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ÉDITORIAL / EDITORIAL

Austerity and the social economy

L'austérité et l'économie sociale

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As the effect of Federal and Provincial budget cuts ripple throughout communities across Canada, it's hard not to think about the impact of these same cuts on social economy research. There is a planned 20 percent cut to the National research Council; the Co-operative Development Initiative has been terminated; and, resources within the Co-operative Secretariat have been slashed (the federal government certainly has a unique way of celebrating the International Year of co-operatives). A Canadian Association of University Teachers (CAUT)¹ report details how the granting councils will scale back or be eliminated as a result of a mandated 5 percent federal budget cut.

Comme les coupures budgétaires fédérales et provinciales ont un effet d'entraînement dans les communautés partout au Canada, il est difficile de ne pas penser à l'impact de ces mêmes coupures sur la recherche en économie sociale. Il y a une réduction de 20% prévue au Conseil national de la recherche; l'Initiative de développement coopératif a été résiliée et les ressources au sein du Secrétariat aux coopératives ont été réduits (Le gouvernement fédéral a une façon unique de célébrer l'Année internationale des coopératives). L'Association canadienne des professeures et professeurs d'université (ACPPU)¹ présentent des renseignements sur les programmes des conseils subventionnaires résultant d'une coupure de 5% dans le budget fédéral.

The presidents of SSHRC (Social Sciences and Humanities Research Council of Canada), NSERC (Natural Sciences and Engineering Research Council of Canada) and CIHR (Canadian Institutes of Health Research) have outlined the consequences of the federal budget for specific research programs. SSHRC is planning to cut \$8.2 million from its budget over the next three years by eliminating the Research Time Stipends program that provides funds to allow faculty adequate time for research, and by cutting \$5.6 million from health-related research.

CIHR is cutting \$40 million over three years by ending the Open Team Grant Program and by discontinuing the Intellectual Property Mobilization program. According to academic research consultant Jo Van Every², SSHRC granting councils will be pursuing operational efficiencies and reallocation of funding from lower-priority programs to generate savings. The Government will fully reinvest 2012–2013 savings in priority areas of the granting councils, particularly in industry-academic partnerships.

What to do? We suggest three choices: a) never assume that the cuts will not affect you, either directly or indirectly; b) build research partnership that reach out to new partners, particularly the private sector; and c) ask social economy research associations such as ANSER and CASC (Canadian Association for Studies in Co-operation) to join with university associations to catalogue and resist these changes.

Les présidents du CRSH (Conseil de recherches en sciences humaines du Canada), du CRSNG (Conseil de recherches en sciences naturelles et en génie du Canada) et des IRSC (Instituts de recherche en santé du Canada) ont souligné les conséquences du budget fédéral pour les programmes spécifiques de recherche. Le CRSH a l'intention de couper 8,2 millions de dollars de son budget au cours des trois prochaines années en éliminant le programme des Allocations de dégageement pour la recherche qui fournit des fonds pour permettre à des professeurs d'obtenir du temps pour réaliser leur recherche, et en coupant 5,6 millions de dollars pour la recherche liée à la santé.

Les IRSC couperont 40 millions de dollars sur trois ans en mettant fin au programme ouvert de subventions de fonctionnement et par l'arrêt du programme de mobilisation de la propriété intellectuelle. Selon le consultant en recherche universitaire Jo Van Every², les conseils subventionnaires vont chercher à améliorer l'efficacité opérationnelle et en réaffectant des fonds de programmes moins prioritaires pour générer des économies. Le gouvernement compte réinvestir en 2012-2013 l'ensemble des économies dégagées dans les domaines prioritaires des conseils subventionnaires, en particulier dans les partenariats industrie-université.

Que faire? Nous proposons trois choix: a) ne présumez jamais que les coupures ne vous toucheront pas, directement ou indirectement; b) bâtir des partenariats de recherche intégrant de nouveaux partenaires, en particulier le secteur privé; et c) demander à des associations de recherche en économie sociale tels que l'ARES et l'ACÉC (Association canadienne pour les Études sur la Coopération) à se joindre à d'autres associations universitaires pour répertorier et résister à ces changements.

Notes

1. <http://www.caut.ca/pages.asp?page=756>
2. <http://jovanevery.ca/making-sense-of-the-cuts/>

The Impact of a Community-University Collaboration: Opening the “black box”

Lynne Siemens

University of Victoria

ABSTRACT

Within the Social Economy, universities are working with community representatives to undertake research projects, service learning opportunities, and increasingly, academic program development, all with the objective of addressing social challenges. As many are quick to caution, the community is actually a sum of its various actors, interests, accountabilities and needs, which university staff and faculty must work to understand. Like the community, the university is a complex organization with politics, conflicts, tensions, and competing goals and objectives. Within this larger context, these various components, focusing on government, academic and administrative stakeholders, will impact and may even limit aspects of a collaboration between the university and its community partners. Through examination of a case study related to a graduate program, which was collaboratively developed between the university and community representatives, this article will identify and explore those accountabilities and the resulting impact on the collaboration. It will conclude with recommendations for similar partnerships.

RÉSUMÉ

Dans l'économie sociale, les universités travaillent de pair avec des représentants de la communauté pour lancer des projets de recherche, créer des occasions d'apprentissage par le service et, de plus en plus, développer des programmes d'études universitaires; tout cela dans le but de régler des défis sociaux. Beaucoup s'empressent de formuler une mise en garde : la communauté est en réalité la somme des divers acteurs, intérêts, responsabilités et besoins qui la composent, ce que les membres du personnel et les facultés des universités doivent tenter de comprendre par leur travail. Au même titre qu'une communauté, une université est une organisation complexe constituée de politiques, de conflits, de tensions ainsi que d'objectifs concurrents. Dans ce contexte large, ces diverses composantes, en particulier les intervenants gouvernementaux, universitaires et administratifs, auront des conséquences sur la collaboration entre l'université et ses partenaires communautaires, et peuvent même en limiter certains aspects. Cette étude définit et analyse ces responsabilités et leurs conséquences sur la collaboration par le moyen d'une étude de cas liée

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à un programme d'études supérieures développé grâce à la collaboration de l'université et des représentants de la communauté. L'étude se termine par des recommandations visant des partenariats similaires.

Keywords / Mots clés : Community based partnerships; Collaboration; Social economy; Graduate programs; Case study, University of Victoria / partenariats communautaires; collaboration; économie sociale; programme d'études supérieures; étude de cas; Université de Victoria

INTRODUCTION

As communities, organizations and individuals strive to address the challenges and opportunities that face them, they are partnering with universities to accomplish their goals (Baum, 2000). These collaborations range from participatory research projects (BALTA, nd; Hall, 2011; Lesser & Oscos-Sanchez, 2007) and service learning activities (Bringle & Hatcher, 2002) to curriculum development and delivery (Centre for Sustainable Community Development, nd). This trend is likely to continue as universities strive to align their academic programming and research closer with community needs and issues (Savan, et al., 2009).

Challenges abound with these kinds of collaborations given universities' and communities' differing cultures and contexts. Each must make an effort to learn about the other to ensure effective working relationships (Baum, 2000; Lefever-Davis, et al., 2007; Prins, 2005). According to many papers on community-based research, responsibility for this rests with researchers and others associated with the university. These individuals must approach the community with cultural humility and ensure that they understand its culture and context before undertaking activities with them (Lefever-Davis, et al., 2007; Minkler, 2004; Prins, 2005). For a partnership to be successful, all parties must understand the other, meaning that community members should undertake activities to learn about the university's context. Like a community, the university is comprised of various constituencies with different responsibilities and priorities. Within the realities of this type of partnership, the community may in fact need to develop a series of relationships within the larger university context (Bringle, et al., 2002). Ultimately, a two way engagement between the university and community partners needs to be developed through mutual understanding (Weerts & Sandmann, 2008).

Relatively little is written about the university context and its component parts and the impact these may have on projects with the community. Some reflection has been conducted on the nature of research within the university and its interaction with community-based research projects. Freeman and his colleagues (2009) explain the tenure and promotion process and make the argument that community members need to understand and care about supporting this process to ensure that community-committed researchers can continue working with their partners. Hollander (2011) explains the need for university researchers to gain peer reviewed publications as part of a community-university research collaboration and the impact that this can have on the shape and outcome of the research project itself. This type of articulation about the university context has not extended further to other parts of the organization, such as administrative and academic decision-making nor to joint academic program planning. The end result of this lack of knowledge is often frustration between the parties. The university partners tend to feel that the community does not understand their concerns or the type of research outcomes that the faculty need as part of their reward systems while the community perceives that the university partners have access to larger amounts of resources that could be applied to the collaboration than is at the disposal of the community (Buckeridge, et al., 2002). Overall, the university remains a "black box" to outsiders (and many insiders) and subject to criticism and misunderstanding (Anyon, et al., 2007; Howard Hughes Medical Institute & Burroughs Wellcome Fund, 2006).

This article contributes to the development of an understanding and appreciation of the university context by those outside through the examination of the experience of a community-university collaboratively developed graduate program. In particular, the impact of the university's multiple, complex and often contradictory accountabilities on the partnership's goals and objectives will be explored. By articulating this context and its potential impact, it may be easier to form a collaboration between the university and community to achieve their joint and individual goals and objectives.

First, the university context will be described, with particular focus on stakeholder involvement and accountabilities within government, academic and administrative contexts. Then, the case study will examine the specific impact of these contexts on the community-university partnership's goals, objectives and outcomes as they relate to joint academic program planning. The article will conclude with recommendations for other community-university partnerships, particularly those engaged in joint academic planning.

The University Context

As a starting point in explaining the university and opening the "black box", it is important to describe the university context and understand that it is complex and full of multiple accountabilities to stakeholders both inside and outside the organization (Jones, et al., 2001). The university is in many ways an organizational form unto its self. In some respects, it functions like a public sector organization and shares many characteristics and accountabilities with a government department. In other ways, it is similar to any large organization with rules and procedures. Finally, and perhaps most confusingly to those outside, the university has its own distinctive form of shared decision-making.

Involvement of government stakeholders

Within Canada, universities can be considered a type of public sector organization for several reasons. First, provincial governments create universities and colleges through legislation and must approve all degrees, diplomas, a certificate and other forms of academic programming. These acts also establish an university's organizational structure, notably a Board of Governors, Senate and different Faculties (Jones, et al., 2001). As an example, within British Columbia, the University Act creates a Senate, which is responsible for setting the criteria for academic standards, qualifications for student admission, faculty hires and establishment of new programs, and the various Faculties, which are responsible for their own graduate and undergraduate programs and the hiring of qualified faculty and instructors (Government of British Columbia, 1996). The Senate is comprised on university faculty, staff, students and alumni (University of Victoria, 2011b). Public universities in the United States and Australia are created in similar ways (Carnegie & Tuck, 2010; Duderstadt, 2000).

Second, provincial governments are the single largest funder of post-secondary education and tend to fund a larger proportion of a university's budget as compared to student tuition. Operating grants are provided based on student numbers. Further, provincial governments set tuition fee policies which limit the tuition level and the amounts by which they can increase; the latter are usually capped at the rate of inflation (Ministry of Advanced Education, nd). Perhaps not surprisingly, these policies influence the types and size of programs that universities can offer (Duderstadt, 2000).

Third, as public institutions, universities are subject to many of the same policies and laws as government bodies (Duderstadt, 2000). In British Columbia, these include limitations on salary and benefit increases (Ministry of Advanced Education, 2010) and the application of the Freedom of Information and Protection of Privacy Act (Office of the Information & Privacy Commissioner for British Columbia, 2004). This act defines the

nature of personal information and the manner in which it can be shared and with which parties. Essentially, personal information can only be accessed and shared with those who need it to undertake their duties, regardless of whether they are inside or outside the university (Office of the Information & Privacy Commissioner for British Columbia, 2004; University of Victoria, 2010b, 2010d).

Involvement of academic stakeholders

Universities, by reputation and often in reality, are seen to be slow and steady in their decision-making (Horowitz Gassol, 2007; Meyer, 2007), to the point of sometimes being described as glacial (Duderstadt, 2000). Good reasons exist for this reputation. Collegiality, debate, consensus and multiple points of approval are at the heart of university decision-making. This process is further complicated by the compartmentalization that has occurred as academic departments are formed on the basis of disciplines. It may be difficult to convince individual academic units to support larger institutional goals (Carnegie, et al., 2010; Duderstadt, 2000). Decisions are made as recommendations at the lower levels and then progress to encompass additional academic units for approval and confirmation. The process ultimately culminates with the Senate, which has ultimate responsibility for academic matters, and the Board of Governors, which represents the public interest. In those cases of new programs and degrees, final approval is given by the provincial governments (Duderstadt, 2000; Johnston, 2003; Jones, et al., 2001). Within this context, key academic decisions include instructor hiring, academic quality and integrity, and curriculum and academic planning (Duderstadt, 2000; Hamilton, 2000; Johnston, 2003).

The nature of standing determines who plays a role within the larger governance structure. Within the university, faculty are seen “to be the academic institution” (Henkin & Persson, 1992, pg 53, italics in the original). A distinction is then created between faculty and staff, with the faculty having the primary role in university governance. Staff are generally limited to making decisions in administrative areas such as finances, physical plant, and human resources and tend not to have a voice in academic matters (Henkin, et al., 1992). Generally, contract instructors do not have any role in the larger academic decision-making of the institution.

Involvement of administrative stakeholders

It is with the consideration of the administrative realm that a university might be most recognizable by those outside. Staff are responsible for budgets, building and other physical infrastructure, human resources and other functions which support academic programs. They also develop and implement administrative policies, rules and processes. In this context, a staff member generally “takes direction” from the academic side (Adams, 1976; Foster, 2006, pg. 49).

The end result of these various accountabilities is a large and very complex environment. Duderstadt (2000) argues that the modern university is “one of the most complex social institutions of our times” (p. 2). It is also one that may not be easily understood by those outside the organization, despite being impacted by this context when working in collaboration with faculty and staff to undertake research and service learning projects and increasingly academic planning. Given these dynamics, it is important to understand the nature of these impacts and determine ways for universities and community partners to effectively work together. An examination of a case study involving a jointly developed graduate program will provide insight into this issue.

Methodology

This analysis was explored within the context of a case study research methodology as defined by Yin (2003) and Stake (1995, 2000). By considering a single case, one can explain a situation, explore the dynamics that are at play within that particular setting, and develop recommendations for others who face a similar situation (Eisenhardt, 2002; Stake, 1995,

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2000; Yin, 2003). This case study may provide insight and understanding into some aspect of this “black box” that is the university (Bracken & Oughton, 2006; Nason & Pillutla, 1998; Parker, 2007).

The data are drawn from the author’s role as participant-observer in the development and implementation of the graduate program under consideration (Marshall & Rossman, 1999; Yin, 2003). Early on, the author served as academic lead for the School of Public Administration, the sponsoring academic department. Her responsibilities included serving as co-chair of the Masters of Arts in Community Development (MACD) Working Group, and chair of the MACD admissions committee. She collaborated with the community partners to develop the program blueprint and ensure a community perspective was represented in instructor selection, coordinated the development of curriculum and marketing materials, and admission of students, and managed the selection and hiring of course developers and instructors according to the program’s principles and university guidelines. For this paper, the author also drew upon meeting minutes and other documents, emails, conversations and her own observations. As a disclaimer, other frustrations with the process that were not exhibited in these public ways or ones that might have been perceived only by the partners may not be reflected within this article (Labaree, 2002).

Context

Offered through the School of Public Administration at the University of Victoria, the MACD is focused on developing the leadership and management skills of individuals involved in the non-profit, co-operative, community economic development and international community development sectors (School of Public Administration, nd-c). Designed for the working student based in Canada and beyond, course work is delivered through distance education and several summer residency sessions (School of Public Administration, nd-a). This program was designed in deep collaboration with a variety of university stakeholders and representatives from community development organizations from the target sectors (School of Public Administration, 2009, nd-c). Comprised of representatives from the university and larger community, a working group eventually came together to design the overall curriculum and wrote the program proposal for university and provincial government approvals. This commitment to partnership and collaboration was further extended to program delivery, where instruction is provided by both community practitioners and university faculty.

From the outset, this relationship was guided by principles of collaboration and partnership between the university and community, which has been evidenced in the role that community representatives have played in the program development, individual course development and delivery, and ongoing advice and oversight provision (School of Public Administration, 2009). During the program planning stages, community representatives of the working group played an active role in decision-making within the parameters set by the Faculty of Graduate Studies. As seen below, this role was mediated to active consultation and advice during the program implementation stage with regards to curriculum, instructor qualifications, student recruitment and other operational issues. This change in role and input has led to tensions between some community representatives and the university as it raises the question of the meaning of the term “partnership” and corresponding extent of control and formal decision-making that can be exercised by community representatives within this type of collaboration.

The two-and-a-half year timeframe for program development, approval and implementation was relatively quick by university standards, where it can often take five years or more to develop and start new programs. After an unsuccessful attempt to develop a master’s degree in community economic development at another university, some community development representatives approached the School about the possibility of a similar degree at the University of Victoria. An initial scan of various university stakeholders confirmed that this was an idea that was worth pursuing. An initial meeting of community development representatives and interested university

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stakeholders was held and a working group with representation from both sets of stakeholders was formed to develop the program. A first meeting should be held shortly thereafter and work began on MACD program development.

Program Development and Approval Stage (Development – 1 year, Approvals – 9 months)

During the one-year program development stage, the working group focused on designing overall program principles, structure and individual course descriptions. This group determined earlier on that the MACD would be a part-time program with a combination of distance education courses, delivered over the internet, and summer residency programs for several reasons. First, the target market was individuals already employed in the broad community development sector who thus would not be able to relocate to Victoria for full-studies. Second, the School of Public Administration has a long history designing and delivering graduate programs through distance education (School of Public Administration, nd-b).

During this time, a Master of Public Administration student was hired to conduct a scan of similar academic programs in Canada and a series of consultations and a survey to gather input from community development employers and potential students on the type of program and content would best meet the sector's needs was undertaken (Broadbent, 2009). Using these results plus its own expertise, the working group developed a 2 ½ year part-time program with a focus on three sectors, community economic development, co-operatives and non-profits. Significant portion of course design and instruction would be provided by community practitioners in addition to university faculty members (School of Public Administration, 2009). University stakeholders on the working group, including the author, worked with the community representatives to ensure that the proposed program reflected similar professional graduate programs at the university. At that point, the School of Public Administration submitted the proposal for approval from the appropriate decision making bodies in the university and provincial government. During this process, the School's Director and the author guided the proposal, answered questions and addressed concerns as they arose. All approvals were granted **nine** months after submission.

Program Implementation Stage (Implementation – 10 months)

Once all approvals had been received in September 2009, the university directed the School of Public Administration to work towards a May 2010 launch of the MACD program, as outlined in the program proposal. To accomplish this objective, marketing materials needed to be developed and distributed, students recruited and admitted, course developers and instructors recruited and hired, and course material developed and uploaded to the course management website. This stage brought additional approval and oversight actors from within the university context. The School of Public Administration program staff and the author, as lead faculty member, provided the interface between these various university stakeholders, the School and the working group in regards to decisions that needed to be made.

During this stage, the working group's role shifted from active decision-making and influence to advice. This change was formalized with the reconstitution of the working group into the Program Steering Committee with additional membership draw from the community. The core community members from the working group were carried over to this committee. With acknowledgement to the university's administrative and accountability frameworks and policies, its primary role is to provide

advice on the design and implementation of the MA in Community Development, monitoring of the implementation of the program overall, and formulation of the competencies and

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knowledge requirements that should be addressed by the program, and the practitioners and scholars who might teach in the program (School of Public Administration, 2009, pg. 25).

The working group provided advice on potential instructors and students, course content and other issues. The first cohort with 25 students was admitted and started course work as planned in May 2010. The Program Steering Committee held its first meeting in April, just before the MACD started.

The program development process took approximately two and a half years from the initial meeting to start of classes (see Table 1) and involved a wide range of decisions and actors from within the university context (see Table 2).

Table 1: Timeline for MACD development and implementation

Time Period	Activity
Program Development	
Summer/Fall 2007	<ul style="list-style-type: none"> Community representatives approached the School of Public Administration about the possibility of a graduate degree in the social economy and civil society
December 2007	<ul style="list-style-type: none"> Initial meeting of interested community and university representatives to discuss possibility of graduate degree in the social economy and civil society
January 2008	<ul style="list-style-type: none"> The MACD Working Group is formed and work begins on overall program structure and individual courses
December 2008	<ul style="list-style-type: none"> The MACD Working Group finalizes the MACD program proposal
January 2009	<ul style="list-style-type: none"> MACD program proposal is submitted to the Faculty of Graduate Studies for approval (See Table 3 for an outline of the approval process)
May 2009	<ul style="list-style-type: none"> The university's approval process for new degrees culminates with approval from the UVic Senate and Board of Governors The MACD program proposal is submitted to the Ministry of Advanced Education and Labour Market for approval
Program Implementation	
September 2009	<ul style="list-style-type: none"> The Ministry of Advanced Education and Labour Market approves the new degree after public consultation The university directs the School of Public Administration to start implementing the MACD program for launch in May 2010 The MACD Working Group begins the development of marketing materials and a call of expression for recruitment of qualified instructors and course developers
December 2009	<ul style="list-style-type: none"> Marketing material is approved by the Deans of the Faculties of Human and Social Development and Graduate Studies and student recruitment begins The School circulates the call for expressions of interest from those qualified to develop course material and teach in the MACD and begins to receive resumes
January 2010	<ul style="list-style-type: none"> Admission packages begin arriving at the Faculty of Graduate Studies The School of Public Administration Curriculum and Staffing Committee approves an initial pool of qualified instructors and course developers
February 2010	<ul style="list-style-type: none"> Course developers are hired and course materials development begins
March 2010	<ul style="list-style-type: none"> Invitations are made to the MACD Program Steering Committee, which replaced the MACD Working Group The MACD admissions committee makes offers to the first cohort of students Course developers submit their first draft of course materials
April 2010	<ul style="list-style-type: none"> Curriculum and Staffing approves first term course materials The first term course materials was uploaded to Moodle, the course management system First MACD Program Steering Committee meeting is held
May 2010	<ul style="list-style-type: none"> The first cohort starts the first term of course work

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A series of decisions needed to be made through the program development and implementation stages (see Table 2). Each of these involved multiple government, academic and administrative stakeholders who had a significant ability to shape, influence, and make significant decisions that impact the MACD program. The role of each stakeholder will be examined in turn.

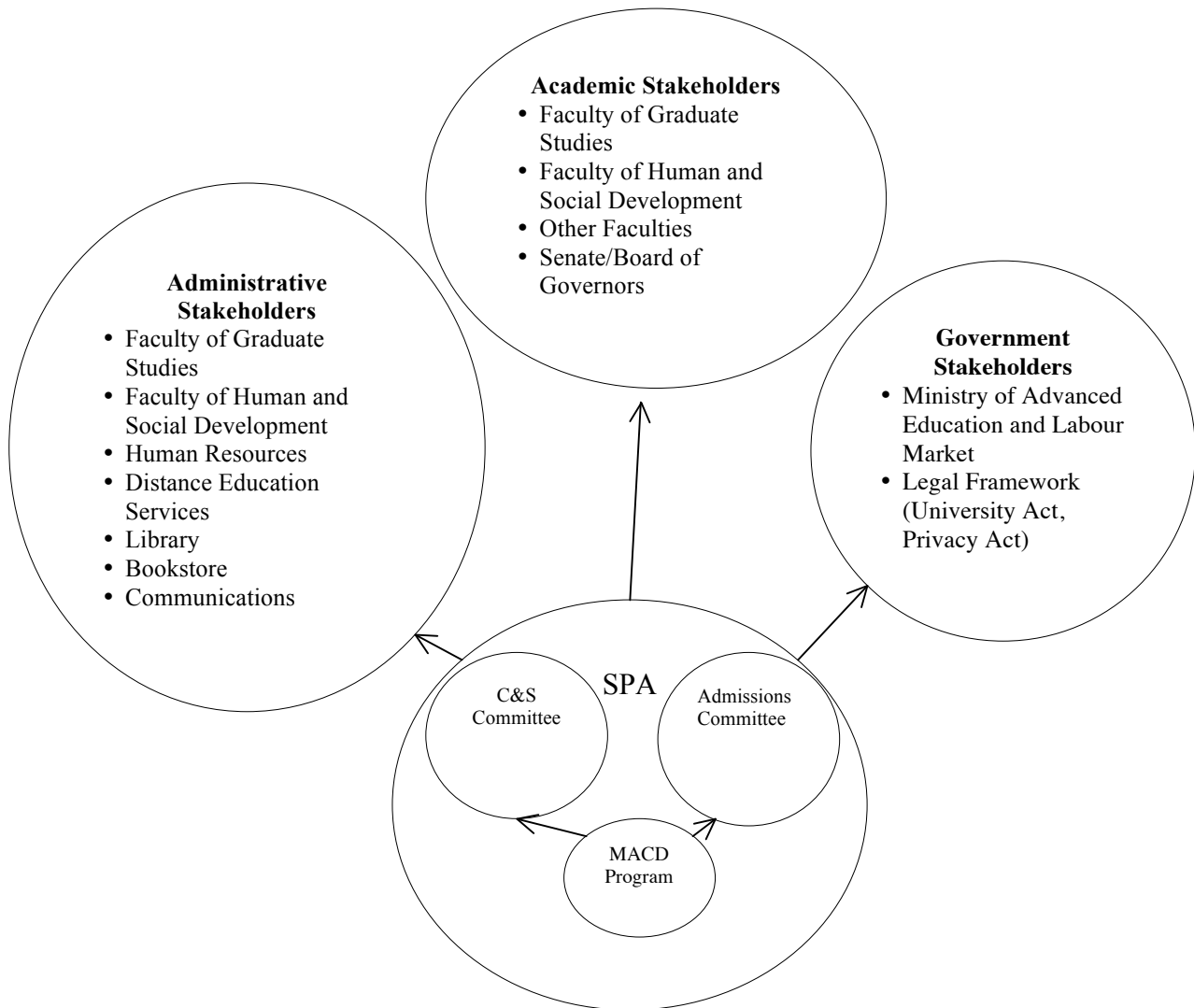
Table 2: Decisions to be made in the development and implementation of the MACD

Decisions	Involved Parties from the University Context
Program Development Stage	
Program Structure	<ul style="list-style-type: none"> • School of Public Administration (Faculty and Staff) • Faculty of Graduate Studies • Faculty of Human and Social Development
Individual Courses	<ul style="list-style-type: none"> • School of Public Administration • Faculty of Graduate Studies • Faculty of Human and Social Development
Admission Requirements	<ul style="list-style-type: none"> • School of Public Administration • Faculty of Graduate Studies • Faculty of Human and Social Development
Program Proposal Approval	<ul style="list-style-type: none"> • School of Public Administration • Faculty of Graduate Studies • Faculty of Human and Social Development • Other Faculties (See Table 3 for approval process) • Senate • Board of Governors • Ministry of Advanced Education and Labour Market
Program Implementation	
Development of Marketing Materials	<ul style="list-style-type: none"> • School of Public Administration (Faculty and Staff) • Faculty of Graduate Studies • Faculty of Human and Social Development • UVic Communications
Hiring of Qualified Instructor and Course Developers	<ul style="list-style-type: none"> • School of Public Administration (Faculty and Staff, Curriculum and Staffing Committee) • Faculty of Graduate Studies • Faculty of Human and Social Development • Human Resources • Provincial Government (Legal Framework)
Admission of Qualified Students	<ul style="list-style-type: none"> • School of Public Administration (MACD Admissions Committee) • Faculty of Graduate Studies
Development of Individual Courses	<ul style="list-style-type: none"> • School of Public Administration (Faculty and Staff, Curriculum and Staffing Committee) • Faculty of Graduate Studies • Distance Education • Library • Bookstore • Provincial Government (Legal Framework)

Impact of the University Context on the Partnership

This section will explore the impact of the various accountabilities within the university on the partnership with a focus on government, academic and administrative stakeholders. Figure 1 provides an overview of these relationships.

Figure 1: Government, academic and administrative stakeholders



Involvement of government stakeholders

Accountabilities to provincial government stakeholders created a certain set of parameters within which program design and implementation had to occur. As previously noted, the provincial government has legislated the approval process for new degrees, which includes steps for both the university and itself. As outlined in the University Act (Government of British Columbia, 1996), the Senate and Board of Governors are ultimately responsible for ensuring academic governance within the institution and must approve any new programs, upon recommendation from the university Faculties (University of Victoria, nd-a). Further, on behalf of the provincial government, the Ministry of Advanced Education and Labour Market Development reviews and approves new

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degrees to ensure academic quality, minimized competition with other post-secondary institutions in the province, and a link to government priorities. Within this process, the public and other post-secondary institutions have an opportunity to comment on the proposed program (Ministry of Advanced Education, 2008).

