also a very important example of democracy for Canada's Inuit people. On April 1, 1999 Nunavut officially entered into existence as the world's largest indigenous-controlled territory (Miller, 1998). As mentioned earlier, the population size of federal ridings generally precludes minority-group control (Gibbins, 1991). However, Nunavut (and the Northwest Territories, to a lesser degree) are the exceptions to this rule. In fact, Miller claims that Nunavut is arguably the most important achievement in the indigenous rights arena in history (Miller, 1998). After decades of negotiations, a referendum finally broke the deadlock between the Inuit people and the federal government. A referendum held in the Northwest Territories in 1982 saw 57 per cent of voters in the territory approving of the proposed bifurcation; however, 80 per cent of those in the proposed Nunavut region supported the plan (Miller, 1998). The referendum, an exercise in participatory democracy, gave the federal government the evidence and confidence it needed to go forward with the proposed Nunavut territory (Miller, 1998). The "virtual self-government" of Nunavut is not absolute as the legislature remains subject to federal law and the federal system of Canada (Miller, 1998). Thus, the power of the Inuit in Nunavut derives from the fact that they make up a large majority of the population (Miller, 1998).

Some notes of caution around participatory democracy are in order. Even though in many ways, women's movements have been pioneers in participatory democracy in their own organizations, participation takes time, and time is gendered. Anne Phillips stresses that "[i]n societies where the division of labour is ordered by sex (that is, every

society we know), time becomes a crucial constraint on women and meetings an additional burden" (Phillips, 1991: 21). This is why, in addition to Rebick's proposals on work sharing, we need to democratize unpaid labour as well. And, despite the gendered nature of time, by providing child care and other support services, the state can ensure that all are free to participate. This is exemplified in Brazil, where women make up half of the participants in the budget process, and where working-class people are the majority of participants. However, democracy is about the participation of individuals, and groups, so the representation of social movements, through consultation and state funding, is also crucial.

B. Social Movement Consultation and State Funding

1. Consultation

Often, "consultation" has been used to create the appearance of democracy, with very little substance. As Hilary Wainright writes:

> consultation exercises have been concerned primarily with winning assent. At best, they [state officials] have asked citizens to indicate preferences between options drawn up by experts, thus strengthening the legitimacy of the final decision. They have not been concerned with gathering knowledge (Wainright, 1993: 115).

Reflective of this approach, on its website, the federal government has launched an initiative called "Consulting Canadians," where people can access a list of policy topics such as firearm regulation, agricultural policy, family support, and food and drug regulation, and read background information. The site also provides a link on how to participate, but unfortunately, this simply leads to more, and not very accessible, text about the policy (Consulting Canadians, 2003). It is very unclear how people find out how to actively get involved in any of the policies listed. Even the part of the site that provides "Consultation Contact Information," leaves blank both the contact phone and

e-mail information, instructing the reader to "Refer to the Canada Gazette" (Consulting Canadians, 2003).[8]

Nonetheless, there are examples of consultative approaches that are substantive, and have operated with the understanding that there are "other forms of knowledge - as expressed, for example, in the daily lives of ordinary people and in the media of popular culture" (Wainright, 1993: 114) that must be valued, not only because it is democratic, but because it provides new ways of thinking about public policy problems and solutions. Susan Phillips adds that "citizen groups … serve as vehicles for direct participation, alternative sources of policy expertise, effective mechanisms for communication of information and vocal watchdogs over governments" (Phillips, 1993: 12).