Given their responsibility for final oversight, a government can deny a university's request for a new degree program if the former judges that the program duplicates others already in place elsewhere and/or does not meet provincial priorities. It is important to note that provincial approval is not automatic as demonstrated by several recent government decisions to place and then lift moratoriums on new degree and program applications in British Columbia and Ontario (Bradshaw, 2011; Stubbs, et al., 2011). In response, the working group needed to ensure that the proposed program was sufficiently different from other potentially similar ones offered at other institutions and supported provincial government priorities. The program was also clearly linked to the provincial government's strategic goals for a quality education system and the provision of skills and knowledge needed to address shortfalls in key labour markets, such as non-profits (School of Public Administration, 2009).

Second, as public institutions, the university is subject to the Freedom of Information and Protection of Privacy Act (Office of the Information & Privacy Commissioner for British Columbia, 2004; University of Victoria, nd-b). By implication, the amount of personal data about students, applicants and potential instructors that can be shared with those inside the university, but who are not connect in some way with the program, and community members is limited. Given the deep collaboration and decision-making in many aspects of the program's development and implementation, the working group was interested in extending this level of involvement to participation in student admissions. For example, they wanted to learn more about the first cohort of students, including a list of names and other personal information. Unfortunately, given the privacy laws, this could not be shared. In response, MACD program staff was able to provide aggregate data on the cohort, including background, undergraduate degrees and other similar information, to the working group.

Involvement of academic stakeholders

The university's academic decision-making process greatly influenced the MACD's development and implementation and ongoing operations on several levels and introduced rules and procedures and new stakeholders which were not involved in earlier stages of program development.

First, the university approval process for any new graduate programs is complex, time consuming and open to comment, review and even rejection by other academic units on campus. As outlined in Table 3, a new graduate program must receive approval from ten different bodies within the university, starting with the sponsoring academic unit and culminating with the Senate and the Board of Governors, as per the University Act (Government of British Columbia, 1996). Each of these steps involves a review by faculty members in other departments. (Administrative staff are not allow to participate in these types of decisions.) Consequently the sponsoring academic unit, the School, needed to be specifically aware of the particular sensitivities expressed by various academic units and communicate these back to the working group for incorporation into program design.

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Table 3: UVic new graduate degree approval process

1. Consultation with the Associate Vice-President Academic Planning
2. Meet with Dean of Graduate Studies to review process, timelines, and proposal guidelines
3. Develop drafts of proposal
4. Proposal approved by academic unit
5. Proposal approved by Graduate Executive Committee
6a. Proposal approved by Disciplinary Faculty
6b. Proposal approved by Faculty of Graduate Studies.
7. Proposal approved by subcommittee of Senate Committee on Curriculum
8. Proposal approved by Senate Committee on Planning
9. Proposal approved by Senate
10. Approval by Board of Governors
11. Proposal posted on the Ministry's Degree Granting Authorization website for 30-day Peer Review.
12. Comments on proposal collected by the Vice President Academic's (VPAC) Office and forwarded to the Deans and the VPAC for review
13. Submission to Minister of Advanced Education and Labour Market Development for approval
14. Approval by the Ministry VPAC's office is notified Deans and the Academic Unit will be notified by VPAC's office The program may be officially started
15. Submit entry for next UVic Graduate Calendar

(Faculty of Graduate Studies, 2010)

This approval process directly impacted the program's name. The working group had proposed several degree names that would accurately and comprehensively capture the program's intentions; some of which were rather lengthy. However, the university as a whole prefers shorter degree names which eliminated some from immediate consideration. Further, given the approval process, other academic units had an opportunity to comment and even influence the words used in the title. For example, because one Faculty has a program in a similar area, its Dean would not support the use of "leadership" in this program's name. In response to these two factors, the working group shortened the proposed name and incorporated a by-line in marketing material that more fully reflected the program's intention (School of Public Administration, nd-a). Another academic unit had also expressed some concerns that there might be confusion with the term "community development" since it had a different meaning in their field; however, they chose not to block the term's use in the program's name.

Even though it is within the Faculty of Human and Social Development, because the MACD is a graduate program, the Faculty of Graduate Studies has primary responsibility for its academic quality, including instructor and potential student qualifications, and for approving any marketing materials on a particular graduate program. The School of Public Administration, as the home administrative unit, is accountable for implementing these standards.

In terms of instructor qualifications, the Faculty of Graduate Studies sets minimum standards, which includes a PhD from a recognized institution. However, in the case of professional schools, such as the School of Public

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Administration, the Faculty is prepared to accept individuals with master's degrees and significant professional experience. Further, the Dean of Faculty of Graduate Studies approves all sessional instructors, based on recommendations from the Faculty of Human and Social Development and School of Public Administration. Occasionally, they will ask for clarification on a particular instructor's credentials to ensure that this person was in fact qualified to teach in a graduate program (Faculty of Graduate Studies, nd-c). While there was an agreed commitment to have community practitioners teach within the program, the School of Public Administration had to ensure that these sessional instructors met the Faculty of Graduate Studies' requirements of at least a master's degree (School of Public Administration, 2009). Consequently, some community members with significant professional expertise but no graduate degree remain ineligible to teach in the program.

Second, given the Faculty of Graduate Studies' responsibility for graduate education, it sets the minimum standards for admission to a graduate program, which is a "B" average from a recognized undergraduate program, and conducts the first screening of all applicants, after which a potential student is considered by the School of Public Administration's admissions committee, composed of faculty members from the School, for acceptance to a specific program (Faculty of Graduate Studies, nd-a). The Faculty also sets the minimum education requirements from other countries (Faculty of Graduate Studies, nd-b). Since the university does not have a policy of granting admission to graduate programs based on the assessment of prior learning or work experience, it has shown little flexibility for individuals who do not possess a recognized undergraduate degree¹ (University of Victoria, 2010a). Consequently, the working group could not meet an important objective for a prior learning assessment and recognition policy which would provide credit for previous work experience to those potential students who lacked traditional academic credentials² (School of Public Administration, 2009).

While the Faculty of Graduate Studies is responsible for course curricula within graduate academic programs, the Faculty of Human and Social Development also has obligations related to its academic programs, including approval of instructors and marketing materials. In these cases, these are delegated to committees within the School of Public Administration for recommendation with final decisions resting with the Dean. In terms of course material development and instructor selection, the Curriculum and Staffing Committee plays the primary role. This committee reviewed and approved all course material, provided comments, requested changes when appropriate and ensured consistency with other courses offered within the School and graduate programs in general. Part of this role involved ensuring the course material reflected the course description, as expressed in the graduate calendar (University of Victoria, 2010e). Instructors must ensure that a course matches its description.

This group also screened potential instructors into a pool of qualified candidates from which specific individuals were selected for teaching and course development. The Curriculum & Staffing Committee is comprised of faculty who, for the most part, were not involved in the development of the MACD. As result, they had to be educated in the program's goals and objectives and the partnership's intention. Further, course developers and instructors had to ensure that the new courses reflected the School's larger objectives and vision of academic quality. This became a balancing act between the goals and vision of the new graduate degree as expressed by the working group and program proposal and the larger vision of the School, as expressed by the Curriculum & Staffing Committee. Subsequently some course material had to be revised in order to better incorporate the School's overall vision approval.

Involvement of administrative stakeholders

The number of stakeholders involved in new program development and implementation increases with the consideration of the university's administrative realm. These parties introduce a variety of rules, policies and procedures for human resources, course development, marketing, and other areas that must be followed, but which often conflicted with the working group's intentions for deep collaboration and involvement in program decision-making.

Given the desire for community practitioners to be among the pool of eligible instructors as outlined in the program proposal (School of Public Administration, 2009) and the short time frame for implementation which did not allow an opportunity for the hiring of permanent faculty³, the MACD relied (and continues to do so) on short-term temporary instructors, also known as sessionals. Thus the MACD program staff needed to follow several rules and policies that limited the working group's involvement in this process. The first set of rules and procedures flow from the fact that sessionals are unionized (University of Victoria, 2008). According to their collective agreement, the hiring process must be both open and transparent, meaning that potentially qualified individuals must be provided an opportunity to express their interest in course development and instruction. Several members of the working group were interested in teaching in the program and thus a potential conflict of interest was created because they had anticipated playing a role in hiring these instructors. This situation was further complicated by the fact that privacy laws only allowed those individuals within the School with responsibility for hiring to view these applications (University of Victoria, 2010c, nd-b). Thus the working group's role became more advisory and consultation oriented with the drafting of instructor qualifications, building from the Faculty of Graduate Studies minimum standards, and circulating the call for expression in teaching.

The issue of pay levels for course development and teaching also became an issue for discussion within the working group. Again, given the unionization, pay levels are negotiated through a collective agreement (University of Victoria, 2008). While it was agreed by all members of the working group, including university representatives, that the sessional rate was low relative to the amount of work required, the School of Public Administration was constrained by these negotiated pay scales and could not pay more. In response, some community representatives on the working group and other potential instructors declined to undertake course development and teaching at these set rates of pay.

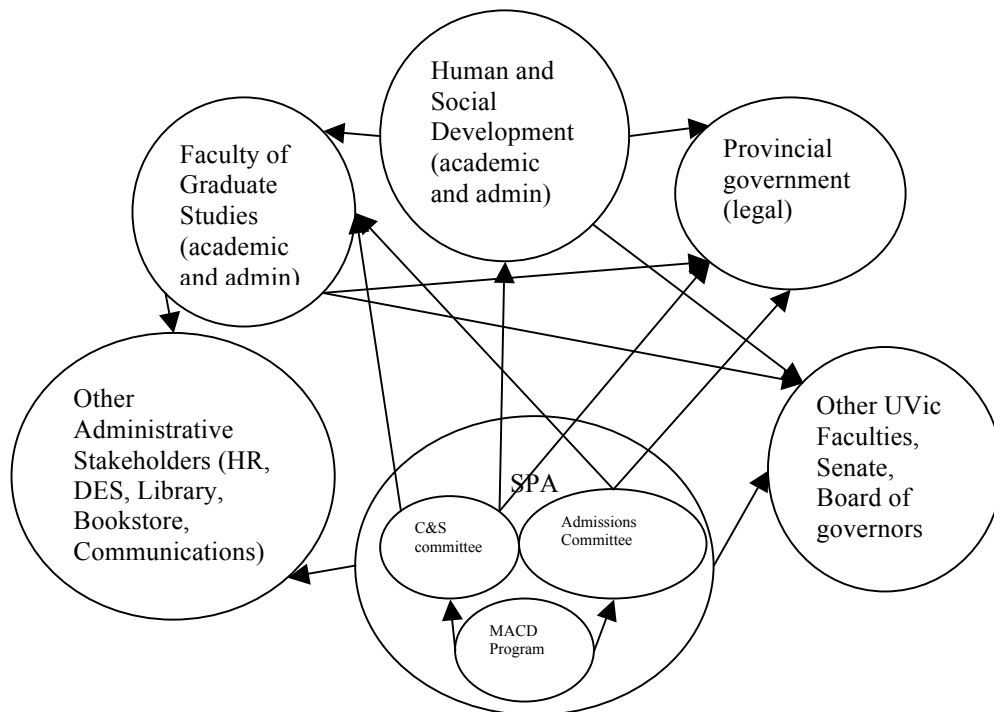
Concurrent with hiring instructors, marketing material for student recruitment needed to be created. These materials had to conform to university's communication guidelines for colours, layout, font and other common elements which ensured a consistent "look and feel" to all university materials (University of Victoria, 2006). The flyer was also subject to review process where various stakeholders had opportunity to comment before final approval by the Deans of the Faculties of Graduate Studies and Human and Social Development. Despite the intentions again for collaboration and decision-making, the working group's role was limited to suggesting text, but not approving it, as initially hoped.

Course development, an important part of the implementation process, brought additional stakeholders, rules, and procedures into consideration, and imposed further limitations. Given that the MACD program is a combination of distance education courses and residency periods, all course material, including notes, assignment instructions, discussion modules, and other material, must be developed in advance of the course starting⁴. Distance Education Services worked with course developers to ensure that the course material conformed to good pedagogy for distance education courses and common design templates. For some of the course developers and instructors, this required a change in focus from the traditional lecture format to a more

facilitated learning style. Further, instructors needed to ensure that they complied with the Access Copyright policy on copyrighted material (University of Victoria, 2011a). In some cases, this meant choosing alternative readings when preferred books, journals, or other material were not available. Finally, instructors needed to work within bookstore deadlines to ensure that textbooks and course reading packages were ready by the start of term (University of Victoria Bookstore, nd).

As can be seen in Figure 2, the end result is a complex, and perhaps even messy, set of accountabilities to a variety of stakeholders, both inside and outside the university, for legal, academic and administrative decisions, that had implications for the working group and the program alike. Within each of their respective realms, each stakeholder had the ability to influence and even dictate the shape of the decisions necessary for MACD's development and implementation.

Figure 2: Relationships to stakeholders



DISCUSSION AND CONCLUSIONS

As acknowledged by all those involved, this partnership between community representatives and the university achieved its goal of developing graduate education for those employed in the community development sector. Given the community's involvement, the curriculum is grounded in the skills, knowledge and expertise that the community development sector has identified as important for their members' professional development.

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However, this has not been without its challenges and tensions between the community and university representatives and drew into question whether this was or could be a “true” partnership with joint decision-making. As the working group’s focus shift from program development to implementation, these tensions focused around the meaning of “partnership” within this context and the role that those outside the School would and could play in the program’s governance and decision-making on an ongoing basis. It was not always possible to accommodate the desires of some community representatives to play a decision-making role in all aspects of the program. Further, given the short timeframe available, the School could not slow down on implementation activities in order to have the larger, and often time-consuming, discussions on the nature of this partnership. Frustrations and tensions increased for community members as they perceived that they were blocked from participating in the decision-making they felt was inherent within this partnership.

The larger university context and accountabilities had a definitive impact on this partnership and its ability to meet its goals and objectives. The partnership’s original intention was to have community representatives play a substantial role in the program’s development and implementation. This was more easily accomplished during the program development stage. While accountabilities to the various stakeholders were present from the outset, the School, as the sponsoring academic unit, was able to mediate these and create a space where the community representatives could shape and design the program to meet the needs of community organizations and potential students. The School’s Director and the author, as the co-chair of the MACD working group, met with relevant university stakeholders to keep them informed of the program and proposal development progress as well as ensure their support through the approval process. The fact that the community was playing such an active role in the program development was an important “selling point” to the larger university. As co-chair of the MACD working group, the author worked with the community representatives to ensure that the degree was structured similar to other graduate degrees in terms of number of credits, capstone project requirements, and other factors as well as fit with the university culture and priorities along with provincial government ones while still fulfilling the working group’s vision for the program. In the end, to gain approval, the MACD could not deviate from the structure of other similar professional graduate degrees, even if the working group desired something different.

The partnership encountered more challenges to its goals and objectives as the program moved into the implementation stage. It was here that administrative rules and procedures became more pronounced and perhaps created the greatest frustration within the partnership. Originally, given overarching goal of community involvement in the development and implementation of the MACD, the working group envisioned, perhaps naively, that it would play a key role in the selection of instructors and students and course development. Alas, this became difficult given the many rules and procedures, creating an often bureaucratic process that seemed to defy rationality and explanation at times. The instructor hiring process was one example that particularly exemplified these constraints and required a change in expectations on the part of the community members. While not meeting their original objective of deep involvement in hiring, they were very successful in ensuring that the overwhelming majority of course developers and instructors had many years of experience in community development organizations and included many leaders in the community development sector (School of Public Administration, 2011).

The program implementation stage also brought more stakeholders into the process which helped shaped the program’s actual implementation. These administrative staff included human resource staff who enforced the collective agreement and graduate admissions staff who ensured that potential students met the minimum academic standards and submitted the appropriate admission paperwork and that the admission process was followed precisely. Some of these rules were contrary to the working group’s long-term objectives for a prior learning assessment policy. The administrative staff also questioned the program design from an operational

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perspective, rather than a pedagogical perspective, which is not their purview (Adams, 1976; Foster, 2006; Henkin, et al., 1992). This graduate program contains some courses which are not standard course credits. These courses consisting of fewer credits made sense from a pedagogical perspective, but created difficulty in scheduling and staffing.

The final stage of program implementation and ongoing operations also highlighted the challenge of having community members who lack formal standing in the university because they are neither staff nor faculty involved in some form of decision-making. Several examples exemplify these constraints. The Privacy Act places constraints on the ability to share personal information with those who are not part of the university and/or do not need it for their university jobs. This meant that even those university representatives on the working group, much less community members, could not see information about potential instructors and students because it was not directly related to their responsibilities. When the working group recommended an appropriate name for the program, that particular decision was both guided and shaped by the academic decision-making process and reflected the university's culture and politics. Program marketing materials underwent a similar consultation and review process, incorporating feedback from various units on campus, including the university's communication unit. Ultimately, given their responsibility for this graduate academic program, the Deans of the Faculties of Human and Social Development and Graduate Studies approved any final versions. Thus the working group could only recommend wording that would resonate with potential students and their organizations.

Implications for Community-University Partnerships

So what does this case study analysis mean for other community-university partnerships, particularly those involved in academic program development and implementation? Several recommendations can be made for both the university and the community partners.

First, the university partner should articulate clearly the university context to community representatives and outline a partnership's parameters within this context, with specific reference to government, academic and administrative stakeholders. In particular, the university and community partners should explore the areas where the community representatives can make decisions and those where they can only provide recommendations and advice (Hall, 1992, 2002). The university should also discuss the potential impact of the university culture on the partnership's objectives as well as relevant rules and procedures that will need to be followed during academic program development and implementation. University representatives must remember that to "outsiders" the university appears confusing, bureaucratic and beyond recognition. Care should be taken at the outset to explain the university environment and its decision-making processes.

Just as academic partners learn about the community, community representatives must also take time to learn about the university and its context (Lefever-Davis, et al., 2007; Minkler, 2004; Prins, 2005). While most community organizations are relatively small, flat and nimble, even a relatively small university like University of Victoria⁵ is relatively large and has formal rules, policies and procedures. Like any large organization, many of these rules, policies and procedures are not known in advance and may even contradict each other. These rules, policies and procedures are further impacted by the collegial nature of universities, which are rarely documented or even clearly articulated, but nonetheless shape the implementation and adherence to these.

As these types of collaborations develop, the university and community partners need to ensure sufficient time has been allocated for both the partnership's creation and academic program development and implementation. In contrast to the normal experience within universities, this particular program was developed and implemented

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quickly. This was further complicated by the fact that all university representatives and community partners were working on this project as tasks in addition to their regular duties. The time needed for a discussion about the nature of the partnership, potential areas for decision-making, administrative requirements, and general participation was not available. This contributed to some frustration with the process experienced by community members, because they did not understand why decisions were made as they were. For example, during the implementation stage, it often took several weeks to find a time for a meeting of the working group while administrative decisions had to be made quickly to ensure that everything was ready for the first cohort of students. This led to missed opportunities for the working group to contribute to some decisions.

Both the university and community partners might find it useful to develop a Memorandum of Understanding that outlines areas of decision-making and advice, resource commitment, recognition of community partners and other matters. In a recent CCEDNet (2011) publication, a series of questions were proposed that could guide these discussions in advance of a community-university research partnership. Questions included “how will decisions be made”, “who will have final say over budgetary matters”, “what role will community partners play” and “will they be involved in decision making guiding the project” and others (CCEDNet, 2011, pg. 2). These suggested questions could easily be adapted to fit a partnership related to academic program development and delivery.

Within such an MOU, both parties need to be careful with the use of terminology and label the working relationship appropriately, ensuring mutual understanding of terms and parameters for decision-making (Brock, 2010; National Network for Collaboration, 1995). For example, what is meant by “partnership” and other common but possibly misunderstood terms within this context? What is the associated level of decision-making that each party can play? On what issues can each party contribute to decision-making and on which can only advice be provided?

As universities and communities undertake more joint academic program programming (Savan, et al., 2009) and learn from these experiences, an opportunity exists to reflect and communicate the lessons learned to other similar partnerships. This activity would build on other similar reflections on community-based research projects and service learning activities carried out at both a comprehensive level and related to a specific project (Amey, et al., 2002; Buckeridge, et al., 2002; Flicker, Savan, Kolenda, et al., 2008; Flicker, Savan, McGrath, et al., 2008; Hollander, 2011).

The development and launch of the MACD program through a partnership with the university and various community representatives demonstrated that it is possible for the community and a university to extend their partnerships beyond research and service learning projects to academic programming. However, this next step requires new understandings on the part of both the community and university on how to genuinely work together. This case study begins to explain the university, open the “black box”, and suggests the possibilities and limitations of partnerships within this context. A true partnership with fully shared decision-making may not be possible given the multiple accountabilities, decision-making structures, rules and procedures that exist within a university. However, deep collaboration that can achieve communities’ goals is still possible if university and communities work to understand each other’s context and develop effective working relationships.

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Victoria, the MACD course developers and instructors, and others to develop and implement the MACD in a very short period of time.

NOTES

1. University of Victoria has made exceptions with some undergraduate programming. In particular, the Law School has offered Bachelor's of Law Degrees to northern residents through the Akitsiraq Law School Society. Admission to this program is based on a variety of factors, including life experience and personal achievement (<http://www.akitsiraq.ca/admissions-1>).
2. By contrast, Royal Roads University has a flexible admissions policy that does not require an undergraduate degree for admissions to a graduate program, see www.royalroads.ca/admissions/flexible-admissions.
3. It can often take 2 years or longer for an academic unit to receive permission to hire a permanent faculty member. Further, the hiring process for that individual generally takes a year from when the position is posted until it is filled.
4. Readers who are unfamiliar with distance education courses may wish to consult documentation prepared by University of Victoria's Distance Education Services (2011, nd).
5. Within Canada, UVic is considered a medium size institution with approximately 19,000 students. It has over 5,000 employees, including faculty, sessional lecturers and staff.

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Governance in Transformation: Alberta School Board Chairs' Perspectives

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ABSTRACT

School boards are typically removed from nonprofit sector analyses because they are part of the “MUSH” set of organizations (municipalities, universities, schools, and hospitals) that both stand outside of the more typical nonprofit sector and tend to be closely affiliated with government. Nevertheless, school boards offer a unique opportunity to examine the governance of a large system of regulated activity that affects millions of citizens. How such systems should be governed has been a matter of concern for nearly 40 years. This study presents data from Alberta school board chairs regarding their perception of governance transformation being brought about by legislative changes. Five dimensions of governance are proposed as defining the current and anticipated governance domain within which school boards operate. Tensions within and between these dimensions signify symbolic boundary constructions that need to be scrutinized in anticipation of the governance transformation and boundary spanning activities of school boards required by the new legislation.

RÉSUMÉ

Les conseils scolaires sont généralement retirés des analyses du secteur communautaire parce qu'ils font partie de l'ensemble d'organisations « MUSH » (les municipalités, les universités, les écoles et les hôpitaux); ces organisations se distinguent du secteur communautaire typique et ont tendance à être étroitement associées au gouvernement. Néanmoins, les conseils scolaires offrent une occasion unique d'observer la gouvernance d'un vaste système d'activités réglementées qui affecte des millions de citoyens. La façon dont de tels systèmes devraient être gérés fait l'objet de préoccupations depuis presque 40 ans. Cette étude présente les perceptions de présidents de conseils scolaires de l'Alberta en ce qui a trait à la transformation de la gouvernance apportée par des modifications à la loi. Cinq dimensions de la gouvernance sont proposées pour définir à la fois le domaine de gouvernance dans le cadre duquel fonctionnent actuellement les conseils scolaires et celui dans le cadre duquel il est prévu qu'ils fonctionneront. Les tensions entre ces dimensions et les tensions au sein de celles-ci indiquent des constructions de frontières symboliques qui nécessitent un

examen minutieux dans le but de prévoir la transformation de la gouvernance ainsi que les activités d'expansion des conseils scolaires exigées par la nouvelle législation.

Keywords / Mots clés : Governance; School board; Education; Legislation; Transformation; Alberta / Gouvernance; Conseil scolaire; Éducation; Législation; Transformation; Alberta

INTRODUCTION

School boards have characteristics of both government and nonprofit organizations—they bridge the worlds of the provincial government and local communities at the level of the individual citizen. For nonprofit organizations directly affected by provincial policy, such as service organizations whose funding comes from specific legislation and contracting relationships with governments, the study of school board governance may offer insights into broad system governance. The provincial government's regulations and contracts define how service providers will operate, who they will provide services to, and how much service at what cost will be provided. Therefore, how the Government of Alberta is choosing to articulate governance for school boards should be monitored closely by other systems of service provision in the province as the government seeks to reduce expenses by centralizing and more closely regulating other areas of nonprofit activity.

What kind of governance should be practised by school boards has been under consideration for nearly 40 years in jurisdictions in Canada and around the world. Common areas of concern centre on what it means to be an effective governor and an effective governance body within the context of providing public education. At the root of the concerns is the fundamental question of what is meant by “governance.” In other words, what are the assumptions, values, and practices which are best aligned with the purposes of public education? If school board governance is to be understood from the perspective of the public sector, it would encompass policymaking and the statutory relationships between legislatures, the public service, the judiciary, and others (Stone & Ostrower, 2007). Yet school boards are not government per se. Other definitions of governance may be more appropriate. Graham, Amos, and Plumptre (2003) see governance as a decision-making process that strategically determines direction, engagement, and roles. Gill (2005) defines governance as the “exercise of authority, direction and control of an organization in order to ensure that its purpose is achieved” (p. 15).

The question of what stands as good governance in education is an ongoing interest of both Alberta Education—the government ministry responsible for the delivery of K-12 education—and the two largest school board associations in the province, the Alberta School Boards Association (ASBA) and the Public School Boards Association (PSBA). In 2008, the province of Alberta, through Alberta Education, began a thorough review of the *School Act* (R.S.A. 1980). The Act had last been revised in 1988. The 30-year-old legislation was identified as being unable to produce the kinds of educational outcomes the public was seeking from the school system. The Minister chose to pursue perhaps the largest public consultation ever undertaken in Alberta. More than 1,600 students, 7,000 parents with children in special education settings (e.g., gifted learners, persons with learning disabilities), and a further 3,400 stakeholders were involved between 2008 and 2009 (Alberta Education, 2010a). The collective public response “advocated for an informed transformation of Alberta's education system, one that challenges commonly held beliefs and leads to new structures and approaches” (p. 16). With the aim to articulate how an educated Albertan would describe themselves in 2030, three themes pertaining to educational outcomes emerged from the consultations: a Grade 12 graduate would be an engaged thinker, an ethical citizen, and have an entrepreneurial spirit.

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These large-scale public consultations generated evidence that stakeholders sought the transformation of education and that substantial change in the policy environment would be necessary. While the public consultation process did not address governance as part of its mandate, the Steering Committee appointed by the Minister to oversee the review did “reflect on the governance implications of what it heard from Albertans” (p. 33). The Steering Committee identified four shifts to align school board governance with the anticipated policy change. First, there would be less focus on the school, education would be less centred on the system, and there would be less focus on the content and less technology to support teaching. Second, there would be more focus on education, and education would be more centred on the learner. Third, education would be focused on building competencies, and fourth, there would be more use of technology to support the creation and sharing of knowledge. The planned policy shifts would be centred on seven principles (pp. 31-32):

- learner centred
- shared responsibility and accountability
- engaged communities
- inclusive, equitable access
- responsive, flexible approach
- sustainable and efficient use of resources
- innovation to promote and strive for excellence

The Steering Committee went further and expanded on how the practice of governance would need to change, moving from predominantly fiduciary and strategic domains of governance to include “generative governance” (Chait, Ryan, & Taylor, 2005). Other ideas presented included

- The importance of having governors “engage the whole community in ownership of the education system” (Alberta Education, 2010a, p. 34).
- Linking a broad range of stakeholders into a “governance team,” to guide education in the jurisdiction. The team would be comprised of the school board as well as parents, families, educators, municipalities, cultural groups, professional groups, nonprofit organizations, businesses, employer groups, post-secondary institutions, and First Nations, Metis, and Inuit communities (p. 35).
- Governors to include those “appointed, or recruited from the community” (p. 35).
- Coordination of community services with the education system.
- A “more public role” for governors aimed at deepening “everyone’s understanding of issues and trends to generate new ideas” (p. 35).

In effect, the Steering Committee was pressing for school boards to move from the governance models of the public sector (Stone & Ostrower, 2007) toward more of a “bridging governance” role as described by Graham et al. (2003) or policy development and implementation role as described by Gill (2005).

For approximately a year these ideas circulated within the education community. As trustees prepared themselves for an election on October 18, 2010, the Alberta School Boards Association initiated research to understand where school boards stood on the ideas being presented. This article is part of the research undertaken by ASBA.

GOVERNANCE IN THE LITERATURE

Although he was describing the voluntary sector, Frumkin (2002) could have been describing school boards when he said it is the “contested area between the state and the market where public and private concerns meet and where individual and social efforts are united ... at once a visible and compelling force in society and an elusive mass of contradictions” (p. 1). An apparent contradiction was whom school boards were designed to serve. Frequently the expectations of citizens, government, and school boards were in opposition, especially as the provincial government controlled the budgets school boards have to work with. Boards struggled (and continue to do so) to find clarity regarding their primary obligation and accountability. Boards “operated for public benefit have the moral obligation to ‘effectively’ serve the interests of the larger community” (Williams, 2010, p. 298). What is meant by “effective” in the midst of compelling but contradictory demands upon an educational system, and especially the school board, has proven elusive. Nobbie and Brudney (2003) state that the effectiveness of board governance can be both measured and improved. There is, however, no consensus in the literature on the conceptualization of board effectiveness or how such a thing could be measured (Baruch & Ramalho, 2006; Herman & Renz, 1999).

The five governance ideas brought forward by the Steering Committee (Alberta Education, 2010a) and presented above point to an interest by the Government of Alberta in expanding more conventional ideas of school board governance to include exchanges with a broader set of social systems. These exchanges anticipate boundary spanning roles for school board trustees and the creation of new networks such as the “governance team” concept (p. 35). The governance team concept is a form of network governance, which is characterized by a move away from bureaucratic structures in organizations and contracts toward less formal social systems as a way of coordinating complex products and services in uncertain and competitive environments (Powell, 1990; Ring & Van de Ven, 1992; Snow, Miles, & Coleman, 1992). Network governance is a “distinct form of coordinating economic activity” (Powell, 1990, p. 301) within which there is a spectrum of relationships that constitute the systems for policy choice and action (Lynn, Heinrich, & Hill, 2001). Jones, Hesterly, and Borgatti (1997, p. 914) define network governance as a “select, persistent, and structured set of autonomous firms (as well as nonprofit agencies) engaged in creating products or services based on implicit and open-ended contracts to adapt to environmental contingencies and to coordinate and safeguard exchanges” (p. 914). These authors go further to identify four necessary conditions for network governance that mirror the conditions within which public education in Alberta is delivered:

- Demand uncertainty with stable supply;
- Customized exchanges high in human asset specificity;
- Complex tasks under time pressure; and
- Frequent exchanges among parties comprising the network.

The literature on school board governance demonstrates a long-standing concern with the shortcomings of how school boards go about governing. The complexity of governance in a broad sense, both in terms of what it is believed to be and the context in which it is carried out, is a common consideration. As noted already, in the literature, what is meant by “governance” is elusive. Governance can be defined as if it had much in common with management functions. For example, Cornforth (2003) set out the primary components of governance as systems and processes aimed at organizational direction, effectiveness, and accountability. Governance could also be defined in terms of an application of power. For example, Gill (2005) proposes that governance is the application of authority, direction, and control. When Chait, Ryan, and Taylor (2005) produced *Governance as Leadership*, they charted a different course for understanding and undertaking governance. They note that when boards ask “What *is* governing?” (p. 25, emphasis in original) responses have tended to “envision

governance as the sum of discrete goal-setting and oversight tasks” (p. 25) such as accountability, transparency, predictability, and participation (Gill, 2005). They suggest that these limited tasks and structures have left little open for boards to consider beyond the management functions of governors. Chait et al. propose that in addition to asking, “What is governing?” boards ask, “What is it we’re governing?” It is this additional question that opens a generative space in governance where engagement with the broader world is important and necessary.

Given what the Steering Committee was proposing, it is not surprising that the publication of *Inspiring Education* (April 2010) and shortly afterwards, *Inspiring Action on Education* (Alberta Education, 2010b) signalled that Alberta Education was adopting the approach to governance that Chait et al. suggested. The emphasis on a new kind of governance responsibility and role for school board trustees was viewed as a significant departure from the predominantly fiduciary role—understood as managerial and controlling—that school boards and trustees had fulfilled for the previous decades.

The choice made by Alberta Education to transform governance of school boards is the latest manifestation of the call to change how public education systems are governed. The literature calling for governance change within education systems began to grow in the 1970s with the identification of core issues that ring true today. Burgess (1977), for example, observed that “[i]n education ... democratic decision making has been discouraged by three major groups at the core of the system ... school administrators, teacher organizations, and school boards” (p. 43). In reviewing the literature to that point in time Burgess concluded, “The literature on school boards, teacher unions, and educational bureaucracies, however, indicates that free participation is not a right that is accepted by the educational establishment” (p. 51). Calls began for greater citizen involvement and engagement in and with school boards. For example, Stanwick (1975) identified 10 areas where citizens could have positive impact on school boards:

1. Identifying goals, priorities, and needs;
2. Setting budget priorities;
3. Selecting and evaluating principals;
4. Selecting and evaluating teachers;
5. Evaluating curricula;
6. Evaluating extracurricular programs;
7. Improving community support for schools;
8. Investigating student or parent problems or complaints;
9. Raising money for schools; and
10. Helping in schools as volunteers.

With little response by education systems to the growing calls for greatly expanding citizen engagement and involvement with school boards, demands for change became stronger. Coombs (1985) finds that “existing formal education systems everywhere [are] growing increasingly obsolete and maladjusted in relation to their rapidly changing societies ... [A]ll these systems require major changes and innovations” (p. 21). Some, such as Chubb and Moe (1990), advocated that school boards be eliminated altogether, and that school governance be conducted by individual schools and their patrons.

Other research has focused on the competency of trustees. Brehony and Deem (1995) observed that trustee knowledge “may be derived from many sources including school visits, recollections of school days, the media, political party policy, working in industry and commerce, the experience of bringing up children or living in a particular community” (p. 80). They concluded that while “knowledge can confer upon citizens the power to act

and administer ... we have also suggested that lay governors' knowledge of education may sometimes be insufficient to enable this to occur. As a consequence, many lay governors appear relatively powerless to reshape teaching and learning, though many are able to make a significant contribution towards the administration of the non-educational aspects of school life" (p. 97). As a result, trustees are found to be "exerting considerable influence over the administrative framework of schooling" (p. 95). Van Alfen and Schmidt (1997) examined rural boards and identified similar concerns. "[Rural] boards studied tended to micromanage their districts, generally ignoring the larger leadership function of building consensus and fostering a sense of community" (p. 14). They also found that even when boards were making an effort to govern in a broader sense than the fulfillment of strictly fiduciary responsibilities, school boards were "quickly crushed by the weight of administrative detail. ... Attention to the details of school governance is, of course, essential to board function, but when boards focus meetings and discussions almost exclusively upon budget and personnel, everyone else in the community focuses upon these issues as well. ... Vision blurs and leadership opportunities are lost" (p. 14). The trustee role was seen as administratively focused rather than focused on engaging citizens in the creation of educational opportunity within their district.

A turn in the literature is noted once we enter the 2000s. Research suggests that "community leadership" (Ofsted, 2003, p. 20) is a dimension of school board governance that is valuable and necessary. In the U.K., "Community leadership was the most important element of maintaining an effective education service. All of the LEAs [Local Education Authorities] judged as good were characterized by strong and efficient community leadership. ... The key to creating strong community leadership depends on collective and corporate commitments from all departments" (Ofsted, 2003, p. 20). Ranson, Arnott, McKeown, Martin, and Smith (2005) found that "school governance in many respects remains significantly unrepresentative of some of its significant parent constituencies" (p. 357). Electoral structures are found to "take away incentives for board members to act in the interest of education" (Cabico & Harrison, 2009, p. 20). Further, as noted by Cabico and Harrison (2009), "Given the current school board structure, elections are probably not the best mechanism for choosing education policy leaders" (p. 20). Concerns about the administrative focus of school boards continue to occur. School boards are found to "lack the expertise, familiarity, and electoral mandate to act as intensive hands-on managers; they should be focusing on district-level policy and vision-setting, not intrusive micromanagement of superintendents and educators" (p. 20).

How boards establish interpretive frames that determine how and if they will entertain new information, including that coming from public delegations to the board, begins to appear in the literature only recently. Rusch (2005) reviewed several studies that found the entire structure of a school district, which would include the school board, administration, and staff, is a "major inhibitor of the dialogue or problem-solving required for system-level restructuring or cross-system organizational learning" (p. 87). Newton and Sackney (2005) found that school boards create a "tacit-collective" (p. 449) knowledge structure that determines how information coming to the board from the public will be received. When the board knows or believes that a delegation coming to board holds a different interpretation of facts, activities, or events than the board holds, then the tacit interpretation scheme of the board was "a powerful determinant of the types of new knowledge that the group would admit" (p. 450). Consequently, school boards tend to reject information or perspectives that do not fit within the tacit-collective knowledge structure of the board.

In summary, this overview demonstrates that concerns about school board governance have grown over the past 30 years. The areas of concern cluster in the following ways:

- definition of "governance"
- engagement and involvement of citizens in the broader education system

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- relationship between school boards, educational systems, and society
- singular focus of school boards on administrative tasks rather than educational leadership
- ways to ensure that trustees are knowledgeable about the educational system and the role of education in society
- ways to overcome procedural or knowledge structures that limit public input into school board governance.

Each of these areas is opened up for discussion in the Alberta ministry of education documents—*Inspiring Education* (2010a) and *Inspiring Action on Education* (2010b). These documents provide evidence that there is political leadership to create the foundation for changes in school board governance. This is significant for this research because even where there are indications of school board leadership, we must heed Ofsted's (2003) warning that "strong leadership by officers cannot compensate for poor political leadership" (p. 20).

THEORY AND METHOD

The intent of the project was to gather the perceptions on governance practices through interviews with sitting school board chairs prior to the October 18, 2010, municipal elections. Using school board contact lists from the Alberta School Boards Association, we contacted all school board chairs to participate in the research. Out of 62 possible school board chairs, 43 were interviewed (69%). Two research questions guided the study:

1. How do chairs of school boards perceive the governance role of their board up to October 2010?
2. How do chairs of school boards anticipate the roles and responsibilities of their school board to change with the new legislation?

A qualitative grounded theory approach was used (Glaser & Strauss, 1967). This approach is appropriate for this research because of its use of comparative analysis, which allows for insights into areas not well addressed in the literature. As well, grounded theory can reveal a common social issue that is not necessarily articulated by the group studied (Hutchinson, 1993). We conducted interviews between August 15 and October 8, 2010. The sample was divided between the two authors on a roughly equal basis (20 and 23 interviews). Consent was received from participants before booking and conducting the interview. A semi-structured interview protocol was developed and shared with school board chairs prior to the interview. The interviews were not recorded; however, extensive note-taking took place for each interview. The two authors independently reviewed the interview results and used comparative analysis to identify conceptual categories. A common set of conceptual categories was developed for the full sample using "same or similar" categories occurring in each of the subsamples. Through comparative analysis, different contexts, causes, contingencies, consequences, co-variances, and conditions (Glaser, 1978) were compared and their differences built into theoretical propositions about the governance framework within which school boards operate. We term these theoretical propositions "dimensions of governance."

The dimensions of governance were then tested and refined by considering them with other comparison groups in the sample. This helped ensure that the dimensions "fit" (Glaser & Strauss, 1967) with the governance phenomena. The dimensions were also presented to four of the participating school board chairs to ensure that they worked to explain and predict what was being studied and that the emergent dimensions of governance were relevant to governance practices of school boards (Glaser & Strauss, 1967).

EMERGENT DIMENSIONS OF GOVERNANCE

The following section describes the dimensions of governance arising from interviews with school board chairs. Taken together, the dimensions represent a governance domain within which school board governance is being transformed. These dimensions of governance provide insight into how school boards in Alberta are orienting themselves to the anticipated changes in governance as a result of the pending legislation.

Dimension 1: Achieving role clarity

Across the interviews, a common theme was the role of school boards and of trustees. Two clusters emerged within the data: one group saw an opportunity to expand roles by engaging a broader community; a smaller group saw a threat that challenged existing roles and powers. The first group was optimistic that new kinds of relationships could be forged using the “governance team” idea proposed by the ministry, which could improve education in their jurisdiction. The second group was skeptical that the ministry would follow through on the legislation and a fear that if the ministry did follow through, long-standing powers and roles would be diminished, with negative effects on education. Across the entire sample, most chairs stated that their support of or opposition to the new direction being set by the ministry was contingent on clearly understanding what was changing and what was staying the same.

Within this governance dimension are a series of subcategories that express particular areas of concern and insight:

1. *Ambiguity about the role of the board and trustee.* Across the interviews, respondents were unable to label their role(s) as a board or as trustees. While clusters of activity that could be associated with a role were listed without hesitation (e.g., having oversight, setting budget, communicating), respondents almost without exception did not or could not generalize a role from these specific activities (e.g., board as manager or board as leader).
2. *Governance and management.* Many of the descriptions of the work of the board suggest a management versus a governance paradigm. Phrases such as “develop budgets,” “address busing concerns,” and “negotiate contracts” suggest, at best, a fiduciary focus.
3. *Clarity on the role of the chair.* The chair role was understood as a media contact, spokesperson, meeting manager, coach, leader, peacemaker, and facilitator. Some described the role of the board chair more specifically as one of running meetings, representing the board publicly, and signing legal agreements and cheques.
4. *Ambiguity about the role(s) of the public.* Most board chairs used “voters,” “community,” and “parents” somewhat interchangeably when speaking about the need to inform and respond to community needs. Perhaps the fact that 62% of the trustees were acclaimed negated their thoughts of voters as a distinct constituency. For the majority of chairs, their perceptions of the public, especially in multiple-ward systems, appear to be received by way of school councils (a parent-school body at every school in every jurisdiction in Alberta), with trustees believing that their attendance at these meetings was of prime importance. Board chairs also expressed frustration that the public was not truly aware of the role that school board trustees have no individual power. Power, they stated, rested in the “corporate board.”

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5. *Representation.* A common concern of chairs was that trustees should arrive at the board table prepared to represent and speak to education for the jurisdiction as a whole. Board chairs pointed to multiple allegiances of trustees, such as to a faith-based, cultural, or language community. Frequently chairs expressed frustration with trustees who ran and were elected or acclaimed on a single issue, such as terminating a principal, getting special programs approved, or stopping a school closure. Those chairs working within a multiple-ward system are more likely to experience trustees coming to a board with a narrow personal, geographic, or voter-initiated agenda. As one chair stated, “Trustees generally are ignorant of the complexity of the system ... they can’t be hands-on.” Chairs also expressed concern where the membership of the board did not represent the diversity of the jurisdiction, especially where Aboriginal people were concerned.
6. *Erosion of board powers.* It was common for respondents to believe that powers of boards are being bargained away by the government to the Alberta School Boards Association or to the Alberta Teachers’ Association. Specifically, many expressed concern that the government was bargaining directly with the teachers’ union, thereby further eroding the traditional powers of boards. Many chairs perceived that this particular loss of power was occurring because the provincial government “desires a stable labour environment for the next two years,” in the words of one chair.

Board chairs also expressed concern about the perceived continued erosion of board powers in the future and the suggestions in reports such as *Inspiring Education* and *Inspiring Action on Education* that boards, in their present form, may no longer exist. They cited the example of the lack of consultation in the government’s sudden “claw-back” of school authority reserves (financial reserves held to offset unforeseen changes in the budget such as an increase in heating costs), in an uneven fashion, as proof of the school board’s lack of power and inability to plan for the long term. Other examples cited were the belief that boards had no power regarding capital funding, the suggested appointment of trustees, and the use of language such as “governor” and “governance team,” all of which they felt spelled the end of school boards.

7. *Autonomy of school boards.* Board chairs viewed the suggestion in *Inspiring Education* of increased local autonomy positively, but with a certain degree of skepticism, noting that they have witnessed a trend toward increased centralization and accountability. The increased requirement to report to the ministry on a variety of programs and the increased use of “enveloped funding” were cited as examples of this trend. Many viewed the possibility of boards achieving “natural person powers” as a key to achieving autonomy. Board chairs were of the opinion that increased local autonomy would allow boards to respond better to their own local community needs, but also realized that this might add a degree of complexity to their decision-making roles.
8. *Relevance of school boards.* *Inspiring Education* uses terms such as “governors” and “governance teams” when describing school jurisdiction governance. This report also suggests that increased community input into decision-making could be accomplished through the appointment of trustees, particularly from under-represented groups. Several board chairs supported the notion of appointed members, provided that boards were selecting the appointee. They drew attention to the present practice where school jurisdictions that border First Nations communities have appointees that serve as trustees on the school board. They also cited the example of the audit committee of the board, which may have community appointees with particular expertise in financial matters, as an example of a governance team. These chairs were

of the opinion that the diversity of backgrounds would bring different voices to the table and would help to engage those constituents whose voice was not normally heard.

However, many board chairs viewed this language and the potential appointment of trustees by the government as the “thin edge of the wedge” or the first step in following a path toward centralization that they saw happen in governance in the Ministry of Health and Wellness. For some chairs there was a question about the relevance of the school board as an agent in the educational system. As one chair put it, “I think that school boards have seen their day.” Many expressed concern about the potential for “politicization” of school board governance through government appointments and wondered if this was not a further attempt by members of the legislature of Alberta to exert authority. Many worried that the view of board governance as partnership with government, as described in *Inspiring Education*, was going to be lost. For example, some perceived that government was setting up school boards to be a “buffer” between government and communities. The school board-as-buffer idea was seen as the way government would protect itself from negative public reaction to its own “inadequate planning.” Several board chairs from smaller jurisdictions with declining enrolments expressed concern that their division might be amalgamated with another to gain efficiencies, as has been done in the past.

Dimension 2: Public engagement

School board chairs talked about the importance engaging the public in public education and yet frequently stated that the board was disengaged—that the public did not participate in board-led initiatives such as open school board meetings. Nearly every chair interviewed stated that the greatest challenge faced by school boards was how to engage the public in conversations about public education. Many were of the opinion that the community did not want to be involved. That there was often insufficient parent involvement to form a school council at a school was cited as evidence of public disengagement with public education. The chairs pointed to a growth of the “drop-off” society, with an increase in single-parent families or both parents working, and with parents seeing their only educational responsibility as getting their children to school. Many board chairs described community engagement in terms of the trustees attending school council meetings and school celebration events. Most were of the opinion that community engagement required a large-scale effort by the school board. Many board chairs were of the view that they did not have the time, capacity, or expertise within their school board to lead large-scale community engagement events. Only a few board chairs described community engagement as a strategic or generative mode of governance by the school board.

The majority of chairs defined community engagement as a priority but were skeptical as to the possibility that they could be successful in increasing public participation. One chair stated, “We are really responsible to the community except we don’t have any connections except on emotional issues such as school closures.” For example, board chairs pointed to limited success with “town hall” meetings in various communities because the participants who attended either over-represented the system itself (e.g., teachers) or were identified as “special interest” groups. Nearly all chairs indicating this as a concern talked about the need for special interest groups to take a broader perspective or to take into consideration the whole school system. The board’s role, they felt, was not to focus on what were seen to be “special interests” but to focus on the system as a whole. Board chairs frequently painted the picture of single-interest parents or communities taking over the agenda at public meetings or pursuing their special interest so vigorously that the board and/or administration chose to address the concern through legal means and terminate the public process. It was common for parents alone or collectively to be identified as being a special interest group. Many board chairs articulated a reluctance or complete refusal to work with or hear anyone identified by administration to be a special interest group. Many board chairs commented that they had been in a situation of facing a large group during a crisis situation or a

school closure meeting and felt that large-scale community gatherings frequently deteriorated to situations with members of the public challenging them personally or taking “potshots” at the board.

Dimension 3: Optimism toward change

As board chairs considered the ministry’s evolving position and major documents (i.e., *Inspiring Education* and *Inspiring Action on Education*), there was a general, though not strong, optimism about where education was heading in the province. There were strong cautions about certain policy directions and ideas, including the makeup and governance of school boards. Specific subcategories of this governance dimension are as follows:

1. *Already there.* Most chairs felt that their boards were already operating at the high level of governance intended in *Inspiring Education* and *Inspiring Action on Education*. While they could not give specific examples of what “good governance” looked like—though most indicated such things as democratic process and good meeting management—chairs were confident that their current practices were at a high level. Invariably they portrayed their system as “advanced” in governance practices: placing students at the centre, reducing the number of policies, and suggesting that the separation of duties was accomplished by having only one employee—the superintendent. Most spoke of governance not in terms of practice, but in terms of structure. Chairs commonly stated that they were a “Carver board” (i.e., a policy-governance board), a policy-driven board, or that they used the ASBA policy model. Responses regarding the number of wards or the appointment of trustees also suggested a structural bias. When probed as to how these structures affected governance practices, they reverted to descriptors of activities that the board participated in. Those who felt that some change would be needed suggested that all that was required were minor improvements to their current board practices.
2. *Dramatic change.* A minority of chairs expressed their belief that *Inspiring Education* and *Inspiring Action on Education* signalled the need for transformational change. One chair stated: “Generative governance is how things should be. Over the years many boards eroded to undemocratic, disengaged groups.” All chairs in this minority group suggested that present school board governance practices would no longer meet the needs of twenty-first-century learners. They pointed to the skills of problem solving, creative thinking, and conflict resolution that trustees would need to develop, since a more autonomous jurisdiction would bring increased complexity to the board. They saw the possibility of creative ways of organizing to engage their publics and increased creativity through collaboration. They indicated that boards should be leaders in this change, rather than waiting for government to develop the blueprint. These chairs spoke with passion and excitement about future possibilities that change would bring for their jurisdiction. Chairs in this group appeared to have a very good understanding of the vision described in *Inspiring Education*, and many had participated in the community dialogues or online engagement offered by the ministry, ASBA, or the Public School Board Association of Alberta (PSBAA), for example.
3. *Preservation of core values/beliefs.* Many chairs described board culture in terms of the values and beliefs that were at the core of their jurisdiction and its communities. Some recalled the challenges of change in the early 1990s, when some jurisdictions were amalgamated or regionalized, and the long-lasting effects of attempting to merge two or more cultures. Those recalling these challenges indicated that such a cultural change was a difficult and on occasion unsuccessful process. Some chairs of jurisdictions that remained unchanged during that period in the 1990s spoke to the importance of the legacy and responsibility of belonging to a culture that was established close to

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100 years ago. Chairs stated that caution should be exercised during times of change to preserve religious, cultural, and language rights. Some indicated that chairs would have to be active in ensuring that good works done by their boards would be preserved through the forthcoming period of change. Chairs also discussed the increased importance of keeping all trustees engaged in democratic board processes.

4. *Chairs as champions.* In the sample, chairs tended to have been serving on their school board longer than the average trustee. Although many chairs expressed confidence that they were prepared to lead through a period of change, others suggested that moving forward, chairs would require an increased skill set, including enhanced leadership and facilitation skills. One chair commented, "The chair provides leadership to the board, but it's not always clear what that is." Many suggested that the difficulty would be to encourage fellow trustees to embrace change.
5. *Uncertainty, doubt, skepticism.* Many chairs expressed doubt about whether the *Inspiring Education* initiative would result in anything more than the report. They cited examples of previous reports in health and other ministries that were never acted upon or the fact that not all of the recommendations of the 2004 Alberta Commission on Learning were implemented. They also drew attention to the fact that there have been four different education ministers in the past six years, each with an agenda for education and learning that was never fully implemented. The majority of chairs suggested that there was no clear direction for the transformation of the education system, with *Inspiring Education* at the "big picture" or visionary level and *Inspiring Action on Education* at the operational or tactical level. They also suggested that the draft *Education Act* document was more of a framework than a call to action. The majority of chairs had adopted the wait-and-see position as to whether this minister would continue as minister and the new Act and its regulations would be passed.

Dimension 4: Understanding governance

Nearly all chairs interviewed talked about governance as if it were an administrative task. Chairs that identified boards as having superior governance practices proceeded to describe a set of administrative tasks performed in a largely routine and predictable fashion. For example, common responses representing good governance by school boards included reporting to the ministry, monitoring the budget, setting the budget, and implementing policy. At best this set of tasks would fall within the fiduciary domain of governance, however, how these activities were described suggested that the higher-level consideration associated with governance was largely lacking. For example, reviewing budgets and implementing policy are the tasks of administration, whereas monitoring budget performance and monitoring policy effectiveness are governance responsibilities. The chairs talked about technical processes, incremental decision-making, and board practices that seemed focused on detecting errors and correcting them. This governance dimension includes two specific subcategories:

1. *Administrative bias.* Across the interviews chairs most often described governance in terms of tasks and activities such as setting the budget, reviewing the three-year plan, attending school council meetings, or addressing transportation issues. Many chairs shared their frustration of attempting to move the conversation and tasks to a higher level, only to be thwarted by trustees who focused on "micromanaging" the system and its people. One chair reflected, "Trustees often arrive with management knowledge and feel frustrated when they cannot manage the system." Chairs sometimes identified the superintendent and senior leadership team as encouraging boards to focus on management concerns, since it was frequently administration that constructed the

board agenda. For example, some chairs stated that the agendas for board and committee of the whole meetings were most often focused, sometimes exclusively, on day-to-day management issues. One chair commented, “The three-year plan is not a board plan; it is a superintendent plan.” Chairs shared their frustration at long agendas and long meetings and how “busy” the role of the trustee has become. Chairs were unanimous in their belief that students needed to be placed at the centre of the system, but only two could cite examples where they engaged students to help the board set direction.

2. *Absence of a governance mindset.* The majority of chairs used language that would, at best, describe governance as oversight of the system, largely focused on the fiduciary responsibilities of trustees. A few chairs focused on language of long-term strategic planning. Most, however, did not view their jurisdiction’s three-year plan as the board’s strategic plan. The language used by the ministry, such as “setting direction through key system performance indicators” or “establishing over-arching principles,” was seldom used by chairs in the interviews. Some chairs pointed to the government focus on accountability as “pushing” boards into more of a fiduciary role. Chairs were aware that they needed to increase board governance capacity and suggested that they needed to increase engagement with their communities and to learn more about generative governance.

DISCUSSION OF FINDINGS

Our proposed dimensions of governance (achieving role clarity, public engagement, optimism toward change, and understanding governance) define the space within which the transformation of school board governance is taking place in Alberta. The transformation of education and education governance specifically as expected by the ministry of education and the thousands of Albertans who were engaged in defining the necessary kinds of educational transformation is unprecedented in magnitude. The roles of the trustee, the school board, a wide range of community stakeholders, and government will need to change and the relationships between them be renegotiated.

In considering the relationships between the domains of governance, we propose a fifth dimension of governance: boundary spanning. The trustee and school board will have to develop the capacity—already in evidence by the actions of some school boards—to become active boundary spanners (Seel, 2007). The tension in appearing to widely engage stakeholders while creating structures (e.g., three minutes to present a concern in front of one particular school board) or processes (e.g., not allowing “special interest” groups to engage the board) reflects one side of boundary spanning. Another aspect of boundary spanning is the movement of school boards from an administrative space to a governance space that allows trustees to realize public engagement as a major component of the trustee role.

This research highlights the significance of understanding boundaries to the governors engaged in the transformation process, independent of whether or not they support or oppose the changes being brought about by the ministry. The questions regarding the kind of “order” that will exist during and after the governance transformation recalls Wuthnow’s (1987, p. 69) statement that “[o]rder has somehow to do with boundaries. That is, order consists mainly of being able to make distinctions—of having symbolic demarcations—so that we know the place of things and how they relate to one another.” Symbolic boundaries are the demarcations that include, define, and provide identity for some while excluding others (Epstein, 1992). Symbolic boundaries create distinctions that “enforce, maintain, normalize, or rationalize” social boundaries, which in turn objectify “social differences manifested in unequal access to and unequal distribution of resources (material and nonmaterial) and social opportunities” (Lamont & Monlár, 2002, p. 168). When school boards, therefore, state that they need to engage the public while acting to segregate that public into preferred (e.g., those passively accepting of what

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the board proposes) and not preferred groups (e.g., those that challenge the board's tacit-collective knowledge structure in some way [Newton & Sackney, 2005]), they give evidence of:

- how embedded symbolic boundaries are in the structures (e.g., the space where the board holds its meetings, which places the public at a distance and often below the trustees) and/or processes (e.g., the minimal time given to the public to address the school board);
- the asymmetric power relationship between the board (which is seen to wield the power in an educational jurisdiction) and the public (which because of established processes and structures is powerless); and
- the enormity of the task to effect a change of culture within the school board and jurisdiction.