In terms of social movement representation, and consultation and state funding more specifically, the English Greater London Council (GLC) is one of the most important examples of participatory democracy in action. From 1982 to 1986, the left of the British Labour Party, under the leadership of Ken Livingston, was elected to the GLC (Rebick, 2000). The GLC's move towards participatory democracy came at a time when the right-wing government of Margaret Thatcher was in power at the national level; the GLC aimed to carry out a radical agenda on the municipal level in London. In order to achieve its goal of participatory democracy and radical reform, the GLC reached out to community groups by funding groups working for social and economic change. In exchange, these groups elected representatives to Council committees to work together on ideas and strategies, blurring the lines between participatory and representative democracy. The GLC began to delegate some its power to citizens' groups, but in return it received new knowledge and political support, which were invaluable resources. This

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[8] It should also be noted that there is growing concern among popular organizations that such e-government processes are individualistic and exclusionary of community groups.

approach to political decision-making recognizes the specialized knowledge and experience that community groups can contribute to the policy process (Rebick, 2000).

The GLC actually demonstrates the link between participatory and representative democracy quite effectively, since the elected councilors actively sought the input of popular organizations. Many community groups in London did not ask to be a part of the GLC or to receive funding or to be consulted, but beginning in the early 1980s the GLC pursued them vigorously (MacKintosh and Wainwright, 1987). The GLC represented a more democratic approach to economic policy, supported from within the state. The GLC of the early 1980s sought to create jobs and improve employment conditions, thereby influencing the economy of London. This economic policy was developed with the participation of working people, thus strengthening the control of working-class Londoners over resources and policy (MacKintosh and Wainwright, 1987). The GLC stated that their "vision for the future is a city in which the elected representatives take the lead in economic planning - with maximum community involvement - for a prosperous London" (MacKintosh and Wainwright, 1987: 2). The way that this maximum community involvement was achieved was to provide support for community groups - campaigning groups, trade unions, community resource centers, women's groups, and co-operative development projects. In particular, the GLC strengthened the position of labour within the London economy (MacKintosh and Wainwright, 1987), a key success given the agenda of the national government.

The resources of the GLC were substantial as the Council was a big local authority; however, they paled in comparison to the economic crisis facing London in the early- to mid-1980s (MacKintosh and Wainwright, 1987). Thatcher's attack on jobs in the manufacturing and public sectors meant that hundreds of thousands of jobs were lost. Thus, the GLC began to see its role as giver of grants, which was a way of furthering the aim of increasing people's control over economic activity and policy.

Eventually, the GLC began to see its role as much in resourcing and supporting the struggles of others as in doing anything directly through its own spending (MacKintosh and Wainwright, 1987). Those within different social movements who started from a position of opposition to the state began to see that their initiatives needed state support, and they had a right to demand it of the Labour Party (MacKintosh and Wainwright, 1987).

The GLC's grant giving role could also be traced back to the tremendous pressure it faced early on from the probability of abolition; these pressures affected the way resources were used (MacKintosh and Wainwright, 1987). As such, using state resources to strengthen the organizations of working-class people and their capacity to pressure the state became an essential element of working towards more economic democracy. The GLC gave organizations resources so that they could do things for themselves - running projects, providing services, pressuring the government, and campaigning. The GLC was pushing the boundaries and creating a more participatory democracy within the municipality of London. As a result there was increased citizen participation and an increased sense of accountability within the GLC (MacKintosh and Wainwright, 1987). While there were certainly problems with the GLC ranging from its neglect of issues of race and, to a lesser degree, gender to the concerns of weakened autonomy of community organizations, it remains a critical example in a short list of experiments in participatory democracy.

In Canada, there have also been some successful cases of movement consultation. Rebick describes the input that anti-violence activists were able to have into the rape shield law, the involvement of poor people, anti-poverty workers and community members in Ontario on the Transitions report on welfare reform, as well as the process around the Charlottetown Accord (2000), as instances where consultation with groups and communities was genuine and effective.

For groups to be effective in participating in the policy process, however, they need to be able to do research, and they need to be able to communicate with their members (essential for accountability and accessibility). This costs money, so they need a reasonable level of financial stability. For Phillips, "a necessary function of the state is to compensate for the inherent inequalities by including representatives of the less privileged groups in political institutions and consultations, and by providing assistance to these groups (perhaps in the form of public funding) so that they, too, can have a voice" (Phillips, 1993: 12). In the UK context, one of the most significant developments from the GLC was that community groups received funding, not only for service provision, but also for advocacy work (Rebick, 2000: 37).