With this evidence, the question of how a school board could approach crossing established boundaries becomes more specific. The main lines of transformative activity that school boards need to engage in see to be the following: making symbolic boundaries and related processes more permeable; addressing the power imbalance; and changing organizational culture. Adopting a different approach to governance that would encourage transformative activity would support the changes. One possibility is offered by Ringeling (2005), who distinguishes four "governance models" (p. 193). Each of the four models describes a point along a continuum of governance experiences that were commented on by the school board chairs in this research:

1. *Command and control*. The governing body defines the problems and solutions and uses "direct regulation as the main instrument" (p. 193). Other stakeholders comply with the standards set. At this end of the continuum, the instruments of governance (e.g., policy, regulations, administrative structure) are the most normative.
2. *Governance along main policy lines*. The governing body "designs only the main lines of the policy, giving other actors the opportunity to specify the policy" (pp. 193-194). This approach is characterized by governors that set "framework laws and obligatory goals" (p. 194).
3. *Selective governance*. The governing body "intervenes only in certain crucial matters" that can change a course of events (p. 194).
4. *Facilitating governance*. The governing body addresses the question of "how to enable the self-governance capacities of other actors" (p. 194). The need to understand the problems facing stakeholders, their capacity to engage, and barriers that have to be addressed, for example, becomes a primary activity of the governing body. This end of the continuum is least normative, with openness to alternative perspectives being part of the governance culture.

Ringeling's continuum speaks both to the school board's boundary spanning activities with their public stakeholders and to the ministry's boundary spanning activities with school boards. The degree to which there is greater symmetry in terms of power, the more the relationship will have characteristics of facilitating governance (Ringeling, 2005) or generative governance (Chait et al., 2005).

CONCLUSION

This research drew on the perceptions of chairs of school boards who could reflect on the governance culture of their boards in the past and who could anticipate what effects the new legislative context would have into the

future. The five theoretical categories developed establish a “governance domain” for school boards. Little in terms of the concerns with school board governance has changed since the 1970s. By introducing legislation that compels governance reform across all 62 school boards in the province of Alberta, the Minister of Education is taking a bold step to ensure broader stakeholder engagement in public education that is deeply unsettling for the majority of school boards. As school boards work to meet the required changes, they will have to address the symbolic boundaries that define the current governance culture. This difficult work could result in improved relations as the trustees, government officials, and other stakeholders learn to span boundaries rather than defend them.

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Understanding the Rural Tilt among Financial Cooperatives in Canada

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ABSTRACT

This mixed methods study examines whether the rural/urban distribution of credit union/caisse populaire branches differs significantly from the general urban/rural demographic pattern in Canada. It also explores whether their distribution is different from that of banks, looking at the cases of Québec and Atlantic Canada. The study finds a rural tilt among financial cooperatives in Canada, and seven key informants present their views on the results. Their responses are categorized in two main themes: why financial cooperatives are over-represented in rural and small town areas, and why they are under-represented in urban ones. A discussion follows, and directions for further study are provided.

RÉSUMÉ

Cette étude utilisant des méthodes combinées examine si la distribution des succursales de coopératives d'épargne et de crédit / caisses populaires en milieu rural et urbain diffère de façon importante de la tendance démographique générale des milieux urbains et ruraux au Canada. Elle aborde aussi la question de savoir si leur distribution est différente de celle des banques en observant le cas du Québec et du Canada atlantique. L'étude révèle une tendance rurale chez les coopératives financières du Canada, et sept répondants clés donnent leur opinion sur les résultats. Les réponses des intervenants sont divisées en deux thèmes principaux : pourquoi les coopératives sont surreprésentées dans les milieux ruraux et les petites villes et pourquoi elles sont sous-représentées dans les milieux urbains. Un débat s'ensuit, et des lignes directrices sont fournies aux fins d'une étude plus approfondie.

Keywords / Mots clés : Credit unions; Caisses populaires; Financial cooperatives; Rural; Urban / Coopératives d'épargne et de crédit; caisses populaires; coopératives financières; milieu rural; milieu urbain

INTRODUCTION

Each year the Co-operatives Secretariat (a unit within Agriculture Canada) publishes a series of reports on the state of cooperatives within Canada. Some of these reports are regular publications, such as *Co-operatives in Canada* and *Top 50 Non-financial Co-operatives in Canada*, and others are one-off research reports, such as *Profile of Canadian Agricultural Co-operatives (1998-2002)*. In reading these reports, one is struck by at least two very clear patterns: first, the economic dominance of agriculture, broadly speaking, within Canadian cooperatives. These “agricultural” cooperatives include farm marketing cooperatives that dominate the top 50 non-financial cooperatives and account for about one-quarter of revenues; farm supply cooperatives (fertilizers and chemicals, animal feed, seed, building materials, and petroleum products); cooperatives in fishing; and production co-ops in services such as grazing, agricultural machinery, animal reproduction, forestry, and handicrafts, the largest two components being management of feeder finance operations and grazing operations. The most recent figures indicate that agricultural cooperatives represent only 15% of non-financial cooperatives in Canada, but about 45% of revenues (Co-operatives Secretariat, 2011). The economic dominance of agricultural cooperatives occurs at a time when Canada is heavily urban in its makeup.

The second pattern or trend is the striking growth of cooperatives in public services—particularly in housing but also in childcare, healthcare, and home care. Together, these cooperatives account for about half of non-financial cooperatives in Canada, and housing cooperatives alone account for about 40%. Unlike agricultural cooperatives, these cooperatives in public services are predominantly urban and rely upon government programs. Although they make up a growing portion of non-financial cooperatives in Canada, they represent a relatively small portion of revenues.

Our previous work discusses these patterns (Quarter, Mook, & Hann, 2012) and piqued our curiosity about financial cooperatives in Canada—that is, credit unions and caisses populaires. Do they also follow the pattern of rural dominance? This article presents the data from our analysis of credit unions and caisses populaires in Canada.

Canada has had a long and strong tradition for developing credit unions since their inception in 1901 in Lévis, Québec (MacPherson, 1979, 1995, 1999, 2012). This study examines the extent to which credit unions and caisses populaires moved with the demographic change in Canada away from their rural, agricultural tradition to reflect population distribution. In that regard, we ask three questions:

1. Does the rural/urban distribution of credit union/caisse populaire branches differ significantly from the general urban/rural demographic pattern in Canada?
2. Do credit union/caisse populaire branches differ from bank branches in their urban/rural distribution?
3. How can these data be explained?

BACKGROUND

The recent research literature on credit unions has addressed their challenges primarily in the context of the transformation into larger units and the impact that change has had on membership participation. In a historical analysis of the credit union development in Canada, MacPherson (2012) argues:

The Canadian credit union movement has gone through a series of periods or stages, particularly over the last eighty years, which can be understood as: formative, stabilizing, building, re-examining, and reformulating. The last two stages, re-examining and reformulating, are cyclical because credit unions are constantly buffeted by internal and external pressures and the need to adapt. The great challenge they face is how, amid those changes, they can retain their commitment to members, co-operative structures, community relations, developing appropriate government relations, and co-operative management. (p. 37)

Senior management who feel that mergers into larger units are in the best economic interests of the credit union have to convince their membership of the validity of this viewpoint. Board members, on the other hand, who are a different stakeholder group than management, are obliged to listen to the people from their community who elected them; this can produce a dilemma that Cornforth refers to as “the tension between the conformance and performance” (2002, p. 4; see also 2004). The concern in organizations such as credit unions—or member-based organizations in general—is that management will become too powerful and the board will be a weak representative of the membership (Spear, 2004). In a study of credit unions in Saskatchewan, Mavenga (2010) expresses the concern that mergers may cause credit unions to become more like banks and that they may become disconnected from their local communities. In response to such concerns, Ketilson and Brown (2011) set out a series of proposals to increase member voice and participation within larger organizations.

Another factor comes into play in democratic member-based organizations: decision-making can be time-consuming, especially when the issues are of great importance to the stakeholders. Addressing this issue in a different context, that of Aboriginal/government negotiations, Benson (2002) states: “[O]nly the long slow process of trust and relationship-building can provide the basis for successful multiparty institutional negotiations” (p. vii). Although the context differs, Benson’s point could be generalized to credit union change: multiple stakeholders are involved, and satisfying the needs of each group can be a time-consuming process.

Although decision-making in banks and trying to create consensus around major issues also can be time consuming, the interests of senior management and of board members representing shareholders of a bank are likely to be aligned around increasing profits and expanding markets. In democratically structured organizations such as credit unions, however, there may be less agreement between management and board members representing the broader membership. Therefore, banks may be better positioned to initiate policy changes than credit unions, including the closure of branches.

RATIONALE

Little research bears directly on the issue that this article addresses: the demographic patterns of credit unions and caisses populaires. As noted, an earlier study by the authors on Canadian cooperatives found that there were two broad demographic groupings: cooperatives in such public services as housing, childcare, healthcare and home care that rely heavily on government funding programs and are found primarily in urban centres; and cooperatives that are financially self-sufficient and that market services either to a membership or to the broader public, found primarily in rural settings and small communities (Quarter et al., 2012; Quarter, Mook, & Armstrong, 2009).

This study is exploratory and proceeds inductively. We first seek to determine the proportion of financial cooperatives in Canada located in rural areas and small towns; next, we attempt to determine whether the urban/rural distribution of credit union/caisse populaire outlets differs from that of bank branches (looking at the cases of Québec and Atlantic Canada); and finally, we explore possible explanations for the distribution of credit

union/caisse populaire outlets. The explanations, as noted, are speculative, but nevertheless have value and raise issues that could be explored deductively.

METHODOLOGY AND RESULTS

This study utilizes a mixed methods approach, combining quantitative and qualitative approaches to research (Creswell, 1998, 2003; Creswell & Plano Clark, 2007; Tashakkori & Teddlie, 2003). The quantitative study is presented first, followed by the qualitative study.

Quantitative study

The purpose of the quantitative research was twofold: a) to determine whether credit union and caisse populaire outlets corresponded to the population distribution in Canada; and b) to determine whether the distribution of credit union and caisse populaire branches differed from that of bank branches. The first step was to compile a database of credit unions from those posted on credit union central websites;¹ subsequently, we compiled a database of caisses populaires, based upon information obtained from Desjardins (Canada's largest cooperative financial group, with most of its operations in the province of Québec). Once these steps were completed, we mapped the credit union/caisse populaire locations by the population size of the community in which they were located, using a combination of information drawn from Statistics Canada (2008) and Google Maps.

Excepting Québec, we classified community size as follows: under 10,000 (rural and small towns); 10,000 to under 100,000; 100,000 to under 1 million; and 1 million and over. For the classification of "rural and small towns," we used the criteria put forth by Du Plessis, Beshiri, Bollman, & Clemenson (2001, p. 11): "the population living in towns and municipalities outside the commuting zone of larger urban centres, i.e., outside the commuting zone of centres with population of 10,000 or more." For Québec, we relied on Desjardins' classifications for the distribution of their branches by community size. The categories were as follows: less than 3,000; 3,000 to less than 5,000; 5,000 to less than 8,000; 8,000 to less than 12,500; 12,500 to less than 30,000; 30,000 to less than 57,000; 57,000 to less than 200,000; 200,000 to less than 700,000; and over 700,000. For Québec, rural and small-town communities were considered to be those with a population under 8,000.

To compare credit union locations to banks, we chose two regions for our initial exploration: Atlantic Canada, because the data were manageable, and Québec because Desjardins made the data available to us. For Atlantic Canada, we mapped the bank branches by community size using the same procedure as for credit unions (see above). For Québec, Desjardins provided a table of banks by community size using the same categories as for caisses populaires.

Quantitative data findings

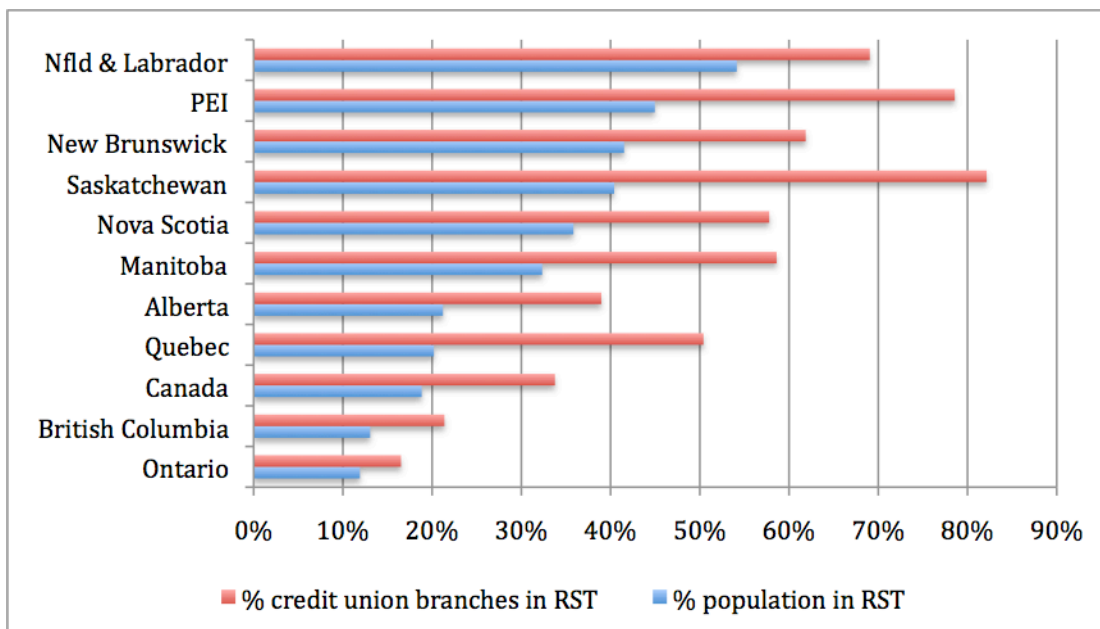
We begin by presenting the data on credit union branches in English Canada. Table 1 shows the population distribution in English Canada by province on the left and credit union distribution by community size on the right. For English Canada as a whole, about 41% of credit union branches (814) can be found in communities with a population of under 10,000, or what we label rural and small towns (RST). In settings with a population over 10,000, we find about 59% of credit union branches (1,170). When credit union distribution is compared to the population distribution by community size for English Canada, it is evident that credit unions are more heavily clustered in RST areas, which represent only 18% of the population.

Table 1: Credit union branch locations in English Canada by community size

	Total population	Population distribution by community size (%)				Total credit union branches	Credit union branch distribution by community size (%)			
		Under 10,000 (RST)	10,000 - 99,999	100,000 - 999,999	1 million+		Under 10,000 (RST)	10,000 - 99,999	100,000 - 999,999	1 million+
PEI	135,851	44.96	55.04	0.00	0.00	14	78.57	21.43	N/A	N/A
Nova Scotia	913,462	35.84	11.75	52.41	0.00	90	57.78	5.56	36.67	N/A
New Brunswick	729,997	41.52	24.40	34.08	0.00	118	61.86	18.64	19.49	N/A
Nfld. & Labrador	505,469	54.14	10.03	35.83	0.00	42	69.05	7.14	23.81	N/A
Ontario	12,160,282	11.91	8.38	37.67	42.05	545	16.51	12.66	45.14	25.69
Manitoba	1,148,401	32.34	7.17	60.49	0.00	215	58.60	6.05	35.35	N/A
Saskatchewan	968,157	40.40	15.30	44.30	0.00	308	82.14	5.19	12.66	N/A
Alberta	3,290,350	21.21	14.53	0.00	64.26	231	38.96	13.85	N/A	47.19
British Columbia	4,113,487	13.06	19.65	15.84	51.45	421	21.38	19.95	14.96	43.71
Total (except Québec)	23,965,456	18.40%	12.30%	30.31%	38.99%	1,984	41.03%	12.45%	24.70%	21.82%

In all provinces, there was a greater proportion of credit unions in rural and small-town locations when compared to population distribution. The extent of the pattern varied by province, but only in degree, with Saskatchewan credit unions being the most prevalent in rural communities (82%) and Ontario's the least (16.5%) (see Figure 1).

Figure 1: Percentage of credit union branches and population in rural and small towns (populations under 10,000*)



* Québec RST data are for populations 8,000 and under.

Table 2 examines caisses populaires in Québec, through data collected by the Desjardins system that includes both branches and service outlets.² These data have the added strength of including not only caisse populaire locations but also banks, so that we can compare the representation of banks and caisses populaires in those locations.

Table 2: Desjardins branch locations in Québec by community size, 2010

	Total Population	Population distribution by community size (%)				Total credit union branches	Credit union branch Distribution by community size (%)			
		Under 10,000 (RST)	10,000 - 99,999	100,000 - 999,999	1 million+		8,000 and under (RST)	Over 8,000 - 200,000	More than 200,000	1 million+
Québec	7,546,131	20.20%	12.01%	19.61%	48.18%	14	50.42%	19.65%	29.93%	-

Source: Statistics Canada (2008), 2006 Census

For Québec, the data show a similar pattern to credit unions in English Canada: 50% of Desjardins branches are in communities of 8,000 and under, whereas only 20% of Québeckers live in such communities; strikingly, almost 36% of caisses populaires are in communities of 3,000 or less. In cities with a population of 700,000 or more, we find about 30% of Desjardins branches, whereas nearly half of Québec's population is in communities of 1 million or more.

Table 3: Desjardins and bank branches by community size in Québec

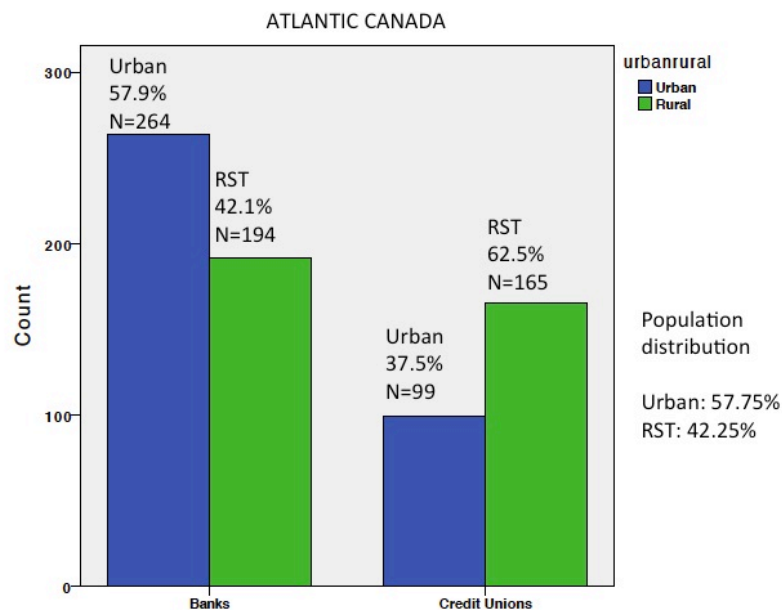
Size of the municipality (average population)	Presence of Desjardins	Percent (%)	Presence of banks	Percent (%)
More than 700,000	399	29.93	705	64.21
200,000	88	6.60	87	7.92
57,000	96	7.20	74	6.74
30,000	44	3.30	41	3.73
12,500	34	2.55	37	3.37
8,000	47	3.53	51	4.64
5,000	47	3.53	43	3.92
3,000	102	7.65	42	3.83
Less than 3,000	476	35.71	18	1.64
Total	1,333		1,098	

Source: Desjardins (2011)

Table 3 compares the prevalence in Québec of bank branches to Desjardins branches by community size. The Desjardins branches included 450 distinct caisses populaires at the end of 2010 (Desjardins, 2011). Although they are integrated within the Desjardins system, they operate with greater autonomy than a bank branch. Table 3 shows clearly the disproportionate number of caisses populaires in RST areas, when compared to bank branches as a group. Communities of less than 3,000 contain almost 36% of Desjardins locations, but less than 2% of bank branches. Communities of up to 8,000 residents contain over half of Desjardins branches and only 14% of bank branches. The major difference, as noted, is in the communities of less than 3,000. When cities of 700,000 or more are considered, they contain 64% of bank branches and only 30% of Desjardins branches.

Finally, to explore the bank branch/caisse populaire comparison in English Canada, we look at Atlantic Canada. We chose this part of Canada because it is smaller and therefore the data collection was more manageable. Credit unions and caisses populaires have also on average been in business in Atlantic Canada for over 60 years (Thériault, Skibbens, & Brown, 2008). Data were collected in May and June 2011 from institution websites, provincial government websites, and Google Maps.³ Table 1 already illustrates that although there is some variation in degree, in all provinces credit unions are over-represented relative to the population in RST areas and under-represented in larger centres. Figure 2 indicates that for banks, their representation in RST areas more closely approximates the percentage of the population that is RST. Credit unions, as compared to the population distribution, are more heavily represented in RST areas.

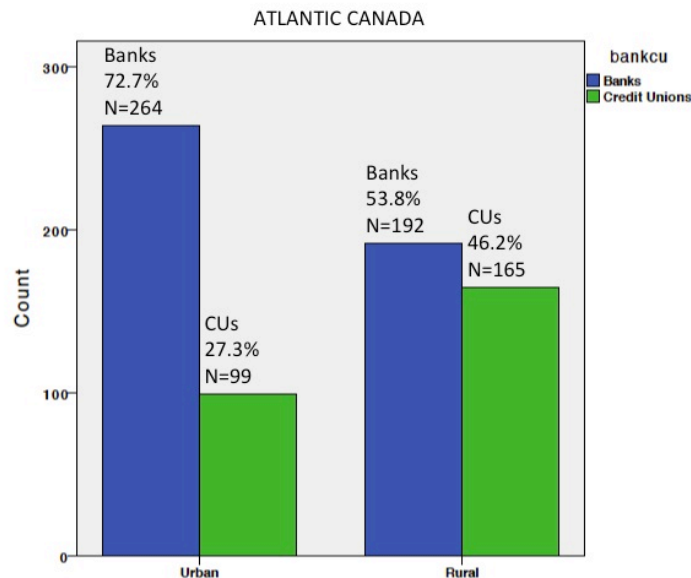
Figure 2: Distribution of banks and credit unions in Atlantic Canada, 2010



Source for population statistics: Statistics Canada (2008), 2006 Census.
 Note: Missing = 0; Chi-square = 27.820, d.f. = 1, p < .000; Cramer's V = .197

As shown in Figure 3, for Atlantic Canada, the overall percentage of credit union branches of the total of credit union and bank branches in RST areas (populations under 10,000) is 46; the percentage of banks is 54. In urban areas (that is, everything that is not RST), the spread is more extreme: credit unions are 27% of the total while banks are 73%. In urban areas credit unions are under-represented as a percentage of financial institutions, while in RST areas banks and credit unions are more evenly represented.

Figure 3: Distribution of banks and credit unions in Atlantic Canada RST areas, 2010



Note: Missing: 0 Chi-square = 27.820, d.f. = 1, p < .000 Cramer's V = .197

For Québec the more extreme spread is in the rural and small towns (populations 8,000 or less). In Québec caisses populaires constitute 81% of the total, while banks make up 19%. In urban areas in Québec, caisses populaires make up 41% of the total, while banks are 59%.

Qualitative study

To interpret the pattern of the data, we sought out key informants who were knowledgeable about the field. With the assistance of contacts in the credit union sector, we were able to recruit and interview seven leaders from credit unions and caisses populaires across Canada:

- Vivian Campbell, Senior Consultant, Credit Union Services, Atlantic Central
- Art Chamberlain, Media Relations Manager, Central 1 Credit Union, representing British Columbia and Ontario
- Bill Langthorne, CEO, Credit Union Deposit Guarantee Corporation (CUDGC), Alberta, and Superintendent of Credit Unions
- Ian MacPherson, Emeritus Professor of History, University of Victoria, specializing in the study of cooperatives and credit unions, and board member of British Columbia Credit Union Central
- Alvina O'Brien, CEO, Eagle River Credit Union, Newfoundland and Labrador
- Daniel Roussel, Advisory Manager, Cooperative Development and Democratic Governance Support, Mouvement Desjardins, Québec
- Dale Smith, Executive Manager, Business Strategy & Innovation, TCU Financial Group, Saskatoon

The interviewees were asked to give their overall impressions of our quantitative findings and say how they might explain them. We also asked whether they believed the geographic distribution of credit unions was strategic (i.e., to avoid

competition with urban banks) and whether they believed that credit unions were filling a niche in rural and small communities (where there are fewer banks). Some of our interviewees were able to offer a broad or historical perspective on Canada's credit union sector, while others provided insight into specific regional concerns.

Interview data findings

In general, interview responses could be collapsed into two broad themes: 1) explanations as to why credit unions are a better match for rural and small communities, or put differently, the difference between credit unions/caisses populaires and banks; 2) the reasons why credit unions and caisses populaires are under-represented in large urban centres. Here we address these themes in turn.

The credit union/caisse populaire difference

Credit unions and caisses populaires offer many services that are similar to banks, but the interviewees emphasized the differences—both historical and philosophical. All of the interviewees alluded to one fundamental distinction: the primary orientation of banks is to meet the needs of their shareholders to make money, while the primary orientation of credit unions and caisses populaires is to provide a service to their members, and not to maximize profit. This should be viewed as a difference in degree, not a categorical difference, as service is also a priority for banks, and having a positive net income is of importance to credit unions and caisses populaires. Nevertheless, as one of the interviewees told us, “Credit unions are not as profit-driven as banks.” Other interviewees made the same point in reference to the role that credit unions play in sustaining rural and small communities. When banks close branches in rural communities and small towns as a cost-cutting measure, credit unions and caisses populaires often become the only local financial institutions and provide services that the people in these communities would not be able to access otherwise. In the words of another interviewee, “Banks just don't want to be bothered [with rural and small communities].”

The interviewees also highlighted the differing historical roots of credit unions/caisses populaires and banks. One interviewee noted that Saskatchewan's economy revolved around agriculture for much of the twentieth century, though recently mining of potash and oil and gas exploration have assumed greater importance. During the Great Depression, when banks would not finance farmers, credit unions were established in many of Saskatchewan's communities. Looking at more contemporary times, the tendency for a credit union to maintain its presence in rural communities and small towns was noted. One interviewee described how credit unions took over bank locations when one of the major banks embarked on a branch reduction strategy in Western Canada ten years ago, saying: “It was a good business decision for the banks *and* for the credit unions.”

Similarly, in the Atlantic, one of our interviewees noted the historical connection to the Antigonish Movement of the 1930s, when Catholic parishes led the organizing of credit unions. The interviewee emphasized that the over-representation of credit unions in rural and small communities “isn't part of a strategy to go to these areas.” Instead, “Credit unions have made a concerted effort to stay in rural and small communities.”

Another interviewee highlighted the historical uniqueness of Canadian credit unions, many of which emerged out of communities, churches, unions, and employee groups. This model, it was noted, was largely retained until the 1970s. However, there are significant regional differences in the historical development of credit unions. One interviewee noted that credit union growth in Newfoundland was, for the most part, driven by government-funded rural development organizations in communities needing a lower-cost service or a financial institution.

The interviews suggest that there is a difference in philosophy among credit unions that distinguishes them from banks and a difference in tradition because credit unions have historical ties to rural and small communities that

have persevered in spite of modernizing trends. As one interviewee told us, “There has always been a tendency to be closely identified with constituencies, and this impeded growth in some ways.” The constituencies could also be referred to as communities, either geographic or of mutual interest.

Under-representation in large urban centres

The data indicate that not only are credit unions and caisses populaires more prevalent in rural and small communities, but that they are also under-represented in large urban centres. To some extent, the relationship is reciprocal, but the interviewees discussed both and provided different explanations for the under-representation. Desjardins, arguably, is the strongest system of financial cooperatives in Canada, but as noted, the rural tilt is striking. One interviewee emphasized this point, stating that in rural and small communities about 80% of residents belong to the local caisse populaire, whereas in Montreal it is only 30%. It was explained that “Montreal is more Anglophone and more multicultural, whereas caisses have traditionally been more francophone and more Roman Catholic”—in other words, there isn’t as good of a cultural fit. Catholic parishes in Québec were leaders in organizing caisses populaires early in the twentieth century, and to a degree this connection has been maintained. In Montréal, however, the population is more cosmopolitan, more diverse, and more secular. Desjardins competes with the large banks in Montréal, where it lacks the dominance it has in small communities. Our Desjardins interviewee acknowledged this point: “It is difficult for caisses populaires to compete with banks.” Another interviewee noted that the prohibitive cost of advertising makes it difficult for credit unions to develop visibility and brand recognition in large urban markets like Toronto.

One interviewee viewed the growing centralization of services by credit unions and caisses populaires as an attempt to compete more effectively with the banks. He argued that historically credit unions have engaged in “conservative entrepreneurship.” Credit union board members, the interviewee stated “are not flamboyant risk-takers. They are aware that they are looking after their own funds, as well as those of their parents and neighbours, and will not go too far out on a limb.” It was noted that credit union mergers inevitably lead to centralization, and “greater centralization on the business side” can enable a credit union to offer a wider range of services and products (and compete more effectively with the banks). Another interviewee, however, raised some doubts about this strategy: “Mergers and amalgamations can help credit unions to create a stronger image. But it is not just about image. Credit unions need to offer a distinguishable service to members, like Mountain Equipment Co-operative does.”

To some extent technological changes such as electronic banking have overridden geographic locations. This cuts two ways: one interviewee argued that “the bricks and mortar presence of credit unions is misleading because with the rise of electronic services, all areas can be served,” meaning that credit unions can serve a clientele in large urban centres even though they lack a strong physical presence there. However, another interviewee raised concerns about the opposite impact of electronic banking, that banks are able to serve a clientele in rural and small communities even though they have closed their branches there: “People’s savings are going into ING, PC, Manulife, but the people still want the [Desjardins] outlets. ... If you want the caisse to be a part of the community, the community should be part of the caisse.”

DISCUSSION

Our findings indicate that credit unions and caisses populaires are found disproportionately in rural and small-town Canada, much like other cooperative enterprises that function independently of government programs (Quarter et al., 2012). The explanations of the data from the interviews suggest that a number of factors come into play: the credit union/caisse populaire tradition of being founded in rural and small-town Canada, the

abandonment of small communities by the large banks, and the challenges for credit unions and caisses populaires to compete with the banks in large urban centres.

Market-failure theory has been applied to explain why organizations in the social economy or third sector are not more central to the economy, and the theory generally argues that such organizations emerge where the private sector loses interest because of insufficient profits (Ben-Ner, 1986; Hansmann, 1980; Weisbrod, 1974, 1977). The evidence that banks are abandoning rural and small communities and credit unions and caisses populaires are filling the void would be consistent with market-failure theory. For example, in the early 2000s, credit unions in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, and Nova Scotia purchased more than 70 bank branches in communities where the six major banks⁴ had decided they would no longer operate (Canada, Department of Finance, 2003). However, market failure appears to be an overly simplistic explanation for this phenomenon. As noted, credit unions and caisses populaires have a lengthy history in some RST communities and have decided to stay there even though the net income might be greater in a more densely populated area. Provinces such as Saskatchewan and Québec, with a highly disproportionate number of credit unions in rural and small-town areas, are also those in which credit unions have had lengthy histories.

A likely reason that credit unions remain in rural and small-town Canada concerns their member-based governance, a point that was raised in the introduction to this paper. As one interviewee commented, it is very difficult to close a credit union once it is established within a community (see also Sriram [2000] on this same point, with respect to Desjardins). The difficulty in closing credit union branches can be viewed as a function of a democratically elected board representing the members of a community with an interest in preserving the credit union. Bank executives do not face similar challenges in closing their branches.

The willingness of credit unions to stay put might be viewed as part of the so-called cooperative difference; they are there to provide a service to members, not to maximize the returns to investors who may have no connection to small and rural communities. In the words of one interviewee: “When a credit union wants to close a branch, all hell will break loose—boards are reluctant to do this. When amalgamations happen, no staff will be lost, and no branches will be closed.” Mergers can lead to criticism from management as well as members, for example, Claude Béland, past president of Mouvement Desjardins, recently stated on CBC-Radio Canada that Desjardins’ cooperative philosophy has been weakened by mergers (CBC-Radio Canada, 2011). Banks are also scrutinized by the public, but not over issues such as democratic practices, but rather whether their profits are meeting expectations (a concern of investors) and whether their charges are excessive (a concern of consumers and public officials).

Put differently, it could be argued that financial cooperatives face greater social expectations than banks. When cooperatives merge to compete more effectively with banks, they are held to a standard by their members. Banks have to be wary of consumer concerns, but unlike credit unions, their consumers are not active participants in decisions about mergers and location changes, but rather a passive voice taken into consideration by management. For credit unions, the consumers are members who are entitled to demand more, as a fundamental part of the cooperative difference. Moreover, as noted in Ketilson and Brown (2011), credit unions value member participation and are trying to find ways to keep their members engaged in decision-making with larger merged structures.

When credit unions and caisses populaires are viewed in relation to the overall market, they may be seen as a niche player specializing in consumer loans to members and to small businesses owned by their members. They are able to thrive in smaller communities because, in the words of one interviewee, “Rural areas are more co-op minded.” Often credit unions are set up with the support of a sponsoring organization: a religious

congregation, ethnocultural association, workplace, or union. In some small communities, credit unions operate within a cluster of cooperatives—a store serving consumers, gas bar, et cetera. The Evangeline Credit Union in the Acadian region of Prince Edward Island is a classic example of this arrangement (Wilkinson & Quarter, 1996).

Therefore, even though elements of the data suggest that credit unions have agreed to operate within a space where the private sector is failing to deliver services, in the main the data suggest that credit unions serve a niche much like businesses in general. It is risky to compete against the large banks in major urban centres that are already saturated with financial institutions. It appears, as noted, that credit unions and caisses populaires are gearing up to do this by engaging in mergers that have sharply reduced the number of independent organizations. It remains to be seen whether this strategy will either lead to a stronger presence in urban centres or reduce the disproportionate credit union presence in rural and small-town Canada.

Another issue raised in the interviews that bears scrutiny is electronic banking. It was raised primarily in the context of Desjardins but could be described as the proverbial elephant in the room. One component of the so-called co-op advantage is that the consumers of the service are also members with presumably a greater commitment to the firm than the consumers of a bank. Applying the theory of Hirschman (1970), one might expect that members of a credit union would be less likely to exit than the clients of a bank, since membership implies a greater level of commitment than the consumption of services. This is a hypothetical point that has been made previously in the context of cooperatives (e.g., Jordan, 1989). However, this point requires empirical proof. The advent of electronic banking may create the context for such a test.

As noted above, electronic banking, like electronic communication in general, extends the geographic reach of service users. Part of the cooperative advantage in rural and small-town Canada is its physical location within the community. This may be viewed as a competitive advantage that gives credit unions an edge in the market, as derived from market-advantage theory (Barney, 1991). It is less likely that residents of a small town will drive to a bank at some distance when a credit union is within walking distance. With electronic banking, will that continue to matter? Will that competitive advantage in small towns be lost with increased use of electronic services? At present, one advantage that banks have in urban markets is the convenience of branches in close proximity to clients; will credit unions be better able to penetrate urban markets because of electronic banking? One example of a cooperative that has been successful in engaging its members through the Internet is Mountain Equipment Co-op (MEC). The Internet allows MEC to sell to an international market and to engage thousands of participants in its annual general meeting (Quarter, Mook, & Armstrong, 2009). Credit unions may be able to follow the MEC example in the use of the Internet. This is something that should be observed carefully.

DIRECTIONS FOR FURTHER RESEARCH

Although this study proceed inductively, it speculates about possible explanations for the data, one being that the democratic structure of credit unions and caisses populaires makes it more challenging to move from a community once it is situated there. This hypothesis is something we intend to test as we extend the research to other jurisdictions, for example, parts of the United States, where data are currently being collected. If the democratic structure of cooperatives inhibits closing locations, one might expect that new credit unions would more likely be urban than older credit unions. Given the different contexts and legal environments, a comparative analysis with a rural/urban lens would bring additional insights to understanding why cooperative organizations are situated where they are.

Also, with electronic banking becoming the norm rather than exceptional, it will be interesting to observe the impact upon credit unions: both their competitive advantage in small-town Canada and their ability to penetrate urban markets. It would be useful to know whether membership in a credit union increases customer loyalty beyond what it would be for a bank.

It will also be interesting to follow the trend among credit unions and caisses populaires and see whether amalgamations reduce the proportion of credit unions that are located in rural and small-town Canada. Mergers, of course, decrease the number of distinct credit unions, and this would pertain to urban centres also. However, mergers may lead to increased memberships and larger assets. It is too early to determine whether this goal will succeed; at present, the primary niche for financial cooperatives appears to be rural communities and small-towns across Canada.

CONCLUSION

This study explores whether there is a rural tilt among credit unions and caisses populaires in Canada, using location of outlets as a measure. The data clearly show a pattern of over-representation of credit unions and caisses populaires in rural communities. The pattern is uneven across the country but there is over-representation in all parts, especially in Québec and Saskatchewan. Bank locations in Québec and Atlantic Canada, by comparison, more closely reflected the population distribution.

The strength of this study is the empirical pattern it presents. The weaknesses are whether location is the best measure to use, given the advent of electronic banking. For example, it is possible that residents in a location are using electronic means to access a financial institution located elsewhere. A second weakness of the study is that it does not test a theory; rather, because it proceeds inductively, it speculates about possible explanations for the data. A formal test of the phenomena discerned in this study is needed. For example, given the speculative argument that the democratic structure of credit unions may make moving from a community more difficult, one might expect that newer credit unions are more likely to be urban. This hypothesis could be tested empirically.

This study may create a better understanding as to why credit unions and perhaps cooperatives more generally are more tilted to rural areas, given the current population distribution. Whether this understanding is of practical use depends upon whether members want to change that pattern. The unique feature of credit unions and cooperatives is that the members have a choice, should they decide to exercise it.

ACKNOWLEDGEMENTS

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NOTES

1. Appendix A shows the credit union and caisse location Websites accessed for this study.
2. Service outlets are typically smaller than branches, with fewer staff and facilities.
3. Appendix B shows the percentage of credit unions and banks of the total of both by province and population distribution.
4. The six major banks are RBC, TD Canada Trust, Scotiabank, BMO, CIBC, and National Bank.

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Funding Charities Through Tax Law: When Should a Donation Qualify for Donation Incentives?

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ABSTRACT

Canadian income tax law provides incentives for taxpayers to make charitable donations. Since only those donations to charities qualifying as charitable “gifts” are eligible for donation incentives, the definition of gift bodes significant revenue implications for charities and government alike. The *Income Tax Act* does not, however, define the term gift. The tests applied by courts and regulators to identify gifts in the absence of a statutory definition are contradictory, unnecessarily restrictive, and inconsistent with the tax policy behind donation incentives. The recent attempt to improve the law through the proposed “split-receipting” rules has achieved little in the way of meaningful reform. The ideal solution is to adopt a statutory definition of “charitable donation” that will both broaden and clarify the range of eligible donations.

RÉSUMÉ

La loi canadienne de l'impôt sur le revenu prévoit des incitatifs visant à encourager les contribuables à faire des dons. Étant donné que seuls les dons faits aux œuvres de bienfaisance qui se qualifient en tant que « dons » de bienfaisance peuvent donner droit à ces incitatifs, la définition du terme « don » est porteuse d'importantes répercussions fiscales, tant pour les organisations caritatives que pour le gouvernement. Toutefois, la *Loi de l'impôt sur le revenu* ne définit pas le terme « don ». Les critères appliqués par les cours et les autorités de réglementation pour identifier ce qui constitue un don, en l'absence d'une définition établie par la loi, sont contradictoires, inutilement restrictives et incohérentes avec la politique fiscale concernant les incitatifs accordés au titre des dons de bienfaisance. La récente tentative d'améliorer la loi avec les règles proposées sur le fractionnement des reçus n'a eu que peu de résultats pour mener à une réforme significative. La solution idéale est d'adopter une définition législative du terme « don » qui permettrait d'élargir et de clarifier la portée des dons admissibles.

Keywords / Mots clés : Charity; Gift; Donation; Tax; Incentive(s) / Charité; don; impôt; incitatif(s)

INTRODUCTION

Reform is coming to the tax rules governing charitable donations. The House of Commons Standing Committee on Finance has announced that it will study tax measures surrounding charitable giving in 2012. The study brings the prospect of much needed improvement to an underdeveloped aspect of tax policy. In thinking about reform options it is helpful to begin by identifying the three essential features of tax codes providing incentives for charitable gifts.

1. Eligible Donees: To what kinds of institutions must a taxpayer donate in order to qualify for a donation incentive?
2. Design Features of Donation Incentive: Should the incentive take the form of a tax deduction, tax credit, or matching state grant? If a credit, what should be the amount(s) of the credit? How, if at all, should capital gains tax apply to donations of capital property?
3. Eligible Contributions: What sorts of contributions to eligible donees should qualify for donation incentives?

A case could be made for reform in relation to each of these issues. The first issue—eligible donees—raises for consideration the legal definition of charity. Under the current provisions of the *Income Tax Act*¹ (the “ITA”) a donation to a not-for-profit will be eligible for donation incentives only if the not-for-profit qualifies as a charity at common law.² Most, if not all, analysts would agree that the common law definition of charity is an area where there is considerable room for improvement. However, this is a highly complex and politically sensitive issue of tax policy that should be studied as a discrete topic rather than as just one part of the Standing Committee’s broader study of donation incentives.

The second issue—the design features of donations incentives—will very likely be the issue attracting the lion’s share of attention. There are different statutory models for recognizing charitable donations. One model is where the state recognizes charitable donations through a matching state grant calculated as a percentage of each donation. The matching grant is delivered directly by the state to the charities to which donors contribute. The amount of the grant can correspond with the income taxes paid (or portion thereof) by the donor on the amount donated.³ Another model is where the state reduces the after-tax cost of donations through income tax concessions for qualifying contributions to charities. Under this model, state subsidization for charities is delivered to donors in the form of tax relief rather than to charities in the form of matching grants. Under both models, each dollar allocated to charities through donations costs donors a lesser amount.

¹ RSC 1985, c. 1 (5th Supp.), as amended.

² For the most recent Supreme Court of Canada decision on point, see *Amateur Youth Soccer Association v. Canada Revenue Agency* [2007] S.C.J. No. 42.

³ This model has been adopted in England through the “Gift Aid” program. The program allows charities to recover from the state the basic rate of tax (20%) paid by donors on qualifying donations. For example, a £100 qualifying donation made by a donor out of after-tax income corresponds with £125 gross income (assuming a basic tax rate of 20%). The charitable donee is able to recover the £25 tax paid by the donor under the Gift Aid program. Donors with a higher tax rate can themselves recover taxes paid beyond the basic rate of 20%. For an accessible summary of the rules, see Picarda H. (2010). *The Law and Practice Relating to Charities*. 4th ed. West Sussex, Bloomsbury Professional Ltd (1014-1029).

The Canadian system is based on the latter of the two models, that is, it involves the use of tax incentives to reduce the after-tax cost of donations. This is achieved through a two-stage tax credit for individuals,⁴ a deduction for corporations,⁵ and a capital gains tax exemption for donations of publicly traded securities and ecological property.⁶ There does not appear to be a vocal lobby in favour of a matching grant system being adopted in Canada. Instead, as soon it appeared that a window of opportunity for reform was opening, sector activists began advocating in favour of a new “stretch tax credit” and of exempting donations of land and private securities from capital gains tax.⁷ Such newsworthy reform proposals may have an appeal to media savvy politicians concerned as much with headlines and sound bites as with actual improvement of the law.

But it is the third issue—eligible contributions—where there exists the greatest prospect of meaningful and achievable, though less newsworthy, reform. While the ITA provides that only those contributions to charities qualifying as charitable gifts are eligible for donation incentives, it does not define the term “gift.”⁸ There exists a vast body of cases and regulatory publications dealing with the meaning of gift but the authorities have not produced a test for identifying charitable gift transactions that is sufficiently clear or well-developed for planning purposes.⁹ In fact, it is impossible to succinctly state how “charitable gift” has been defined in the tax precedents without acknowledging a number of bewildering and seemingly unprincipled qualifications. The authorities have tended to require that donations meet criteria that lack any apparent policy relevance, including requirements pertaining to voluntariness and motive. There has been a pronounced tendency in the authorities to focus on the legal form of donations and to ignore or downplay economic substance. For example, donations have been disqualified as charitable gifts where the donor was inspired by non-altruistic motives or where the donation arrangement was involuntary in the sense that it was legally enforceable, e.g., a transfer of property to charity by way of enforceable contract. The legal tests developed to identify donations qualifying as “charitable gifts” have seemingly been developed without adequate regard to the reasons why donation incentives exist in the first place. The ultimate purpose of donation incentives is to generate revenues for charities. The tendency of the authorities to focus on issues unrelated to this policy goal has resulted in many donation arrangements going unrecognized by income tax law (i.e., taxpayers involved are unable to access concessionary tax treatment) notwithstanding that the arrangements enhance the economic capacity of charities to deliver charitable goods and services.

⁴ For the first \$200 of charitable gifts, the credit is calculated using the lowest marginal tax rate of 15%. Once the \$200 threshold is crossed, the credit is calculated using the highest marginal tax rate of 29%. See subsections 117(2) and 118.1(3) of the ITA.

⁵ See paragraph 110.1(1)(a) of the ITA.

⁶ See paragraphs 38(a.1) and (a.2) of the ITA, respectively.

⁷ For submissions to the Standing Committee go to: <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5340612&Language=E&Mode=1&Parl=41&Ses=1> [May 22, 2012].

⁸ See sections 118.1 and 110.1 and paragraphs 38(a.1) and (a.2) of the ITA. Note, though, that donations made by businesses may be deducted under paragraph 18(1)(a) of the ITA even if they do not qualify as gifts provided they were made for the purpose of producing income. In some respects, deductibility as a business expense is preferable because it is subject to neither annual donation limits nor to the under-developed case law and regulatory publications dealing with the meaning of charitable “gift.” Charitable gifts by businesses will therefore be under-reported to the extent they are booked for tax purposes as business expenses rather than charitable donations. Courts have never squarely addressed specifically what differentiates the true charitable gift from the donation made as a business expense. The leading cases are *Olympia Floor & Wall Tile Co. (Quebec) Ltd. v. M.N.R.*, [1970] CTC 99 and *Impenco Ltd. v. M.N.R.*, [1988] 1 CTC 2339.

⁹ For a more detailed discussion of this point see Parachin A. (2009). Reforming the meaning of ‘charitable gift: The case for an alternative to split receipting. *Canadian Tax Journal*, 57(4), 787.

A well-known example is that of the donor who sells property with an undisputed value of, say, \$100,000 to a charity for \$5,000. Since this is the economic equivalent of a \$95,000 cash donation, one might have assumed that income tax law would unreservedly recognize this as a \$95,000 charitable gift. Nevertheless, many authorities have concluded that these kinds of arrangements fail to qualify as charitable gifts for income tax purposes on the basis that, although they are gift-like in substance, they are in the legal form of a contractual *quid pro quo*. There are many other examples (see the section on current law and regulatory practice below) of donation arrangements that go unrecognized by income tax law even though they achieve the ultimate goals of donation incentives. Amendments to the ITA introduced in 2002—the split-receipting rules—were meant to remedy some of the inconsistency and incoherence in the law. However, these rules (yet to be enacted) represent only a modest improvement to the law.

This article builds a case for adopting a new approach to identifying eligible donations. Specifically, the author argues that a preferred approach to identifying eligible contributions would be to adopt a statutory definition of “charitable donation.” The proposed definition is defined to include any transfer of property to or for the benefit of a charity whether by way of common law gift, trust, sale, or any other form of transaction. This definition would broaden the range of contributions that qualify for donation incentives, potentially generate new revenues for charities, and significantly simplify the law, all while reducing administrative compliance costs for charities. The argument is developed on the basis of a literature review and case law and policy analysis.

The case for reform will be developed in five steps. The first step is to situate the topic within a thematic framework. The second step is to review the tax literature to identify the theoretical underpinnings of tax concessions for charitable donations. The third step is to distil from this theoretical framework a set of considerations relevant to identifying the range of donations that should in theory qualify for donation incentives. The fourth step is to perform a case law analysis to illustrate the key ways in which current law and regulatory practice fixates on largely irrelevant considerations. The final step is to develop a concrete reform proposal capable of remedying the doctrinal and theoretical incoherence of current law.

Thematic dimensions

Before proceeding it is helpful to situate the topic within a thematic framework. Why does the approach taken by the law to identifying donations eligible for donation incentives matter? The most obvious reason is that this bodes potential revenue implications for charities. The impact of donation incentives on donors has been widely studied.¹⁰ It is generally accepted that donation incentives attract donations that would not otherwise be made. For example, based on their exhaustive study, Pelozo and Steel conclude as follows:¹¹

In general, our results support the hypothesis that tax deductions for charitable giving are treasury efficient. That is, on average, a decrease in \$1 in the cost of giving can be expected to result in more than \$1 being donated to charity through personal philanthropy.

Nevertheless, Pelozo and Steel acknowledge that donors do not report tax incentives as the leading motivator to donate. This is consistent with the findings of the Canada Survey of Giving, Volunteering and Participating (CSGVP). The 2007 CSGVP Highlights Report provides that tax concessions ranked as the lowest reported motivation to give, with just 23% of respondents citing tax considerations as a reason to make a charitable

¹⁰ For the groundbreaking study see Clotfelter C. (1985). *Federal tax policy and charitable giving*. Chicago: University of Chicago Press. For a more recent meta-analysis of the extensive published literature, see Pelozo J. and Steel P. (2005). The price elasticities of charitable contributions: A meta-analysis. *Journal of Public Policy and Marketing*, 24(2) 260.

¹¹ Pelozo and Steel, *ibid*, at 267.

donation.¹² However, the percentage of donors identifying tax concessions as a motivation to donate has been steadily increasing. The 2004 CSGVP Highlights Report found that only 20% of respondents identified tax concessions as a motivation to donate.¹³ The 2000 National Survey of Giving, Volunteering, and Participating found that only 13% of respondents identified tax concessions as a motivator, which the report noted was up from only 11% in the 1997 survey.¹⁴ So it would appear that qualifying for donation tax concessions is becoming an increasingly important issue for donors.

Since the non-recognition of certain donation arrangements removes the incentive for donors to participate in such arrangements, rational donors can be anticipated to restructure their planned donations so as to qualify for donation incentives, not donate at all, or not donate as much. So all else remaining equal, a broad and inclusive approach to identifying eligible donations has the potential to induce greater levels of giving than does a narrow approach.

The corollary of this is that the approach taken to identify eligible donations bodes revenue implications not just for charities but governments as well. It is generally (though not universally) accepted that the income tax recognition of charitable donations represents a tax expenditure—a form of government spending delivered through income tax law. As a result, a significant concern for policymakers is whether donation incentives are treasury efficient. Treasury efficiency requires that the amount of donations attracted by donation incentives is at least equal to the amount of foregone tax revenue. Many studies suggest that donation incentives are indeed treasury efficient but at least some have suggested otherwise.¹⁵

The alleged inefficiency of donation incentives has been cited as one reason why such incentives should be altogether repealed, rather than reformed as recommended here.¹⁶ Even accepting that donation incentives are inefficient does not, however, follow that they should be repealed. To say that a donation incentive is inefficient is simply to observe that it would be comparably more efficient for the government to fund charities through a direct subsidy rather than indirectly through a donation incentive. An inefficient donation incentive could still be defended on the ground that it yields benefits (discussed in the section on theoretical underpinnings of donation incentives below) not available under a direct subsidy model. Be that as it may, concerns about economizing the fiscal consequences of donation incentives have played a role (mainly on an implicit level) in shaping how courts and regulators have defined charitable “gift.”

However, the theme playing the most pronounced role in this article follows from the idea that donation incentives represent one of the key ways in which the law sets charities apart for privileged treatment. While both charities and non-charitable not-for-profits are generally exempt from income tax, the distinguishing tax characteristic of charities is that only donations to charities are eligible for donation incentives. So without losing sight of the revenue dimensions of the topic (for both charities and government alike), it is important to carefully

¹² Hall M., Lasby D., Ayer S., and Gibbons W.D. (2009). *Caring Canadians, involved Canadians: Highlights from the 2007 Canada survey of giving, volunteering and participating*. URL: http://www.givingandvolunteering.ca/files/giving/en/csgvp_highlights_2007.pdf [April 13, 2012].

¹³ Hall M., Lasby D., Gumulka G., and Tryon C. (2006). *Caring Canadians, involved Canadians: Highlights from the 2004 Canada survey of giving, volunteering and participating*. URL: http://www.givingandvolunteering.ca/files/giving/en/csgvp_highlights_2004_en.pdf [April 13, 2012].

¹⁴ Hall, M., McKeown L., and Roberts K. (2000). *Caring Canadians, Involved Canadians: Highlights from the 2000 National Survey of Giving, Volunteering and Participating*. URL: http://www.givingandvolunteering.ca/files/giving/en/rp_2000_nsgvp_highlights.pdf [April 13, 2012].

¹⁵ See Pelozo and Steel *supra* note 10.

¹⁶ See Brooks N. (2001). The tax credit for charitable contributions: Giving credit where none is due. In J. Phillips, B. Chapman and D. Stevens, (eds.), *Between state and market: Essays on charities law and policy in Canada* (p. 457) Kingston: McGill-Queen's University Press.

consider whether the tax policy goals behind privileging charities via donation incentives are being frustrated by the approach taken to identify eligible donations.

Theoretical underpinnings of donation incentives

The reasons why tax concessions exist for charitable donations provide some helpful clues about how eligible donations should be identified. It was observed in 1972 that the theoretical foundation behind donation incentives had been so extensively debated that it was questionable “whether anything new remains to be said.”¹⁷ Nevertheless, the matter is still being debated. A review of the literature reveals two competing theoretical frameworks: tax base theories and subsidy theories.

Tax base theories

The essential argument of tax base theorists is that income tax should only be applied to that which is truly “income” and thus within the normative tax base (the base against which income tax is applied). Any tax provision exempting from taxation that which is not properly construed as income in the first place is not a subsidy or tax expenditure but rather a structural income defining provision serving a discrete income tax purpose (namely, the proper measurement of taxable income). Relying upon normative conceptions of income that exclude charitable donations, tax base theorists contend that charitable donations are not income and are thus not properly subject to income tax. It should be apparent from this that tax base theorists draw upon tax logic rather than the inherent goodness of charitable works to justify the income tax recognition of charitable donations.¹⁸ As one tax base theorist put it, the income tax recognition of donations represents a “refinement in our notion of an ideal personal income tax, rather than a departure from it.”¹⁹

Tax base theories have attracted sustained and intense criticism in the income tax literature.²⁰ For present purposes, there is little to be gained from delving into these criticisms as there is an uncontroversial basis on which to conclude that the tax base theories lack force, at least in Canada. There is something to be said for tax base theories in jurisdictions recognizing charitable donations through a tax deduction: if charitable donations are not truly income, it follows that they should be deducted from gross income to properly calculate taxable income. But in Canada charitable donations—at least those made by individuals—are not dealt with via a deduction but rather a two-stage tax credit.²¹ The credit operates such that for the first \$200 of charitable donations, many donors (in fact all donors except for those in the lowest marginal tax bracket and those with no taxable income) pay more income tax on donated amounts than what they receive back in the form of a tax credit. Conversely, for donations in excess of \$200, all donors except for those in the highest marginal tax bracket receive a tax credit that is greater than the taxes owing on donated amounts. The credit would not be structured in this manner, if, as tax base theorists claim, the issue was simply one of ensuring that taxes

¹⁷ Bittker B. (1972-1973). Charitable contributions: Tax deductions or matching grants? *Tax Law Review*, 28, 37 at 37.

¹⁸ Or at least they purport to rely upon tax logic. One of the criticisms of tax base theories is that they rely upon considerations extrinsic to tax to justify the exclusion of charitable donations from the tax base. See, for example, Gergen (1988). The case for a charitable contributions deduction. *Virginia Law Review*, 74, 1416.

¹⁹ Andrews W. (1972). Personal deductions in an ideal income tax. *Harvard Law Review*, 86, 309 at 312. See also Buckles J.R. (2005). The community income theory of the charitable contributions deduction. *Indiana Law Journal*, 80(4) 947 and Bittker, supra note 17.

²⁰ For a review of the criticisms, see Parachin, supra note 9.

²¹ For an analysis of the credit, see Duff D. (2001). Charitable contributions and the personal income tax: Evaluating the Canadian credit. In J. Phillips, B. Chapman and D. Stevens, (eds.), *Between state and market: Essays on charities law and policy in Canada* (p. 407). Kingston: McGill-Queen’s University Press.

owing correspond with taxable income.²² Indeed, the charitable tax credit could only be justified consistently with tax base theories if it operated like a tax deduction such that the value of the credit corresponded with the taxes owing on donated amounts.

Subsidy theories

The prevailing view is that donation incentives should be understood not as a matter of the proper definition of income but rather as a state subsidy for charities delivered through tax law.²³ Subsidy theorists contend that a state subsidy of charity is justifiable on the ground that charities perform good works and would otherwise be underfunded due to market failure. Specifically, the inability of charities to generate or distribute profits to investors (the “non-distribution constraint,” as its known) and vulnerability to free-riding (the consumption of charitable goods and services without contribution) would result in charities otherwise being chronically underfunded.²⁴ The government could subsidize charities through a direct transfer but subsidy theorists contend that tax concessions reducing the after-tax cost of charitable donations is the preferred funding model. However there is disagreement as to why this is the case.

One line of argument contends that charities relieve the government of expenses that it would otherwise have to incur.²⁵ In this view, tax concessions for charitable donations can be defended on efficiency grounds provided the amount of donations they induce outweighs the amount of tax revenues they cost.²⁶ Of course, this efficiency advantage might be lost once cumulative fundraising and charitable administration costs are compared to government administration costs. Another line of argument contends that a donation incentive results in a greater quality of goods and services than would a direct subsidy because it fosters heightened competition among charities for donations.²⁷ Similarly, a donation incentive has been said to achieve a more diverse array of charitable goods and services because charities will provide goods or services even where there is insufficient demand to influence elected legislatures, provided there is at least sufficient demand to attract donations.²⁸ Also, some charitable purposes pertaining to the advancement of religion are not exactly ideal candidates for direct state funding. Such purposes can therefore only be subsidized—if at all—by the state indirectly.²⁹

²² For a similar observation, see Edgar T. (1997). The concept of taxable consumption and the deductibility of expenses under an ideal personal income tax base. In R. Krever, (ed.), *Tax conversations: A guide to the key issues in the tax reform debate* (p. 293 at 343 and 349). London: Kluwer Law International.