2. State Funding

There is strong disagreement within the women's movement and other popular movements when it comes to the issue of state funding for organizations. Many believe that state funding has deleterious effects including de-radicalization, co-optation, and loss of autonomy (Loney, 1977; Ferguson, 1984). Linda Carty and Dionne Brand are particularly suspicious of state funding, asserting that state-funding makes the National Action Committee on the Status of Women (NAC)[9] "a conduit of legitimation" and "an arm of the state" (Brand and Carty, 1993: 178, 179). This debate has also been ongoing among members of NAC itself, some of whom prefer to maintain independence, and others who feel a sense of entitlement to government funding (Vickers et al., 1993). In her book conversation with former NAC president Judy Rebick, Kiké Roach asserts that,

> [f]or most of its life, NAC has been about 80 per cent funded by government. But today, only about 20 per cent of NAC's budget comes from the feds. I think that is a good thing, because the less feminists rely on government, the more self-determining - and critical of government - we can be (Rebick and Roach, 1996: 99).

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[9] Although their article refers to a period of time when NAC had a very different funding relationship with the federal government.

The concerns raised about state funding are warranted. The seemingly partisan nature of funding by the Tories during the 1980s (where NAC, increasingly radical, and anti-free trade and anti-Meech Lake Accord, saw drastic cuts to its funding, while the anti-feminist group REAL Women (Realistic, Equal, Active, for Life) received state funding for the first time), reinforces the threat to independence associated with state funding. But in such cases, the larger problem is that there is no mechanism in place to secure funding, making groups vulnerable to partisan interference.

There are substantial issues of representation involved, in that political parties receive state funding, yet are highly inadequate in representing the interests and identities of women and other marginalized groups. Popular organizations have legitimate claims to funding given their importance in making up for the failings of other institutions of representation in Canada. For instance, it is particularly difficult for visible minority immigrants to participate in the Canadian electoral system, as they often feel discriminated against and excluded from society, due to their cultural origin or because they are perceived as "others" or foreigners (Simard, 1991). Many visible minority immigrants express a strong sense of disappointment in the real possibility of exercising the rights obtained on becoming a Canadian citizen (Simard, 1991). There is also a sense of disappointment in the lack of representativeness in the system (Simard, 1991). As Simard argues, visible minorities participate in various community groups and see this participation as an alternative to participation in political parties, as these community groups are better able to promote their specific interests (1991). Often visible minorities have an image of political parties as agents promoting and defending the interests of dominant groups, whereas community associations are viewed as agents promoting and defending the interests of minority groups (Simard, 1991). Thus, in addition to the structural barriers and racism of the Canadian electoral system, these factors also help

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to explain why so few visible minorities are involved in party politics and, instead focus on organizations at the community level.

Visible minority community groups are an important part of how visible minorities in Canada participate in politics and make their interests known. This is also true for women, where various types of women's organizations have been functioning as alternative channels for affecting government policies for decades (Maillé and Wangnerud, 1999). The feminist idea that the personal is the political plays an important role in women's involvement in such organizations. Maillé and Wangnerud argue that women's political representation involves both women in formal political structures as well as their involvement in autonomous women's organizations (1999). In addition to serving the role of mobilizing around certain issues, women's organizations also increase public awareness of the under-representation of women in politics and place pressure on the system to change (Maillé and Wangnerud, 1999).

NAC, for instance, has called itself a "parliament of women," making clear representational claims. In the face of such representational promises, it has struggled to maintain a nationally-based focus and membership, and a main reason for accepting state funding was that "[g]iven the country's vast territory and sparse population, few pan-Canadian or even provincial/territorial groups could survive without government support" (Vickers et al., 1993: 28). For organizations, like NAC, who commit to accessibility, requiring translation services and sign interpretation, bilingual publications, regional offices, (well) paid staff, etc. (Vickers et al., 1993), the funding requirements are considerable. Claims to state funding by popular organizations, then, are important regardless of the adequacy of the party system, as they are fundamental to the functioning of democracy.