²³ Colombo describes this as “the most widely accepted rationale.” See Colombo J.D. (2001). The marketing of philanthropy and the charitable contributions deduction: Integrating theories for the deduction and tax exemption” *Wake Forest Law Review*, 36, 657 at 682.

²⁴ See Colombo, *ibid.*, for a review of the relevant literature.

²⁵ See, for example, Pozen D. (2006-2007). Remapping the charitable deduction. *Connecticut Law Review*, 39, 531 at 556.

²⁶ See, for example, Vickrey W. (1962). One economist’s view of philanthropy. In F.G. Dickinson, (ed.), *Philanthropy and Public Policy* (p. 31) New York: National Bureau of Economic Research; Feldstein M. (1975). The income tax and charitable contributions. *National Tax Journal*, 28, 81; Gergen, *supra* note 18, at 1404; Wiedenbeck P. (1985). Charitable contributions: A policy perspective. *Missouri Law Review*, 50:1, 85; Colombo, *supra* note 23 at 683; Duff D. (2004). Tax treatment of charitable contributions in Canada: Theory, practice, and reform. *Osgoode Hall Law Journal*, 42, 47 at 59-61.

²⁷ Levmore S. (1998). Taxes as ballots. *University of Chicago Law Review*, 65, 387 at 411.

²⁸ See, for example, Weisbrod B. (1975). Toward a theory of the voluntary non-profit sector in a three-sector economy. In E. Phelps (ed.), *Altruism, morality, and economic theory* (p. 171). New York: Russell Sage Foundation.

²⁹ See, for example, Gergen, *supra* note 18, at 1434-1443 and Pozen, *supra* note 25, at 559. However, not everyone agrees that it is proper for the state to even indirectly subsidize religious activity. See, for example, Brooks, *supra* note 16, at 480.

Another line of reasoning contends that donation incentives foster enhanced pluralism, innovation, and civic engagement.³⁰ Consistent with this view, donation incentives have been defended on the ground that they represent a form of direct democracy, that they allow donors to vote via charitable donations how public funds are allocated.³¹ The essential idea is that donation incentives constitute a “social choice mechanism to determine government spending”³² through which the state becomes a “financing partner”³³ of charitable donors.

Yet another argument is that tax concessions for donations are superior to direct government grants in terms of cost allocation.³⁴ A direct grant would allocate the cost of a particular program across all taxpayers equally without making any adjustment for any individual taxpayer’s preferences.³⁵ Inevitably this would result in some taxpayers over-contributing to charities they do not wish to support or under-contributing to charities whose goods and services they consume. But when an individual donor makes a charitable donation, the cost of the donation is shared by taxpayers generally only to the extent of the tax credit available to the donor. Even with this cost sharing, it remains the case that the donor makes a bigger donation to the charity than any other single taxpayer. This is desirable because it better allocates the cost of specific charitable programs to the specific taxpayers who value them enough to make donations than would a direct grant.

Of course, not everyone agrees that it is appropriate for the state to subsidize charities via tax concessions for charitable donations. This funding model has been criticized on the basis that it is inefficient,³⁶ lacks the transparency and control of direct government spending,³⁷ and unfairly grants wealthy philanthropists a disproportionate say in the distribution of public funds.³⁸ Others deny on philosophical grounds the usefulness of understanding tax concessions for donations as an attempt to remedy market failure.³⁹ But these criticisms of subsidy theory do not discredit the foundational claim advanced by subsidy theorists that tax concessions for charitable donations are ultimately a tool to help finance charities. They reflect a broader debate over how and why charities should be funded rather than a fundamental denial that subsidizing charities is the ultimate goal of donation incentives.

Defining eligible donations in light of underlying theory

Having established that the policy function of donation incentives is simply to help finance charities, it is now possible to identify a theoretically sound approach to identifying eligible donations. If donation incentives are really just a way of economically equipping charities to perform charitable works (as opposed to, say, properly measuring the taxable “income” of charitable donors) it follows that all contributions to charities achieving this

³⁰ See Duff, *supra* note 26, at 62. Bittker was an early proponent of the view that tax concessions for charitable gifts foster democratic renewal. See Bittker, *supra* note 17, at 61-62.

³¹ See Levmore, *supra* note 27.

³² *Ibid.*, at 405.

³³ *Ibid.*, at 388.

³⁴ Gergen, *supra* note 18, at 1399-1406.

³⁵ See *ibid.*, at 1402.

³⁶ See, for example, Brooks, *supra* note 16, at 472.

³⁷ See Duff, *supra* note 26, at 61; Pozen, *supra* note 25, at 553-55; Brooks, *supra* note 16, at 469-71. More generally, see Surrey S. (1973). *Pathways to tax reform: The concept of tax expenditures*. Cambridge, Mass.: Harvard University Press.

³⁸ See, for example, Brooks, *supra* note 16, at 459-462. Not everyone agrees on this point. If the tax concessions for charitable gifts are meant to serve as an incentive for giving, then it may make some sense to provide the greatest incentive to those—the wealthy—with the most to give. See Colombo, *supra* note 23, at 684 and the sources cited therein.

³⁹ Stevens D. (2000). *Rescuing Charity*. In C. Mitchell and S. Moody (eds.) *Foundations of charity* (29 at 49-51). Portland: Hart Publishing.

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basic goal should (at least as a starting point for analysis) qualify for donation incentives. In this view, a charitable gift is any transfer to a charity that confers net value on the charity. It should not matter whether the donor receives consideration for the donation, whether the donor's motive was truly charitable, whether the donation is structured in the legal form of a common law gift or some other legal form, such as a contract, trust, or interest free loan, or whether the donation meets any one of a number of other specious tests applied under current law and regulatory practice to identify eligible donations. The ultimate question to ask of a putative charitable gift is simply whether it to some measurable extent economically equips a charity to achieve its charitable mission. If a donation meets this essential standard then it is consistent with the basic purpose of donation incentives and, subject to certain exclusions we might devise, should be eligible for such incentives.

The donation arrangements meeting this standard include traditional cash donations but also a variety of other arrangements as well. This includes (but is not limited to) selling property to a charity for below fair market value consideration, purchasing property from a charity for an amount in excess of fair market value consideration, making a loan to a charity for either no interest or at a favourable interest rate, forgiving a debt owed by a charity, establishing a trust in which a charity is given a beneficial interest in the trust income and/or capital, allowing a charity to occupy land or to make use of a chattel for no consideration, incurring expenses on behalf of a charity, and making payment to a creditor as the guarantor of a debt obligation in respect of which a charity defaults. These arrangements vary in many respects but they share a common economic substance in that each of them entails a taxpayer taking steps to economically enable a charity to carry out its charitable purposes. All transactions with charities in which this occurs achieve the basic goals of donation incentives and should therefore be recognized as charitable gifts. The amount of the gift for which a donation receipt could be issued should correspond with the extent to which a transaction confers a net enrichment on a charity.⁴⁰

In terms of possible exclusions, the donation of services is a likely candidate. The authorities have to date consistently concluded that donations of services do not qualify as gifts.⁴¹ If we accept that the tax policy objective of donation incentives is to help subsidize charitable works, there is no theoretical reason why the non-recognition of donations of services need continue, since donated services are like donated property in that both kinds of donations help charities achieve their charitable purposes.⁴² However, there are persuasive reasons why the donation of services should continue to go unrecognized. One of the primary concerns is that donation arrangements involving services would be exceptionally difficult to value and audit. Further, the recognition of donated services could have potentially significant revenue implications for the government, which may be reason enough to continue their non-recognition given the current fiscal environment.

Other candidates for exclusion include donation arrangements in which a charity is enriched but the donor is not impoverished (either not at all or by an amount that is less than the amount by which the charity is enriched). In most cases an enrichment of the charitable donee will necessarily result in an equivalent impoverishment of the donor. A \$500 cash gift enriches the charity by \$500 and impoverishes the donor by the same amount. Likewise, a sale of property worth \$100,000 to a charity for \$40,000 both enriches the charity and impoverishes

⁴⁰ One possible exception is for donations where the degree of enrichment conferred on the charity is greater than the degree to which the donor is impoverished. There is at least a case for restricting the value of the gift to the degree of donor impoverishment in some circumstances (discussed below).

⁴¹ The authorities on this point are innumerable. One of the leading decisions is *Slobodrian v. R.* [1998]. 3 C.T.C. 2654 (TCC).

⁴² For an argument that donations of services should be recognized, see Duff, "Tax Treatment," supra note 26 at 66 and 96 and McDaniel P. (1972). Federal matching grants for charitable contributions: A substitute for the income tax deductions. *Tax Law Review*, 27, 377 at 396.

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the donor by \$60,000. However, it is possible in select instances for a donation to enrich a charity but not impoverish the donor by an equivalent amount or to possibly even enrich both the charity and the donor.

Abusive gift schemes provide an example. These schemes can create a disparity between the charity's enrichment and the donor's impoverishment in part because portions of donations are often circulated back to donors through complex and artificial structures. A hallmark feature of abusive schemes is that they generate a positive cash flow for donors.⁴³ However, there can also be non-abusive arrangements where this can occur. The Canada Revenue Agency (CRA) has considered an arrangement in which a newspaper offered free advertising space to persons who donated to charity. The charity would be enriched by an amount equal to the face value of the donation, but the donor would be impoverished by a lesser amount and perhaps not at all (the amount donated less the fair market value of the advertising space). The CRA concluded that the arrangement was not eligible for donation incentives because of the receipt of the benefit from a third party.⁴⁴ Another example is that of a developer who was enriched when a donation of land to an educational charity had the effect of increasing the value of neighbouring land also held by the developer. A United States court concluded that the gain to the donor in these circumstances precluded the arrangement from qualifying for donation incentives.⁴⁵ Many other authorities have categorically stated that donor impoverishment is an essential element of a charitable gift transaction.⁴⁶

One argument in favour of a donor impoverishment requirement is that it is inefficient and redundant to incentivize donations lacking the impoverishment of the donor. If a donation is going to enrich a donor, the enrichment itself represents a far better incentive to donate than any tax concession, or so the argument would go. If such donations are going to be made even without a tax incentive, some might say that their recognition is both unnecessary and inefficient.⁴⁷

Also, certain policy goals behind donation incentives could be undermined through the income tax recognition of profitable donations. Recall from above that one argument in favour of donation incentives is that they allow donors to essentially vote how public funds are allocated. To the extent that a donor is not impoverished by a donation that donor's vote is free. This detracts from the desirability of allowing donors to allocate public funds through charitable gifts because donors may well take their votes less seriously to the extent that the votes are costless.⁴⁸ Recall also that, according to subsidy theorists, the tax concessions for charitable gifts better allocate the costs of a given charitable program to donors who value that program than would a direct state subsidy. The desired cost allocation is disrupted where a donor is enriched by a donation.

⁴³ For a discussion of the common characteristics of abusive donation schemes, see Edgar and Sandler (2003). The tax expenditure program for charitable giving: Kicking a gift horse in the teeth. *Canadian Tax Journal*, 51:6, 2193.

⁴⁴ CRA document no. 2000-0053175, February 21, 2001. However, in CRA document no. 2000-0051255, February 13, 2001, CRA opined that an incentive from a third party does not vitiate a gift provided that the incentive is available both to those who merely consider making gifts and those who actually make gifts. The two documents, written a week apart, are not altogether consistent.

⁴⁵ *Ottawa Silica Company v. The United States* (1983) 699 F.2d 1124.

⁴⁶ Most (though not all) of the contexts in which such statements are made involve abusive or sham donation arrangements. See, for example, *McPherson v. R.*, [2007] 2 CTC 2277; *Merhi c. R.* [2001] 3 C.T.C. 2361 (TCC); *Plante c. R.* [1999] 2 C.T.C. 2631; CRA document no. 2003-0014695, November 18, 2003.

⁴⁷ Colombo makes a similar point in relation to what he describes as donations not vulnerable to free-riding. See *supra*, note 23 at 699.

⁴⁸ Levmore, *supra* note 27 at 411.

Further, a donor impoverishment requirement could be defended on the ground that it provides the ultimate safety valve for the non-recognition of abusive donation schemes. If all else fails, an abusive donation could always be disallowed on the ground that the donor was enriched rather than impoverished. In fact this has been the primary function served by the donor impoverishment criterion in the precedents to date.⁴⁹

However, there are sound reasons to refrain from adopting as a categorical rule the idea that eligible donations must necessarily impoverish donors. The regulatory challenges posed by abusive donation arrangements reflect a poor basis on which to require all donations (abusive and non-abusive) to meet a donor impoverishment standard. As some of the examples above illustrate, not all donations failing a donor impoverishment standard are abusive. The better regulatory response to abusive donation arrangements is to enact specific anti-avoidance provisions targeting these transactions on the basis of characteristics exclusive to this transaction type.⁵⁰

Further, it is not necessarily the case that it would be inefficient for tax law to recognize donations that end up being profitable for donors. Much depends upon the circumstance. Concerns over the redundancy and inefficiency of tax concessions have the greatest resonance where a third party promises a direct pecuniary incentive to induce a donor to make a donation (such as the above example of the newspaper providing free advertising space to donors). However, even in this context the concerns raised are arguably best dealt with not by a rule that outright prohibits the recognition of a donation, but rather by the approach taken to valuing the donation. Provided that the value of the donation is calculated by deducting the value of the third party pecuniary incentive from the value of the donor's contribution to the charity, there is no sound reason why such arrangements should go unrecognized.⁵¹

In other contexts there is an argument for simply ignoring the enrichment of the donor and recognizing the donation at its face value. The idea that a tax incentive is inefficient, redundant, or somehow inconsistent with the tax policy behind donation incentives in circumstances where the donor is enriched by a donation breaks down where the enrichment is the fortuitous result of market forces. The above example of the land developer donating land to an educational charity illustrates the point. It is only with the benefit of hindsight that we can say that the donation was profitable to the donor and that therefore no tax incentive is necessary or desirable. However, it might make more sense to view such donations prospectively rather than retrospectively. At the time of the donation, the prospect that market forces might operate to yield a benefit to the donor (by increasing the value of neighbouring land held by the donor) is speculative. In this way, such an arrangement is distinct from a direct pecuniary incentive to donate promised by a third party. In this kind of a situation it is not at all obvious that the eventual enrichment of the donor detracts in any way from the policy goals of donation incentives.

Current law and regulatory practice

It was argued above that the only issue that ultimately matters when it comes to identifying whether a donation qualifies as a charitable gift for purposes of income tax law is whether it economically enriches a charity to some measurable extent. Nevertheless, the authorities have concluded (not always consistently) that many donation arrangements meeting this essential standard do not qualify as charitable gifts for tax purposes. Examples of

⁴⁹ See, for example, the authorities cited in *supra* note 46.

⁵⁰ This point is discussed in greater detail below in the section “New definition of ‘charitable donation’” below.

⁵¹ Even this might be going too far since it effectively diminishes the ability of third parties to supplement tax incentives with further pecuniary incentives to donate. Since higher levels of giving might follow if tax incentives are combined with third party incentives, there is a case for simply ignoring third party pecuniary incentives.

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donations that have surprisingly been altogether excluded from the definition of gift or treated inconsistently in the authorities include instances in which donors have incurred expenses on behalf of charities,⁵² forgiven debts owed by charities,⁵³ donated the temporary use of property,⁵⁴ sold property to charities for less than fair market value consideration,⁵⁵ purchased property from charities for a value in excess of fair market value consideration,⁵⁶ donated a form of property other than ownership,⁵⁷ donated in fulfilment of a legal or moral obligation,⁵⁸ donated for non-altruistic reasons,⁵⁹ issued shares or stock options to a charity,⁶⁰ donated further to negotiated litigation settlements⁶¹ and where estate beneficiaries have agreed under seal with the testator to donate a portion of their inheritance to charity.⁶² For a period of time the payment of insurance or Registered Retirement Savings Plan (RRSP) proceeds to a charity on the basis that the charity was a designated beneficiary of the policy or plan was not considered a gift.⁶³ Amazingly, it took a statutory amendment to reverse this line of authority.⁶⁴ Something especially concerning, given the enormous stores of baby boomer wealth staged to flow through family trusts in future years, is the regulatory treatment of charitable donations delivered through trusts. Current regulatory practices often result in such donations going unrecognized even where they arguably achieve the very goals of donation incentives.⁶⁵

How can we account for the inconsistent jurisprudence and the non-recognition of donations achieving the essential goals of donation incentives? The root cause of the problem is the pronounced tendency of the authorities to fixate on considerations lacking any apparent policy significance. Almost all manifestations of this problem stem from the authorities' tendency to focus on the legal form of donation arrangements, while ignoring or downplaying economic substance. Innumerable authorities have taken the position that the term "gift" as

⁵² CRA Document 2000-0063095, March 29, 2001; CRA Document CPC-025, February 26, 2003; CRA document no. 9818408, September 10, 1998; CRA document no. 9415135, August 8, 1994.

⁵³ In *Benquesus v. R.*, [2006] 3 CTC 2191 (TCC), the forgiveness of a loan owed by a charity was held to qualify as a gift. CRA has taken a somewhat different approach. See, for example, CRA document no. 2000-0063095, March 29, 2001.

⁵⁴ See, for example, CRA Document 2008-0267721E5, November 12, 2008; CRA Document 2003-0018595, December 2, 2003; CRA Document 2002-0163405, March 11, 2003.

⁵⁵ See, for example, *Gaudin v. M.N.R.* (1955), 55 DTC 385 (TAB); *Hudson Bay Mining & Smelting Co. v. R.*, [1986] 1 CTC 484 (FCTD); CRA document no. 9729915, January 20, 1998; CRA document no. 9620635, November 27, 1996; CRA document no. 9530067, January 22, 1996. Contrast with *882885 Ontario Ltd. v. R.*, [2007] 3 CTC 2119 (TCC).

⁵⁶ See, for example, *Tite v. M.N.R.* (1986), 86 D.T.C. 1788 (T.C.C.); CRA document no. 9600855, February 21, 1996; CRA document no. 9423317, September 13, 1994. Blended payments were also characterized as gifts (at least to the extent that they exceed the amount owing to the charity) in *Jubenville v. R.*, [2002] 4 CTC 2058 (TCC); *R. v. Zandstra*, [1974] CTC 503 (FCTD); *Koetsier v. M.N.R.*, [1974] CTC 2011 (TRB); *Woolner v. R.*, [2000] 1 CTC 35 (FCA); *McBurney v. R.*, [1985] 2 CTC 214. The US authorities have long since been willing to isolate the gift element of a blended payment to a charity based on the view that a gift is a transfer for inadequate consideration. See *United States v. American Bar Endowment et al.*, 477 US 105 (1986), at 117; Rev. rul. 67-246, 1967-2 CB 104; Rev. rul. 68-432, 1968-2 CB 104.

⁵⁷ For example, CRA document RC4142 "Tax Advantages of Donating to Charity" (2006) specifies at p. 3 that a gift must involve a transfer of "ownership."

⁵⁸ See *infra* notes 70-76 and associated text dealing with voluntariness.

⁵⁹ See *infra* notes 80-87 and associated text dealing with motive.

⁶⁰ CRA document 2003-0014695, November 18, 2003; Registered Charities Newsletters, 18 (Spring 2004).

⁶¹ See CRA document no. 9729335, February 2, 1998.

⁶² See CRA document no. 9800525, April 15, 1998.

⁶³ See, for example, CRA document 2002-0133545, January 16, 2003.

⁶⁴ See subsections 118.1(5.1)-(5.3) of the ITA.

⁶⁵ The CRA has expressed the view that the creation of an income interest in a trust for a charity is not a gift (see CRA document no. 9800137, April 16, 1998). Likewise, the CRA has concluded that transferring additional capital to a trust in which a charity already has a vested and indefeasible capital interest is not a gift (see CRA document 2001-0101845, January 14, 2002). For a more detailed discussion of donation arrangements involving trusts see Parachin, *supra* note 9 at 804-806.

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used in the context of income tax law means a donation in the legal form of a gift at common law.⁶⁶ The common law defines gift as a transfer of property for no consideration, i.e., for nothing in return. This understanding of gift excludes many donation arrangements whose economic substance is gift-like.

For example, the reason why donation arrangements that combine elements of gift and mutual exchange in a single transaction (e.g., sales to charities for less than fair market value or purchases from charities for over fair market value) have not consistently been recognized as gifts for tax purposes is because they are in the legal form of contracts. This is also true of arrangements where a donor designates a charity the beneficiary of a life insurance policy or RRSP—the distribution of the insurance or RRSP proceeds to the charity represents as a matter of law the fulfilment of a contract and not the delivery of a common law gift. Similarly, the reason why arrangements allowing charities the temporary use of property, incurring expenses on behalf of charities, forgiving debts owed by charities, and issuing stocks or stock options to charities have not consistently been considered gifts is because they do not entail transfers of property as required by the common law meaning of gift. All of these arrangements, and many others that have gone unrecognized under income tax law, are gift-like in economic substance but not in legal form. Recall from above, though, that economic substance is ultimately what we should be concerned about when it comes to identifying eligible donations.

In 2002 new rules—the split-receipting rules—were proposed with a view to broadening the range of donations capable of qualifying as charitable gifts for income tax purposes.⁶⁷ Though these rules have never been enacted, the CRA has been applying them since they were announced by the Department of Finance. What these rules essentially provide is that a donation will not be automatically disqualified as a charitable gift for income tax purposes simply because the donor receives consideration for the donation. Rather than vitiate the donation as a gift, the presence of consideration simply reduces the value of the gift. So if a donor sells property worth \$500,000 to charity for \$100,000 of consideration, the arrangement can qualify as a \$400,000 charitable gift. The fundamental insight behind the proposed split-receipting rules is that a donation can qualify as a charitable gift for the purposes of income tax law even if it is not in the legal form of a common law gift. If the transaction confers a net benefit on a charity it can qualify as a gift, at least to the extent of the benefit conferred.

One might reasonably have anticipated that this proposed reform would sound the death knell for the various ways in which the pre split-receipting authorities prioritized legal form over economic substance. If under the split-receipting rules a common law gift is merely one of several legal forms a charitable gift may take, then surely there would no longer be any need to continue enforcing gift criteria whose historical function had been to restrict the income tax meaning of charitable gift to its narrow common law understanding as a transfer of property for no consideration. However, this is exactly what has happened resulting in a somewhat incoherent legal test for identifying charitable gifts.

Admittedly, the CRA no longer takes the categorical position that only common law gifts qualify.⁶⁸ In fact, the CRA has expressly observed that “a sale of property for partial consideration can qualify as a gift.”⁶⁹

⁶⁶ The authorities are too numerous to list. The leading case to which others often refer is *R. v. Zandstra*, supra note 56.

⁶⁷ See proposed subsections 248(30)-(32) of the ITA. For a description of the rules, see *Income Tax Technical News* No. 26, December 24, 2002.

⁶⁸ However, certain CRA publications continue to define gift solely in terms of its common law meaning (CRA document no. RC4142; 2006 CRA document 2003-0023835, November 21, 2003).

⁶⁹ CRA document no. 2007-0227171R3, 2007.

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Nevertheless, common law gifts continue to be cast in CRA publications as the ideal benchmark. In numerous CRA publications the following statement (or some version thereof) appears:⁷⁰

In general, a “gift” for purposes of the *Income Tax Act* (“the Act”) means a voluntary transfer of property without valuable consideration to the donor.

These publications go on to acknowledge that under the split-receipting rules it is possible “in some circumstances” for transfers for consideration to qualify.⁷¹ So although gift still has its common law meaning “in some circumstances” it can also include other gift-like transactions. In other words, the proposed split-receipting rules do not establish a new paradigm for identifying charitable gift transactions so much as they codify an exception to the legal form over economic substance approach traditionally applied. The term “gift” primarily, but not exclusively, has its common law meaning.

To get a sense of the problem created, one need look no further than the criteria CRA continues to enforce as essential standards that all donations must meet in order to qualify as charitable gifts. Even under the split-receipting rules, the CRA continues to take the position that eligible donations must meet standards pertaining to voluntariness, donor intent, and motive. None of these criteria are intrinsically relevant to whether a putative charitable gift achieves the essential goals of donation incentives. As was discussed in the section “Defining eligible donations in light of underlying theory” above, the fundamental policy issue is simply whether a donation helps to some quantifiable extent finance the delivery of charitable goods and services. A donation can meet this essential standard even if it fails the legal tests related to voluntariness, donor intent, and motive. The cases and CRA regulatory publications appear to recognize this because they do not apply the requirements for voluntariness, donor intent, and motive as though such considerations possess inherent relevance to the meaning of gift. Such criteria are instead utilized as mere policy instruments for restricting the meaning of gift to its common law meaning, which makes their continued enforcement under the split-receipting rules something of a curiosity.

Consider first the CRA’s continued enforcement of the voluntariness criterion.⁷² The idea that a true gift is voluntary may at first appear to have nothing to do with the common law idea that a gift is a transfer for no consideration. However, a careful reading of the authorities reveals that the policy function served by the voluntariness criterion has not been to test for voluntariness *per se* but rather to disqualify transfers for consideration. The donation arrangements failing the voluntariness criterion include arrangements where the donor was under a legal obligation to make the donation.⁷³ Examples consist of arrangements where the donation took the legal form of an enforceable contract between the donor and the charity,⁷⁴ e.g., a sale of property to charity for less than fair market value, or even between the donor and a third party,⁷⁵ (e.g., A contracts with B on terms obligating A to make a gift to Charity C). Notwithstanding that these arrangements

⁷⁰ See, for example, CRA document no. 2003-0036585, December 29, 2003; CRA document no. 2007-0228411E5, December 19, 2007; CRA document no. T4033A, 2007; CRA document no. P113, 2007.

⁷¹ *Ibid.*

⁷² See, for example, CRA document 2008-0294701E5, February 20, 2009; CRA document P113, 2007; CRA document 2007-0228411E5, December 19, 2007.

⁷³ The CRA publications are too numerous to list. For a representative statement of the rule, see *Interpretation Bulletin* IT-110R3, “Gifts and Official Donation Receipts,” June 20, 1997, at paragraph 9.

⁷⁴ See *Tite*, *supra* note 56; *Woolner*, *supra* note 56; *Lobo v. R.*, [2004] 3 CTC 2507; *Hudson Bay Mining*, *supra* note 55; *Commissioner of Taxation of the Commonwealth v. McPhail* (1967-68), 41 ALJR 346; CRA document no. 9901985, April 19, 1999; CRA document no. 2001-0067625, March 27, 2001.

⁷⁵ CRA document 9729335, February 2, 1998; CRA document no. 9800525, April 15, 1998.

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achieve the essential goals of donation incentives to help raise revenues for charitable institutions, they have been disqualified as gifts on the basis that their enforceable nature renders them involuntary.

Interestingly, however, not all legally enforceable donation arrangements have been disqualified as gifts on the grounds of involuntariness. That is, some donations have been upheld as voluntary gifts notwithstanding that they were made further to a legal obligation. Donations made in fulfilment of enforceable pledges⁷⁶ and payments made by donors to creditors as guarantors of debts owing by charities⁷⁷ have qualified as gifts notwithstanding their enforceable and thus involuntary nature. Conversely, some donation arrangements have been considered involuntary (and thus not gifts) notwithstanding that they are legally *unenforceable*. Examples include arrangements where charities have provided services to taxpayers subject to the taxpayers' agreement to merely consider making a donation in return. Though such donations are not legally enforceable they have been disqualified as gifts on the apparent theory that the donor's moral obligation to give rendered the donations involuntary.⁷⁸

How can we account for this application of the voluntariness criterion? The key to understanding the authorities is to recognize that voluntariness is not treated as intrinsically important but rather as a way of excluding mutual exchange transactions. The authorities reveal an interesting pattern. Those arrangements failing the voluntariness requirement have tended to involve mutual exchange transactions between donors and charities, e.g., an exchange of services for a promise to consider making a donation or a sale of property for below fair market value under an enforceable contract. Conversely, those legally enforceable (and thus involuntary) arrangements qualifying as gifts have not tended to involve transactions of mutual exchange, e.g., donations made in fulfilment of legally enforceable pledges. It would appear to follow from this that the voluntariness criterion is primarily used as a mechanism to enforce the view that a gift is a transfer for no consideration. But if this is correct there is really no policy argument for continuing to enforce the voluntariness requirement given that the purpose of the split-receipting rules was to enable transfers for consideration to qualify as gifts.