This is why the funding of women's and other organizations has a history in Canada. The early mandate of the Women's Program was based on the principle that in

a democratic society, groups must be funded to adequately provide alternatives. NAC

explains that the Women's Program

> fund was a creation of what is referred to by many women as an
> equality fund. It recognized the fact that women had a right to
> democratic participation in Canadian society and that given our
> political, social and economic inequality, the necessary financial and
> other resources must be provided as a proactive measure (NAC, 2).

Support has also been in kind. In the past, the Toronto Board of Education and City Hall

have been committed to working with community organizations, providing space, food,

transportation, and child care for participants. They have fostered an advocacy model

"permitting the movements to become co-architects of policy development and

implementation"(McCuaig, 227).

Regretfully, we are moving further and further away from this model. The cuts

made by the Mulroney government in the late 1980's have not been reversed by the

Chrétien Liberals. In fact, further changes to funding introduced by the Liberals were

strongly opposed by NAC. The government has ended core funding, and as NAC

states, "under new criteria, NAC's work will be measured on a project by project basis

and this is contrary to our mandate. Women's lives are not short term projects" (NAC, 3).

NAC stresses that

> it is through the access to financial resources of the Women's
> Program Fund that women's groups have been able to participate to
> a large degree in the democratic political processes of this country.
> A cut to this funding is a cut to women's democratic rights (NAC, 2).

Now NAC is on the verge of financial collapse.

In October 2000, thousands of women around the world participated in the World

March of Women. In Canada, over 20, 000 people gathered at the Parliament buildings

in Ottawa on Oct. 15, 2000. The Canadian Women's March Committee explained that:

> [i]n solidarity with women from 157 countries, Canadian women are
> marching to demand that our federal government adopt immediate
> and effective measures to end poverty and violence against women
> in the year 2000. Across Canada, in all languages, communities,

cultures, races, and sectors, women are calling on the government to radically change its way of governing, and to actively promote the public interest and adopt specific measures that will move us forward in the progressive realization of women's rights (Canadian Women's March Committee, 2000)

The Women's March Committee drew together 13 demands called the "Feminist Dozen," which are seen as imperative for women's equality. One of these demands is for $30 million in core funding for equality-seeking women's organizations. This is part of the "Our Fair Share" campaign, which asks for $2.00 for every woman and girl child in Canada (Canadian Women's March Committee, 2000). This work is being done around the need for reinstating federal funding of women's groups, is also fundamental to strengthening the 'inside/outside' ties described earlier in the context of democratic administration.

CONCLUSION

In this report, we argue that representation continues to be relevant, although a broader understanding of representation is needed to further democratic governance. This view of representation, which encompasses a more diverse set of interests, identities and ideas, must bridge the gap between representative and participatory democracy, and include not only elected politics, but also non-elected and non-state spheres.

In exploring how to make our system of elected politics more representative, we identify systemic barriers to the participation of marginalized groups in both the Canadian electoral system, and our system of campaign finance. We suggest directions for change, including the move to some form of Proportional Representation (PR) and to completely publicly funded elections, as part of a wider project of democratization.

In advocating an expanded approach to representation, we also address the non-elected state, specifically the legal system and the bureaucracy. In our analysis of racial profiling and mandatory arrest policies around domestic violence, the racialization of our legal system points to both procedural and substantive lapses in representation and democracy. Accordingly, we offer a series of proposals. Likewise, we consider the problematic nature of public administration, and how the bureaucracy might be made a more democratic structure of representation. We then link the need to democratize these state structures with representational spaces outside of the state, by focusing on participatory democracy and social movement consultation and state funding, which are essential to democratic representation. In light of the Law Commission's project, based on the goal of *Renewing Democracy*, we see the areas outlined in this report as vital to this task.

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