Consider next the CRA's continued enforcement of the donor intent requirement.⁷⁹ While the specific requirements of donor intent have never been definitively established in the tax jurisprudence, it is apparent that donor intent—like voluntariness—has been used as a tool for enforcing the common law view that a gift is a transfer for no consideration. Several authorities establish as a categorical imperative that consideration and donor intent are mutually exclusive. So even though the tax authorities have not all agreed on what donor intent specifically requires, they have tended to agree (presumably on the basis of the common law understanding of gift) that the presence of consideration vitiates donor intent. *McPherson v. R.* provides a representative statement of the principle per Little J⁸⁰:

There is an element of impoverishment that must be present for a transaction to be characterized as a gift. Whether this is expressed as an *animus donandi*, a *charitable intent* or an *absence of consideration* the core element remains the same.

⁷⁶ CRA has taken the position in many publications that a gift in fulfilment of a pledge qualifies. See, for example, CRA document "Registered Charities: Operating a Registered Charity," December 17, 1985, paragraph 31.

⁷⁷ *Interpretation Bulletin* IT-110RD, "Gifts and Official Donation Receipts," June 20, 1997, paragraph 9.

⁷⁸ See, for example, *McBurney v. R.* [1985] 2 CTC 214 and CRA document 9901985, April 19, 1999.

⁷⁹ See, for example, CRA document 2008-0294701E5, February 20, 2009; CRA document P113, 2007; CRA document 2007-0228411E5, December 19, 2007.

⁸⁰ *Supra* note 46, at paragraph 20 (per Little J.) [emphasis in original].

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But if this is what is meant by donor intent why continue to enforce the donor intent requirement under split-receipting rules intended to allow transfers for consideration to qualify as charitable gifts? The difficulties raised by the continued enforcement of the donor intent requirement are reflected in the following observation by the CRA.⁸¹

[A] gift is a voluntary transfer of property without valuable consideration to the donor. However, under [the split-receipting rules] a transfer of property for which the donor received an advantage will still be considered a gift for purposes of the *Income Tax Act* as long as we are satisfied that the transfer of property was made *with the intention to make a gift*. [Emphasis added]

If a gift is by definition a “transfer of property without valuable consideration,” then how could a transfer for consideration ever be made with the “intention to make a gift?” Restricting the meaning of gift to transfers made with donor intent (as that term has historically been understood by tax courts) seems to run contrary to the very purpose of the split-receipting rules—to allow transfers for consideration to qualify as gifts.

Consider also CRA’s ongoing enforcement of the requirement for a charitable motive.⁸² A number of authorities have reasoned that a donor’s motive has no formal relevance to whether a donation qualifies as a gift. One of the most explicit statements of this principle was made in *R. v. Klotz* where the court observed⁸³:

A charitable frame of mind is not a prerequisite to getting a charitable gift tax credit. People make charitable gifts for many reasons: tax, business, vanity, religion, social pressure. *No motive vitiates the tax consequences of a charitable gift*. [Emphasis added]

Further reinforcing that a donor’s motive need not be charitable, a number of cases have reasoned that a donation may qualify as a gift even if the donor’s primary motive was to obtain a tax advantage.⁸⁴ On the other hand, several authorities have remarked that a gift must be the result of a “liberal intent” or a “detached and disinterested generosity.”⁸⁵ Consistent with this, one case observed that a donor’s desire to give must be the “pure moral benefit” of giving⁸⁶ and in another it is said that “the motive of a disporor and the purpose of the disposition are critical matters for consideration.”⁸⁷

Is it possible to reconcile the contradictory positions taken in the authorities over the issue of motive? One way to do so is to recognize that the authorities have employed the motive criterion as a way of disqualifying donation arrangements involving mutual exchanges between charities and donors. Concerns over motive tend

⁸¹ CRA document no. T4033A, 2007 [emphasis added].

⁸² See, for example, *Registered Charities Newsletter* No. 15, Spring, 2003; *Technical News* No. 26, supra note 67; CRA document CPC-024, February 26, 2003; CRA document 2007-0227171R3, December 19, 2007; and CRA document 2007-0228411E5, December 19, 2007.

⁸³ [2005] 3 CTC 78, at paragraph 25 (FCA) [emphasis added].

⁸⁴ See, for example, *Friedberg v. R.* [1992] 1 C.T.C. 1 (FCA); *Whent v. R.*, [1996] 3 CTC 2542 (TCC); *Aikman v. R.*, [2000] 2 CTC 2211 (TCC); *Zelinski v. R.* (1999), [2000] DTC 6001 (FCA); *Duguay c. R.*, [2002] 1 CTC 8 (FCA), aff’g. [1999] 3 CTC 2432 (TCC); *Langlois c. R.*, [2000] DTC 6612 (FCA), aff’g. [1999] 3 CTC 2589 (TCC); *Côté v. R.*, [1999] 3 CTC 2373 (TCC); *Francoeur v. R.*, [1993] 2 CTC 2440 (TCC).

⁸⁵ See, for example, *Hudson Bay Mining*, supra note 55; *Burns v. M.N.R.*, [1990] 1 CTC 359 (FCA), aff’g. [1988] 1 CTC 201 (FCTD); *Nadeau c. R.*, [2003] 2 CTC 2813; *Dutil v. R.* (1991), 95 DTC 281 (TCC); *Tite*, supra note 56; *Woolner*, supra note 56; *McPherson*, supra note 46. The CRA publications on point are too numerous to cite.

⁸⁶ *Burns v. M.N.R.*, [1988] 1 CTC 201 at paragraph 28.

⁸⁷ *Leary v. Federal Commissioner of Taxation* (1980), 32 ALR 221 at 238, cited with approval in *McBurney v. R.*, [1985] 2 CTC 214 at paragraph 11.

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to be raised in the authorities where the donation arrangement involves a direct pecuniary benefit from the charity to the donor or a circular flow of cash directly between the donor and the charity or indirectly through a third party.⁸⁸ Even the cases establishing that tax motivated donations can qualify as gifts have been careful to make sense of that conclusion in light of the idea that a tax benefit is not consideration. Absent consideration or a mutual exchange of some sort a selfish motive has not typically vitiated donations as gifts.⁸⁹ But again, if motive is used as a proxy for consideration then what is the continued relevance of the motive test under the draft split-receipting rules?

As with any data set, there are, of course, outlier cases in which courts have broken from precedent and identified gifts on the basis of an economic substance standard.⁹⁰ The difficulty with such outlier cases is that they tend to depart from precedent without acknowledging, much less explaining, the departure. So although such cases reach outcomes consistent with the tax policy behind donation incentives their primary contribution has not been to introduce greater coherence to the law but rather to further obfuscate the essential standards donations must meet in order to qualify as charitable gifts for income tax purposes.

In short, the need for reform is clear. Whereas the tax policy behind donation incentives supports a broad test based on economic substance, the authorities have tended to fixate on theoretically irrelevant considerations. Current law and regulatory practice lack a doctrinal test for identifying charitable gift transactions that is either sufficiently clear for planning purposes or consistent with underlying tax policy. While the split-receipting rules were intended to broaden the meaning of gift by enabling transfers for consideration to qualify as gifts, the CRA continues to enforce gift criteria, e.g., voluntariness, donor intent, and motive, whose historical policy function has been to disqualify as gifts transfers for consideration. It is not clear why such criteria continue to be enforced or what a taxpayer must demonstrate to reveal that such criteria are satisfied.

This state of affairs yields a number of negative consequences for the charitable sector. First, charities are losing out on potential donations. To exclude from the definition of “gift” donation arrangements that should in theory attract donation incentives removes the incentive for donors to make such donations. In some cases donors will either restructure their donations so as to qualify for donation incentives or proceed with a donation notwithstanding that it will not qualify for any donation incentives. However, inasmuch as the available empirical research supports the conclusion that donation incentives attract donations that would not otherwise get made,⁹¹ it would seem to follow that the restrictive targeting of donation incentives through an overly narrow definition of gift results in at least some lost donations.

⁸⁸ See, for example, *Hudson Bay Mining*, supra note 55; *McPhail*, supra note 74; *Leary*, *ibid.*; *Nadeau*, supra note 85; *Tite*, supra note 56; *Woolner*, supra note 56; *McPherson*, supra note 46.

⁸⁹ In *Leary*, supra note 87, Bowen C.J. reasoned at 223 that a “man may, by his gifts, gain fame or formal honours without losing his tax credits.” The implication is that a selfish motive does not vitiate a charitable gift provided the selfish motive is non-pecuniary. See also *McPhail*, supra note 74, at 347 where Owen J. held that defining gift as a “present made without return of any kind” disqualifies too many transactions. In his view, only the return of a “material advantage” should disqualify a donation as a gift.

⁹⁰ In a limited number of cases, courts have been willing to find that a gift was made even though the donation arrangement was not in the legal form of a common law gift, such as transactions that combine a gift element with a payment for goods and services. See, for example, *Jubenville v. R.*, [2002] 4 CTC 2058 (TCC) (court isolated the gift element in a payment for adoption services in excess of fair market value), *Jabs Construction Ltd. v. R.*, [1999] 3 CTC 2556 (TCC) (sale of property to charity on favourable terms was found to include an element of gift) and *Woolner v. R.*, [2000] 1 CTC 35 (FCA) (that portion of private school tuition corresponding with cost of religious education qualifies as a gift).

⁹¹ Supra notes 10-15 and associated text.

Second, charities face heightened regulatory compliance costs because they are required to retain legal counsel for answers to what should (and could) be simple questions surrounding the meaning of gift. Further, the contradictions and inconsistencies in the authorities inflate legal costs because they increase the time lawyers must devote to doing opinion work in this area.

New definition of “charitable donation”

The ideal policy solution for the identified problem is to statutorily define the range of donations capable of qualifying for donation incentives. Before discussing what such a statutory definition might look like it is important to first establish why a statutory definition is necessary in the first place. Is it not possible for the CRA to administratively solve the problem by administering the proposed split-receipting rules in a way that is more consistent with underlying tax policy?

The lacklustre experience with the split-receipting rules to date owes to design flaws in the proposed rules. The sole contribution that these rules make to reforming the meaning of gift is to specify that the receipt of consideration by a donor does not “in and by itself” disqualify a donation as a gift. And even so, the proposed rules establish this principle with reference to but one of the common law gift criteria historically used by tax authorities to weed out transfers for consideration. Specifically, the draft rules imply that donor intent will not automatically be assumed absent simply because a donor receives consideration.⁹² No mention is made of how the presence of consideration impacts on the other criteria—voluntariness and motive—historically used to disqualify transfers for consideration or whether these other criteria should continue to be enforced. So rather than tell us what the term gift actually means, the proposed rules merely tell us that, although consideration can vitiate a donation as a gift, it is not categorically the case that gift means a transfer for no consideration. The CRA can minimize the difficulties inherent in this unstable approach through sound administrative practices, but anything less than statutory reform is mere damage control. Better to statutorily remedy the root cause of the problem, especially since the Standing Committee’s study of donation incentives represents a rare opportunity for reform.

The first step in developing a statutory definition is to select an appropriate statutory moniker for eligible donations. The ongoing use of the phrase “charitable gift” should be avoided as this would invite the continued application of the very precedents that the new definition would be meant to displace. Instead, a donation should be recognized by income tax law only if meets a new statutory definition of “*charitable donation*.” The next step is to produce a theoretically coherent and administratively practical definition of charitable donation. Ideally, the term charitable donation would be defined to include any transfer of property to or for the benefit of a charity, whether by way of common law gift, trust, sale, or any other form of transaction, provided the value of the property transferred to the charity exceeds the value of consideration received by the donor (or a party at non-arm’s length to the donor). The value of the gift would reflect the net benefit conferred on the charity.

The fundamental difference between the draft split-receipting rules and the definition proposed here is that the split-receipting rules go no further than specifying that consideration is not an automatic vitiating factor. In contrast, this proposed definition of charitable donation expressly establishes economic substance as the

⁹² Proposed subsection 248(30) of the ITA provides:

The existence of an amount of an advantage in respect of a transfer of property does not in and by itself disqualify the transfer from being a gift to a qualified donee if

- a) the amount of the advantage does not exceed 80% of the fair market value of the transferred property; or
- b) the transferor of the property establishes to the satisfaction of the Minister that the transfer was made with the intention to make a gift.

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decisive factor for identifying eligible donations. A number of considerable advantages follow from this seemingly subtle difference. For example, the definition proposed here is a far simpler test for charities, donors, and their respective advisors to understand and apply. Rather than fixate on the legal form of donations or on poorly understood and inconsistently applied tests relating to voluntariness, donor intent, and motive, the proposed definition simply asks whether a taxpayer contributed more than he or she took back in the form of goods or services.

Not only would the proposed definition of charitable donation simplify the law, it would do a far superior job of aligning tax practice with underlying tax policy vis-à-vis charitable donations. As was discussed above, the economic substance of a donation is all that ultimately matters from a tax policy perspective. All that we need to know is whether a donation helps finance the delivery of charitable goods or services. Nevertheless, the authorities have obfuscated the law by dwelling on considerations (pertaining to legal form, motive, voluntariness, and the like) lacking any apparent relevance to whether a donation meets this essential standard. The proposed definition of charitable donation renders such considerations irrelevant. By making economic substance a decisive consideration, the proposed definition focuses attention on the one issue that truly matters from a tax policy perspective.

The proposed definition of charitable donation can be anticipated to raise certain objections. For example, some might oppose the definition's requirement for a transfer of property on the ground that this continues the non-recognition of donations of services. Services have been excluded for the reasons discussed above.

Another potential objection might be that the proposed definition would make it more difficult to effectively police abusive donation arrangements. Under the proposed definition, the only way to attack an abusive donation arrangement would be for regulators to conclude that the arrangement did not enrich the charitable donee to any quantifiable extent. This would reflect a departure from the historical practice of using the definition of gift as an anti-avoidance tool for attacking abusive donation schemes. For example, several authorities have concluded that participants in abusive donation schemes did not donate further to a charitable motive and thus did not make a gift.⁹³ But if the proposed definition of charitable donation is adopted, abusive donations could no longer be denied on this basis (since eligible donations would no longer have to pass a motive test). So the question becomes whether the status quo should be preserved if only to leave open this avenue for regulating abusive donation schemes.

The problem with this reasoning is that requiring all donations to pass a generous motive test is a highly inefficient way to target abusive donation schemes. A motive test is difficult to administer (how do you accurately test for motive?), difficult to theoretically justify (it has no relevance under the frameworks discussed above in the section "Theoretical underpinnings of donation incentives"), and if consistently applied could very well disqualify non-abusive donations (not all donations inspired by selfish motives are necessarily abusive).⁹⁴ The better approach would be to identify abusive donation schemes on the basis of their shared qualitative characteristics and to regulate these arrangements through dedicated anti-avoidance provisions.

⁹³ See, for example, *Maréchaux v. R.* [2010] 2 C.T.C. 2099. In the context of a "leveraged gift" scheme, the court concluded that no gift may be recognized by income tax law where a donation is made with the anticipation of receiving a benefit in return.

⁹⁴ Much of the theoretical scholarship dealing with the preferred tax treatment of charitable gifts is dismissive of the possibility that a charitable motive is even possible. See Colombo, "Marketing of Philanthropy," *supra* note 23. If this is correct, then what donations will pass a generous motive test?

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A common feature of abusive donation arrangements is that they generate positive cash flows for donors because the value of the tax concession exceeds the donors' out of pocket costs. However, it is necessary to more specifically identify abusive donation schemes because not all profitable donations are indeed abusive. Edgar and Sandler (2003) conclude that the truly abusive donation is highly likely to be part of an actively marketed and promoted arrangement designed to create positive cash flows for donors either through inflated donation receipts for gifts-in-kind (i.e., donations of things rather than cash) or debt financed donation arrangements where the lion's share of the donations are essentially costless to donors because they are funded by third parties.⁹⁵ Admittedly, donations can be abusive without being actively marketed or promoted but absent the kind of widespread participation associated with marketing, such donations are unlikely to be of sufficient concern to warrant a legislative response.⁹⁶ So-called "art flips" and "leveraged donation schemes" epitomize abusive donation schemes warranting a targeted legislative response.

Art flips involve professionally organized and marketed fundraising events at which donors purchase artwork at a low price and then immediately donate the artwork to charity (often without even having seen or taken possession of it).⁹⁷ The artwork is appraised for gift receipting purposes at a much higher value than the donor's purchase price, though typically at less than \$1,000 in order to preserve for the donor the limited capital gains tax exemption for personal use property.⁹⁸ The primary concern raised by such donations is that the appraised value is inflated and thus not a true reflection of the value of the donation. The result of the inflated donation receipt is that the combined federal and provincial tax concessions for the donation exceed the donor's cost of acquiring the art.

Leveraged donation schemes involve mass marketed donation arrangements in which the lion's share of the donations is costless to donors because they are funded by third parties.⁹⁹ For example, donors might agree to make donations of a certain amount, say, \$30,000, with the understanding that further amounts will be loaned by third parties to the donors in order to top up the donation to a total amount of, say, \$100,000. The arrangements are structured such that donors are ultimately not required to pay back the loans, meaning a total donation of \$100,000 might only cost the donor \$30,000. A positive cash flow is created because the combined federal and provincial tax concessions available to donors exceed their out-of-pocket costs. The economics of these arrangements would appear to require that significant portions of the donations are circulated from the charitable donees back to the third parties financing the loans to the donors, though for obvious reasons this is not something disclosed in the marketing materials.

These donation schemes may be targeted through anti-avoidance rules applicable to donation arrangements that are (a) marketed and (b) involve either (i) the acquisition of property (such as art) with the understanding that the acquired property will be donated to charity or (ii) donations where a significant portion of the donation

⁹⁵ See Edgar and Sandler, *supra* note 43.

⁹⁶ Edgar and Sandler *supra* note 43 at 2310 observe as follows:

It is the marketing feature of donation schemes that, in fact, has caused abusive transactions to multiply to the extent that the administrative and judicial resources associated with direct valuation challenges have become severely strained, requiring an alternative response.

⁹⁷ See Edgar and Sandler *supra* note 43 at 2198.

⁹⁸ Subsection 46(1) of the ITA provides that capital gains tax is not payable on dispositions of appreciated personal use property provided the value of the property does not exceed \$1,000 at the time of disposition. Art flips appear to have been designed to take advantage of this rule. Donors who acquired artwork for, say, \$250, could donate it for an appraised value of \$1,000 without incurring capital gains tax. Subsection 46(5) has since established that the capital gains exemption for personal use property is unavailable where the donated property was acquired by the taxpayer as part of a marketed arrangement in which it was understood that the property would be donated.

⁹⁹ See Edgar and Sandler *supra* note 43 at 2205.

is financed on highly favourable terms to the donor. Indeed, these kinds of schemes are already being targeted through rules specifically designed to render them non-profitable for promoters and participants.¹⁰⁰ Concerns over inflated donation receipts raised by art flips have been addressed through proposed rules designed to restrict in certain circumstances the amount for which donation receipts may be issued to the amount paid by donors for donated properties.¹⁰¹ Leveraged donation schemes have been attacked through proposed rules providing that a donation receipt may not be issued for any portion of a donation that was debt-financed through loans meeting certain criteria (i.e., criteria that result in the loan being essentially costless to the donor).¹⁰² The purpose of these rules is to restrict the amount for which official donation receipts may be issued for donations that are likely abusive to the amount by which donors are out-of-pocket. Since these rules speak more to the valuation of donations rather than the identification of qualifying donations, there is no reason why they could not be very effectively combined with the proposed definition of charitable donation.

Another objection to the proposed definition of charitable donation might be that, although the proposed definition remedies the speciousness of the form over substance orientation to the status quo, it introduces some significant new regulatory challenges of its own. There is some merit to this concern, especially in relation to the valuation of donations. The historical emphasis on legal form, though theoretically flawed, had the practical benefit of avoiding some very difficult valuation issues. Transactions could be disqualified as gifts—thereby rendering moot the issue of valuation—simply because they were not in the legal form of common law gifts. Under the proposed definition of charitable donation it will be necessary with practically every transaction involving a charity, including a fee for charitable services rendered, to confirm whether the taxpayer contributed more than he or she took back. Some very difficult valuation issues will be raised because many of the services for which charities charge a fee are not provided generally in the market, making it difficult to determine the true economic substance of these transactions.

For example, how would regulators conclude whether a person paying tuition to an educational charity received educational services commensurate with the tuition paid? Similarly, how should donations in exchange for naming privileges be valued? It may be necessary to adopt some blunt administrative rules, such as a rule deeming that fees for charitable services correspond with the value of the services received. Such an approach has already been developed in relation to naming privileges where the CRA has somewhat surprisingly taken the position that naming privileges received by donors generally have no value.¹⁰³

So the reform proposed here is not uncontroversial, nor does it provide all of the answers. Nevertheless, it focuses attention away from the theoretically irrelevant issues that have long since confused the jurisprudence and toward what ultimately matters—the economic substance of donation transactions. In this way it forces regulators to ask the right questions of putative charitable donations.

¹⁰⁰ For a discussion and critique of the rules see Edgar and Sandler *supra* note 43.

¹⁰¹ See proposed subsection 248(35) of the ITA.

¹⁰² See proposed subsection 248(32) of the ITA.

¹⁰³ In CRA document no. 2005-0130381R3, 2005; CRA document no. 2005-0110701R3, 2005; CRA document no. 2006-0218471R3, 2007; CRA document no. 2003-0043013, 2003, the CRA observes that naming rights will have a nil value provided that there is no “prospective economic benefit” associated with the naming rights. Prior to the split-receipting rules, the CRA consistently observed that naming rights did not constitute consideration. See, for example, CRA document no. 9731345, February 25, 1998 and CRA document no. 9613015, September 24, 1996.

Conclusion

The test currently applied to identify what charitable donations are eligible for donation incentives under the ITA is overly restrictive and excessively complicated. It not only heightens administrative compliance costs for charities but also likely results in lost charitable donations. In addition, it undermines the tax policy objectives donation incentives are meant to achieve. Further, it is indecipherable in many respects except to those with highly specialized knowledge in the fields of property, trust, and tax law. Even to a specialized audience there are elements to the test that cannot be reconciled. Previous reform efforts—the split-receipting rules—have been unsuccessful at producing a test that is either simple to understand or attentive to underlying tax policy considerations. The ideal policy solution is for the Standing Committee on Finance to recommend the adoption a new statutory definition of “charitable donation.” The proposed definition would introduce new revenue sources to charities while reducing administrative compliance costs. It would remedy significant shortcomings in current law and regulatory practice.

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**Advice for New Authors on the Submission of Articles /
Conseils pour les nouveaux auteurs sur la soumission d'articles**

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ABSTRACT

New authors often see the publication process as a mystery that only gets revealed in bits and pieces over time. This article aims to present some tips and ideas to new authors to facilitate the submission of an article to *Canadian Journal of Nonprofit and Social Economy Research / Revue canadienne de recherche sur les OSBL et l'économie sociale (ANSERJ)*. It describes the review process and highlights some key milestones. As the English Language and French Language editors for ANSERJ, we would like to encourage new contributors, and thus we will highlight specific items as they apply to ANSERJ. These guidelines complement the author guidelines already posted on the ANSERJ website. Our advice may apply to authors interested in other journals with a peer review process.

RÉSUMÉ

Les nouveaux auteurs considèrent souvent le processus de publication comme un mystère qui se découvre au fil du temps. Cet article vise à présenter certains conseils et réflexions pour faciliter la soumission d'un article à la *Revue canadienne de recherche sur les OSBL et l'économie sociale / Canadian Journal of Nonprofit and Social Economy Research (ANSERJ)*. Il décrit le processus de publication et ses étapes principales. À titre de rédacteurs en chef d'ANSERJ, nous aimerions encourager les nouveaux chercheurs, contribuer au débat par quelques conseils et réflexions et souligner certains éléments spécifiques à notre revue. Les présentes réflexions complètent les directives déjà présentes sur le site web de la revue. Ils peuvent s'appliquer à des auteurs intéressés par d'autres revues avec comité de lecture.

Keywords / Mots clés : Publishing; Journal; Advice / Publication; Revue; Conseils

INTRODUCTION

Publishing an article in a refereed journal is an important contribution to the dissemination of knowledge. A publication by a new or experienced university researcher is important on several levels. It may be an integral part of acquiring tenure, obtaining a promotion or an award, or progressing to a new salary level; it may also be part of scholarship and teaching activities (Swanson, 2004). Publishing in a refereed journal can be examined from several perspectives, since the ultimate publication of an article requires the collaboration of multiple actors; namely, author, editor, reviewer, and publisher (Lange, 2005).

The views of authors and reviewers have been the subject of several reflective conference presentations and journal publications (Adler and Liyanarachchi, 2011; Harrison, 2002; Lange, 2005; Mautz, 1987; Swanson, 2004). As editors of the *Canadian Journal of Nonprofit and Social Economy Research / Revue canadienne de recherche sur les OSBL et l'économie sociale (ANSERJ)*, we would like to contribute to this topic with some tips and ideas, and highlight specific items relevant to ANSERJ. While these comments are primarily aimed at new authors who submit an article to ANSERJ, they may apply to anyone interested in making a submission to a journal with a peer review process. This advice complements the author guidelines already posted on the ANSERJ website (www.anserj.ca).

These tips and ideas should be of particular interest to new researchers. The intention of this article is to demystify the evaluation and publishing process for submitted articles, at ANSERJ and in general. However, there is no magic substitute for clear and relevant research, a solid initial text, selecting an appropriate journal, and revising your text after submission.

BUILDING BLOCKS

The publication of an article is a complex process, including standards that may vary according to theme, discipline, and time of submission (Swanson, 2004). The editorial review process is based on the evaluation of articles by reviewers who are not only competent evaluators, but also independent, objective, and anonymous to authors (Mautz, 1987). For editors, it is essential to find relevant articles, rigorously prepared, that contribute to building knowledge.

There are several decision levels in the process that leads to the publication of an article. Table 1 shows the main steps in the review process. These include the preparation of an article, its submission, evaluation, or revision, the decision to accept or reject an article, and the processes of editing, publication and dissemination. It is understood that some of these steps may be repeated, as in the review stage. These various steps are the responsibility of the author or authors, who will navigate their submission through these stages, with the editor acting as a go-between between authors and reviewers.

It may be helpful to situate this process in an analytical framework. A “q-r” theory proposed by Ellison (2002a, 2002b) distinguishes between two aspects of quality: 1) quality “q” is the level of importance of the subject and the relevance of its research question, and 2) quality “r” is the rigour demonstrated in research, the methodology used and the consistency of all to tell the story (Ellison, 2002a, 2002b; Swanson, 2004).

Table 1: Key steps in the process of journal publication

	Responsibilities		
	Author (s)	Editor	Reviewers
Research work	x		
Selection of the journal	x		
Read standards of the journal	x		
Article writing	x		
Dissemination at conferences and circulation to peers	x		
Submission to a journal	x		
Receiving a submission		x	
Initial decision - Initial rejection - Request for initial revisions - Sending to reviewers		x	
Receipt of the decision of initial rejection or required revisions	x		
Second submission to the journal, if any	x		
Selection of reviewers		x	
Article rating and review			x
Reviews writing			x
Submission of reviews			x
Receipt of reviews by editor		x	
Consolidation and analysis of the reviews		x	
Decision - Acceptance without modification - Acceptance with minor modifications - Acceptance with major revisions - Rejection		x	
Receipt of the decision by author	x		
Preparation of requested revisions	x		
Resubmission of the revised article with the revisions requested and justifications	x		
Receipt of the revised article with the revisions requested and justifications		x	
Examination of the acceptability of revisions		x	
Final decision		x	
Receipt of the final decision, by author	x		
Supervision / monitoring of journal editing		x	
Approval of edited article for publication		x	
Publication of the article		x	
Dissemination of the article	x	x	

PREPARATION BEFORE SUBMISSION

We will assume here that you have conducted some research and wish to see some or all of it published in a journal. The current state of this research may be in the form of a thesis or research report. While we make no judgment about the nature of your research, a journal article is, by its very nature, relatively brief (maximum 8,000 words for ANSERJ) and self-contained, and it contributes to knowledge, theory, methodology, and possibly practice.

Know your journal

Whether it is in ANSERJ or another journal, take time to read published articles in your field. You may have read them before for their content, but in this case you are reading them for style, clarity, coherence, and concision (Williams, 1995). You will find that there is often a common format, regardless of the topic or research methodology. For example, many articles begin with a contextual introduction, identifying why the research is important, followed by a critical synopsis of the existing literature; an overview of the methodology; research findings; discussion; and a conclusion with appropriate implications.

While this may be a common format, it is by no means the only one. Theoretical, philosophical, or historical articles may differ considerably, and ANSERJ does not subscribe to any particular methodological or disciplinary preference. Your presentation needs to be consistent with your methodology and research question. The research question is of paramount importance in guiding all elements of research design (Maxwell, 1998). Choose a journal that matches the quality of your work and the target audience. Read the guidelines for authors carefully, including the requirements for referencing. Disregard for author guidelines and ignorance of the journal's content or audience will give a poor first impression. Keep an eye out for special issues and judge your timing accordingly. Never hesitate to contact an editor directly to clarify any process or timing issues.

Take advantage of library staff, colleagues or supervisors with special expertise in research. These contacts can help you find relevant journals and their submission and publication guidelines. It is possible that there are more journals than you think. While we hope that ANSERJ will be one of your choices, your decision should be weighted toward the best match between the objectives of the journal and your research goals.

ANSERJ is an open-access, online, dual-language journal; therefore there are no submission or subscription fees. By registering with ANSERJ, libraries and other subscribers receive notices of new issues. The more libraries and databases subscribe to or list ANSERJ, the better the chance that your article will be read and quoted.

Getting your submission ready

Your article is not a cut and paste from a thesis or research report. It is a distinct entity and may often require additional research beyond what you have already completed, particularly if your original research is not grounded in a clear research question.

“The most important thing, bar none, is to produce good research,” says Jane Freeman from the University of Toronto, “important, discipline-advancing, well-supported research. No gimmicks, no tips on publishing will get you published if you have nothing worthwhile to say.” (Lemon, 2006, p. S11)

Give yourself an incentive to get published. Set yourself a goal to publish an article, even if this means simply a good quality and non-peer-reviewed article. Think of each paper you write as a potential article. Too many people wait until they have finished their graduate studies to publish an article. Remember that most reviews are blind, so your work should speak for itself. Editors are often willing to provide preliminary feedback on whether an idea for an article is suitable for their journal. The editors at ANSERJ are certainly willing to do this. (Remember, though, that this doesn't mean it will be published when you do submit it!)

One good article a year is better than three that have all been rejected or require so many changes that you might have to start from scratch. There will be common expectations in your field regarding frequency of publication. Know what they are and start to prepare yourself as early as possible.

It is easy to be sentimental about your work and its importance, but blind reviewers are looking for quality, concision and coherence in your article. If you have not taken a workshop or course on self-editing, consider doing so. Schools of graduate studies or related departments often offer such courses.

Pay attention to length. There may be some flexibility, but submitting a 15,000-word article when the stated limit is 8,000 (as with ANSERJ) can leave editors with a poor initial impression and can create extra work, even before the submission is reviewed. Too often information is included that would be important in a thesis but is not germane to the focus of an article. A literature review, for example, should be specific to the research question addressed by the article and should not be a broad review of all literature.

Language is also important. ANSERJ has a very broad audience and jargon and acronyms that are not generally understood should be avoided. In the same vein, key terms should be used consistently across an article. Writers often change terms in an attempt to make an article more interesting, when in fact it only creates confusion. ANSERJ publishes in two languages – English and French – and only in the language that is submitted.

Initial circulation of an article for comment

Before exposing your article to blind reviewers, consider identifying colleagues who are willing to read initial drafts and provide feedback. This can be done at conferences or by asking colleagues or a supervisor. Colleagues need not necessarily be experts in the subject matter. Choose individuals with whom you have a relationship of trust, who have a variety of perspectives, and who are familiar with your work and with journal publishing. The best advice will be from those who have no vested interest in telling you that your draft is great when in fact it needs considerable work.

SUBMISSION AND REVIEWS

Submitting an article and not following up is like hitting a baseball and forgetting to run the bases. You should receive an immediate acknowledgement of your submission. If not, follow up right away. This is particularly important with online submissions, as there may be a glitch in the system. If you do not hear back from an editor within a couple of weeks, assume that your submission has been sent for external review. This is a process that can take a minimum of four to six weeks and often much longer, so you need to be patient. Some reviewers do not follow through on commitments, and this can cause unexpected delays in the process. It is not a reflection of your submission.

Editor's initial decision

It is possible that the editor will initially request changes before the article is sent out for review. If you have major gaps in your article, such as an insufficient literature review, methodology section or conclusion, these will likely need to be added before it is circulated. It is also possible that the editor will decide not to proceed with a review if the article lacks relevance or research rigour.

The blind review and decision

A blind review occurs when the reviewers do not know who you are and vice versa. Every step is taken to protect this process. All reviewers for ANSERJ are asked if there is a possible conflict of interest, even from reading an abstract of the article. Where there is such a conflict, alternative reviewers are identified. Most reviewers are very busy, so with

ANSERJ, every effort is taken to match reviewers to the content of the article. This means that the review is likely to be of high quality and the reviewer is very familiar with the field of research.

ANSERJ strives to identify at least two or three reviewers for each article. These reviewers can be from anywhere in the world. Often reviewers for ANSERJ take time to write several pages of comments and suggestions. This is extremely valuable for both the quality of the final article and your development as a writer. It is critical to read all reviewers' comments thoroughly for two reasons: First, reviewers have different perspectives and you may need to reconcile variations in their comments; and second, it is expected, when you revise an article for ANSERJ, that you will itemize your changes in a separate document that will be forwarded to the reviewers. ANSERJ editors will often highlight the reviewers' suggestions that should definitely be addressed.

Regardless of the nature of the feedback you receive, only "no" means no and anything less means that you can choose to make revisions. Remember that multiple revisions and re-submissions for a peer-reviewed article are the norm, not the exception. When you make your revisions, it is important to understand that these are to be taken seriously. If you can clearly justify why a recommended change should not be made, you have the opportunity to do so when you submit an itemized list of changes you have made with your re-submission. Making changes will often lengthen the article, yet the need for clarity, coherence, and concision still applies. Upon receipt of reviewers' comments, editors may reject an article due to the following: problems with the research question; a serious research design deficiency; a lack of consistency; or insignificance of the article to the field (Mautz, 1987). When the problems are too numerous, the editor will often reject the article instead of striving to improve it. Editors are fallible, and history tells us that misjudgments are made, as was the case for several now-classic, but initially rejected articles by Nobel Prize winners (Gans and Shepherd, 1994). We do our best to give each and every article a fair and thorough assessment, providing as much guidance as is appropriate along the way.

In ANSERJ, the editor is responsible for content editing before the article is copyedited by the journal publisher. At this time you will be asked for biographic information and acknowledgements that you may wish to make.

CELEBRATING YOUR SUCCESS

The successful publication of your article is both a personal and professional achievement. You can support the journal and your career by making as many people as possible aware of it. Post your abstract and article title on your social media outlets and make sure that you update your CV to include your new publication. For its part, ANSERJ distributes all of its published articles through Open Journal Systems (OJS), ProQuest, and EBSCO. An application has also been submitted to have ANSERJ posted on the U.K. open journal database, the Directory of Open Access Journals (DOAJ).

CONCLUSION

The mystery associated with getting published is sometimes rooted in inadequate knowledge of the process itself. It takes patience and perseverance to see any research in print, and we hope this guide will serve as an aid to those seeking publication. Contributing to knowledge is what research is all about, and knowledge dissemination is the *raison d'être* of publishing.

Conseils pour les nouveaux auteurs sur la soumission d'articles / Advice for New Authors on the Submission of Articles

INTRODUCTION

Publier un article dans une revue avec comité de lecture est un acte important pour la diffusion de la connaissance. Une publication réussie par un chercheur universitaire débutant ou expérimenté est importante à plusieurs niveaux. Il peut s'agir de l'embauche dans un poste de professeur, de l'acquisition de la permanence, de l'obtention d'une promotion ou d'un prix, du niveau salarial obtenu ou de la charge d'enseignement, pour ne nommer que quelques exemples (Swanson, 2004). On peut examiner la publication d'articles dans une revue avec comité de lecture à partir de plusieurs points de vue, puisque la publication d'un article exige un travail collaboration parmi de divers acteurs : des auteurs, des évaluateurs et des rédacteurs en chef (Lange, 2005).

Le point de vue des auteurs et des évaluateurs a fait l'objet de plusieurs réflexions que ce soit lors de conférences ou dans des publications (Adler et Liyanarachchi, 2011; Harrison, 2002; Lange, 2005; Mautz, 1987; Swanson, 2004). À titre de la rédacteurs en chef *Revue canadienne de recherche sur les OSBL et l'économie sociale / Canadian Journal of Nonprofit and Social Economy Research (ANSERJ)*, nous aimerions contribuer au débat par quelques conseils et réflexions et souligner certains éléments spécifiques à notre revue. Même si les commentaires exprimés visent principalement à la soumission d'un article à ANSERJ, ils peuvent s'appliquer à des auteurs intéressés aux autres revues avec comité de lecture. Les présentes réflexions complètent les directives déjà présentes sur le site web de la revue (www.anserj.ca).

Ces conseils et réflexions devraient intéresser particulièrement les nouveaux chercheurs. L'intention de cet article est de démystifier le processus de publication et d'évaluation des articles soumis. Toutefois, comme vous le constaterez à la lecture de nos commentaires, il n'y a pas de recettes magiques remplaçant une recherche claire et pertinente et le besoin d'écrire un texte solide au départ, de le soumettre au bon endroit et d'être prêt à réviser le texte suite aux commentaires reçus.

ÉTABLIR DE SOLIDES FONDATIONS

La publication d'un article est un processus complexe, incluant des normes variant selon divers axes comme les thèmes étudiés, la discipline et le moment de la soumission (Swanson, 2004). Le processus suivi dans l'évaluation des articles s'appuie sur certains principes, tels que la compétence des évaluateurs, leur indépendance, l'objectivité dont ils font preuve, l'anonymat des auteurs et des évaluateurs (Mautz, 1987). Pour les rédacteurs en chef, il s'agit essentiellement de trouver des articles pertinents, préparés avec rigueur et apportant une contribution aux connaissances.

Le processus suivi vers la publication d'un article amène plusieurs niveaux de décision. Le tableau 1 présente les principales étapes du processus, soit le travail de préparation d'un article, la soumission, l'évaluation, la révision, la décision d'accepter ou de rejeter un article, l'édition, la publication et la diffusion. Il est bien entendu que certaines de ces étapes puissent se répéter, comme l'étape de la révision. Ces diverses étapes sont sous la responsabilité de l'auteur ou des auteurs, qui doivent négocier entre eux les différentes étapes qui leur concernent, ainsi que le rédacteur en chef et les évaluateurs. Certaines de ces étapes sont reprises dans les commentaires subséquents.

La théorie « q-r » proposée par Ellison (2002a, 2002b) nous aide à situer ce processus dans un cadre d'analyse. Brièvement, la théorie « q-r » distingue entre deux aspects de la qualité d'un article : 1) la qualité « q » correspond au niveau d'importance du sujet et de la pertinence de sa question de recherche et 2) la qualité « r » correspond à

la rigueur démontrée dans la recherche, à la méthodologie utilisée et à la cohérence de l'ensemble pour raconter l'histoire (Ellison, 2002a, 2002b; Swanson, 2004).

Tableau 1 : Principales étapes du processus de publication dans une revue

	Responsabilités		
	Auteur(s)	Rédacteur en chef	Évaluateurs
Travail de recherche	x		
Sélection de la revue	x		
Lecture des normes de la revue	x		
Rédaction d'un article	x		
Diffusion lors de conférences et distribution	x		
Soumission à une revue	x		
Réception d'un article		x	
Décision initiale - rejet initial - demande de révisions initiales - envoi aux évaluateurs		x	
Réception de la décision de rejet initial ou de révisions initiales	x		
Seconde soumission à la revue, s'il y a lieu	x		
Sélection des évaluateurs		x	
Évaluation de l'article			x
Rédaction des évaluations			x
Envoi de l'évaluation			x
Réception des évaluations par le rédacteur en chef		x	
Consolidation et analyse des évaluations		x	
Décision - acceptation sans modification - acceptation avec remaniement léger - acceptation avec remaniement profond - rejet		x	
Réception de la décision par l'auteur	x		
Préparation des révisions demandées	x		
Nouvelle soumission de l'article révisé avec les révisions demandées et les justifications	x		
Réception de l'article révisé avec les révisions demandées et les justifications		x	
Examen de l'acceptabilité des révisions		x	
Décision finale		x	
Réception de la décision finale par l'auteur	x		
Supervision de l'édition		x	
Approbation de l'article édité pour publication		x	
Publication de l'article		x	
Diffusion de l'article	x	x	

PRÉPARATION AVANT SOUMISSION

Nous supposons que le travail de recherche a été conduit selon les règles de l'art et que l'auteur désire voir une partie ou la totalité de son travail publié dans une revue. L'état initial de sa recherche peut être une thèse ou un rapport de recherche. Un article de revue est relativement bref (maximum de 8 000 mots pour ANSERJ),

autonome et apporte une contribution aux connaissances, à la théorie, à la méthodologie et possiblement à la pratique.

Connaître la revue

Que ce soit pour ANSERJ ou pour une autre revue, il est important de lire des articles publiés dans votre domaine. Il est possible que vous ayez déjà lu ces articles pour leur contenu, mais il s'agit maintenant de les lire pour leur style, leur clarté, leur cohérence et leur concision (Williams, 1995). Vous vous apercevrez qu'il y a souvent un format commun, peu importe le sujet ou la méthodologie de recherche. Par exemple, une majorité d'articles commencent par une introduction présentant le contexte et la question de recherche et justifiant l'importance de la recherche, suivi par une revue de la littérature courante, une description de la méthodologie, les résultats de recherche; une analyse des résultats et une conclusion indiquant les implications.

Même s'il s'agit d'une structure relativement fréquente, il ne s'agit en aucun cas de la seule valable. Des articles théoriques, philosophiques ou historiques peuvent différer considérablement et ANSERJ n'impose pas de méthodologies particulières ou préférables. La présentation de votre recherche doit être surtout cohérente avec votre méthodologie et votre question de recherche. La question de recherche est d'une importance capitale guidant l'ensemble des éléments du design de recherche (Maxwell, 1998). Choisissez une revue qui correspond à la qualité de votre travail et à votre clientèle. Prenez connaissance des règles de la revue, incluant les normes de présentation générales et celles pour la bibliographie. Un article qui fait preuve d'ignorance par rapport aux règles de soumission ou du public auquel le journal est destiné ne fera que mauvaise impression. Il arrive aussi que les revues publient des numéros thématiques; il faut donc ouvrir l'œil à ce sujet. N'hésitez pas à contacter directement le rédacteur en chef pour clarifier le processus ou les délais.

Profitez du personnel à la bibliothèque, de vos collègues ou d'un directeur possédant une expertise particulière au niveau de la recherche. Ces personnes-ressources peuvent vous aider à trouver des revues pertinentes ainsi que leurs processus de publication. Il est possible qu'il y ait plus de revues que vous ne le croyez. Même si nous espérons qu'ANSERJ représentera l'un de vos choix, votre décision devrait se baser principalement sur la meilleure correspondance entre les objectifs visés par la revue et les objectifs de votre recherche.

ANSERJ est une revue offerte en ligne, à libre-accès. Il n'y a donc pas de frais d'abonnement. Plus il y a de bibliothèque qui s'abonne, meilleures sont les chances que votre article soit lu et cité. En plus, ANSERJ n'exige pas de frais pour la soumission d'un article, ce qui augmente le nombre d'articles soumis.

Rédiger son article pour la soumission

Votre article n'est pas une version copier/coller d'une thèse ou d'un rapport de recherche. Il s'agit d'un document distinct qui peut souvent exiger de la recherche additionnelle par rapport au document original. Ceci arrive souvent si le travail initial n'est pas établi à partir d'une question de recherche claire ou s'il traite d'une question différente.

Jane Freeman de l'Université de Toronto est d'avis que: « La chose la plus importante est de réaliser un bonne recherche, pertinente, offrant une contribution et bien documentée. Aucune astuce ou conseil sur la publication ne vous permettra de publier, si l'auteur n'a rien à dire. »
[traduction] (Lemon, 2006, p. S11)

Il est important de se fixer des objectifs en publication. Le talent d'un rédacteur se trouve dans sa capacité à écrire et à réviser son travail. La rédaction d'un article, même pour une revue sans comité de lecture, est un bon

exercice et peut servir d'objectif initial. Il faut penser à chaque document comme un article potentiel. Trop d'étudiants attendent qu'ils aient fini leurs études avant de s'attaquer à la publication d'un article. Il faut se rappeler que la plupart des évaluations se font à l'aveugle et que le travail présenté doit parler par lui-même. Les rédacteurs en chef sont souvent disponibles pour fournir des commentaires sur une idée ou sur la pertinence d'un sujet à leur revue. Les rédacteurs en chef d'ANSERJ sont certainement prêts à aider les auteurs. (Il faut toutefois se rappeler que des conseils ne signifient pas que l'article sera accepté, une fois soumis!)

En ciblant la bonne revue et en soumettant un article de qualité, vous trouverez que les décisions positives seront nettement plus fréquentes. Il vaut mieux avoir un seul bon article que trois articles rejetés ou qui nécessitent un nombre de changements tellement décourageant. Dans certains domaines ou universités, on attend chez les chercheurs une certaine fréquence de publication dans des revues d'une certaine qualité (Swanson, 2004). Il est donc important de les connaître et de s'y préparer aussitôt que possible. Il est facile de devenir émotif à propos de son travail et de son importance. Toutefois, les évaluateurs ne cherchent que la qualité, la rigueur et la cohérence dans un article. Si vous n'avez jamais suivi un atelier sur la publication, considérez-le. Les universités et les programmes d'études avancées offrent de tels cours.

Faites attention à la longueur. Même s'il y a un peu de flexibilité au niveau de la longueur, un article de 15000 mots alors que la limite annoncée est de 8000 mots (comme chez ANSERJ) démontre que l'auteur n'a pas pris le temps de lire les règles de la revue; qu'il s'attend à ce que le rédacteur en chef ou les évaluateurs décident de ce qui est important; ou qu'il ne veut pas prendre le temps d'enlever certaines parties bien intéressantes mais non essentielles. Trop souvent, l'information incluse est importante pour une thèse mais pas pour un article. Par exemple, la revue de la littérature doit être spécifique à votre question de recherche discutée et non une revue trop générale.

Le langage est important. ANSERJ s'adresse à un public étendue et, par conséquence, on y évite l'utilisation de jargon et d'acronymes. De même, on exige que les termes soient utilisés d'une manière régulière tout au long de l'article. Les auteurs utilisent souvent des synonymes afin de rendre leur article plus intéressant, mais cela n'a pour effet que de semer de la confusion. ANSERJ publie des articles dans la langue dans laquelle ils sont soumis (français ou anglais).

Diffusion initiale pour obtenir des commentaires

Avant de soumettre un article à une revue, soit à des étrangers (i.e. évaluation à l'aveugle), il est recommandé d'obtenir des commentaires. Cela peut se faire lors de conférences ou en sollicitant des collègues ou un directeur de thèse. Il n'est pas nécessaire que ces collègues soient spécialistes du sujet. Choisissez plutôt des personnes avec qui vous avez une relation de confiance, qui ont des perspectives variées et qui connaissent bien le processus de publication et votre de travail. Les meilleurs conseils proviendront de personnes n'ayant pas d'intérêt à protéger et qui pourront vous donner l'heure juste.

SOUSSION ET ÉVALUATION

Soumettre un article et ne pas faire de suivi est comme frapper un coup-sûr au baseball sans courir sur les buts. Vous devriez recevoir un accusé de réception peu après votre soumission. Sinon, il est important de s'informer si l'article a bien été reçu, en particulier lorsqu'il s'agit d'un système de soumission électronique, où il peut y avoir des problèmes techniques. Si vous ne recevez rien du rédacteur en chef après quelques semaines, vous pouvez supposer que votre article a été transmis à des évaluateurs externes. Le processus d'évaluation

est un processus qui peut durer un minimum de quatre à six semaines ou plus longtemps selon la période de l'année. Il faut donc être patient.

Décision initiale du rédacteur en chef

Lorsqu'il reçoit un article, le rédacteur en chef examine l'article pour voir s'il correspond aux objectifs et aux règles de la revue. Il est possible que le rédacteur en chef décide de demander des révisions avant de transmettre l'article aux évaluateurs. S'il y a des lacunes dans l'article, telle que l'absence d'une revue de la littérature ou d'une section sur la méthodologie, il est préférable de corriger ces éléments avant la transmission aux évaluateurs. L'absence de certaines composantes importantes reflète un manque de préparation avant la soumission. Le rédacteur en chef peut aussi suggérer de soumettre l'article à une autre revue, si le sujet n'est pas approprié.

Évaluation à l'aveugle et décision

L'évaluation à l'aveugle signifie que les évaluateurs ne connaissent pas les noms des auteurs et vice versa. Le processus est géré de manière à protéger l'anonymat des auteurs autant que des évaluateurs. Tous les évaluateurs sont choisis pour leur expertise et pour atteindre les principes de qualité. Il est demandé aux évaluateurs d'ANSERJ de divulguer la possibilité de conflits d'intérêt en lisant le résumé ou subséquemment. En cas de conflits d'intérêt, on sélectionne un autre évaluateur. La plupart des évaluateurs sont très occupés, alors ANSERJ fait de son mieux pour choisir les évaluateurs avec une expertise pertinente à l'article. Il en résulte une évaluation de qualité.

ANSERJ identifie au moins deux ou trois évaluateurs pour chaque article. Ces évaluateurs proviennent de partout au monde. Les évaluateurs d'ANSERJ écrivent fréquemment plusieurs pages de commentaires et de suggestions. Ceci est particulièrement utile aux auteurs pour améliorer la qualité de leur article et pour appuyer leur développement personnel. Même si cela peut être déstabilisant et parfois frustrant, il est particulièrement utile de lire en profondeur les commentaires des évaluateurs pour deux raisons. Premièrement, les évaluateurs ont différentes perspectives et il faut parfois travailler à les concilier. Deuxièmement, les rédacteurs en chef d'ANSERJ, comme ceux de nombreuses revues, s'attendent à la révision de l'article et à l'identification des changements dans un document distinct.

Peu importe la nature des commentaires reçus, il faut y voir de fortes suggestions. Au cas où les commentaires soient contradictoires, il y faudra un arbitrage de la part des auteurs, en collaboration avec le rédacteur en chef insistera sur certains points particuliers. Il est important de rappeler que des révisions multiples et la soumission à nouveau est la norme et non l'exception pour une revue avec comité de lecture. Lorsque vous intégrez les révisions, il est important de comprendre qu'il s'agit de recommandations et non de directives strictes. Si vous justifiez clairement votre position sur les révisions non effectuées, il est possible de le faire. En général, faire des révisions ajoute à la longueur de l'article, mais il faut toujours faire attention à la clarté, à la cohérence et à la concision.

Suite à la réception des commentaires des évaluateurs, un rédacteur peut rejeter un article pour plusieurs raisons. Il peut s'agir de problèmes au niveau de la question de recherche, d'un design de recherche déficient, d'une ambivalence dans le propos, d'un manque de cohérence ou d'une pauvreté de contribution au domaine de recherche (Mautz, 1987). Lorsque les remaniements sont trop nombreux, il est souvent préférable de rejeter l'article plutôt que de s'acharner pour l'améliorer. Si on espère obtenir un article de qualité, des remaniements légers ou profonds seront requis. Bien sûr, l'histoire nous apprend que le processus est complexe et que les rédacteurs eux-mêmes font des erreurs d'évaluation, comme dans le cas des articles classiques soumis par des gagnants de Prix Nobel (Gans et Shepherd, 1994), où plusieurs articles ont été rejetés par diverses revues.

Nous faisons de notre mieux pour offrir à chaque article une évaluation juste et équitable, en fournissant des conseils tout au long du processus.

Chez ANSERJ, le rédacteur en chef est responsable du contenu avant l'édition et du formatage par la maison de publication de la revue. Cela entraîne d'autres responsabilités au niveau du suivi des commentaires rédigés par les évaluateurs, du texte révisé par les auteurs et de l'édition selon les normes de la revue. À cette étape, l'auteur fournit des notes biographiques, si ce n'est pas déjà fait, et des remerciements, si cela convient.

CÉLÉBREZ VOTRE SUCCÈS

La publication de votre article constitue une réalisation personnelle et professionnelle. Vous pouvez appuyer la revue et donner un élan à votre carrière en diffusant la nouvelle de la publication de votre article. Songez à diffuser le titre et le résumé de votre article sur les réseaux sociaux et les sites web; mettez à jour votre curriculum vitae afin d'inclure cette nouvelle publication. De son côté, ANSERJ distribue tous ses articles via OJS (Open Journal Systems), ProQuest et EBSCO. On a également transmis une demande afin qu'ANSERJ soit disponible sur une base de données au Royaume-Uni.

À chaque entrée dans un processus de soumission et de publication, certains apprentissages ont lieu. Les auteurs ayant du succès sont ceux qui apprennent et s'améliorent au fil du temps. En s'attardant à chaque étape, il est possible d'obtenir plus de succès dans la soumission et dans la publication d'articles et ainsi d'éviter des frustrations inévitables.

CONCLUSION

Souvent, le mystère relié à la publication a ses racines dans une connaissance inadéquate par rapport au processus lui-même. Nous espérons que ces conseils, jumelés avec votre talent et votre persévérance, amèneront des améliorations dans vos textes et dans notre revue. Contribuer à la connaissance est le but principal de la recherche et la diffusion des connaissances est la raison d'être de notre revue.

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Compte-rendu de livre par Martine D'Amours

Les initiatives solidaires. La réciprocité face au marché et à l'État. *Laurent Gardin.* Paris, Érès, 2006. 190 pp. ISBN 9782749206707 (pbk).

Respectant le clivage qui existe en France entre économie sociale (définie par des statuts) et économie solidaire (définie par les valeurs et l'engagement citoyen dans la production d'une « autre économie »), l'ouvrage recensé ici se concentre sur les initiatives de la seconde mouvance. Produit de la recherche doctorale de Laurent Gardin, sociologue et chercheur au LISE (Laboratoire interdisciplinaire pour la sociologie économique), il repose sur l'analyse d'une centaine d'initiatives solidaires françaises, à travers une série de recherches qui se sont étalées sur une période de plus de 10 ans. Bien qu'il impressionne par l'ampleur du terrain couvert, la contribution centrale de ce petit ouvrage (190 pages et 4 chapitres) se trouve ailleurs, dans la conceptualisation que l'auteur propose de la place occupée par la réciprocité dans les initiatives solidaires, conceptualisation qui peut aisément être transposée hors du contexte français, par exemple pour l'analyse des expériences d'économie sociale au Québec. Mais reprenons point par point le fil de la démarche de l'auteur.

Pour comprendre l'émergence des initiatives de l'économie solidaire, on a fait appel à la définition substantive de l'économie proposée par Karl Polanyi. Comme le rappelle Gardin dans son chapitre 1, les travaux de Polanyi sont venus remettre en question la réduction de l'économie au seul marché et mettre en évidence la pluralité des principes économiques et le rôle joué, notamment dans les sociétés traditionnelles, par les principes non marchands que sont la réciprocité (chacun donne et reçoit, mais pas nécessairement de la même personne), la redistribution (chacun donne à une instance supérieure, par exemple le chef de tribu, qui le redistribue à l'ensemble) et l'administration domestique (chacun produit pour son propre compte, au sein d'un groupe clos, la famille par exemple). Dès lors, il s'agit pour l'auteur « de saisir, dans la modernité, comment l'activité économique humaine n'est pas réductible au marché et à la recherche individuelle du profit pour qualifier des initiatives dont l'appréhension, à partir des registres économiques du marché ou de la redistribution, n'apparaît pas satisfaisante, et qui demande donc le recours au principe de réciprocité » (p. 42).

Les premières conceptualisations de l'économie solidaire (par des chercheurs comme Laville, Eme, Nyssens, etc.), élaborées à partir des services de proximité (avec la figure archétypale des crèches parentales en France ou des garderies populaires au Québec), ont défini l'économie solidaire comme l'hybridation de trois de ces quatre principes économiques : le marché (tarification de services), la redistribution (contribution de l'État) et la réciprocité (contribution bénévole des membres et usagers), en accordant une place centrale à ce

dernier principe, hypothétiquement capable de subordonner les deux autres. Or, Gardin se demande jusqu'à quel point cette définition de l'économie solidaire par l'hybridation des principes économiques peut être étendue au-delà des services de proximité, pour inclure par exemple le commerce équitable, les entreprises d'insertion, les initiatives culturelles ou celles axées sur l'amélioration du cadre de vie. Pour le dire autrement, jusqu'à quel point les initiatives de l'économie solidaire peuvent-elles être distinguées de celles du marché et de celles de l'État par la prédominance en leur sein du principe de réciprocité?

Le chapitre 2 fait œuvre de clarification en proposant une typologie des formes de réciprocité, à partir « du degré d'homogénéité et d'hétérogénéité des acteurs » et de « la symétrie ou l'absence de symétrie des rapports noués entre eux » (p. 48). L'auteur en distingue trois types: la réciprocité inégalitaire, la réciprocité entre pairs et la réciprocité multilatérale. La réciprocité inégalitaire (ou le don sans retour) est caractérisée par le fait qu'un groupe d'acteurs crée une activité ou un service au profit d'un autre groupe d'acteurs, lequel n'a pas nécessairement voix au chapitre; c'est le cas des entreprises d'insertion et de certaines initiatives d'aide à domicile pour des personnes âgées. La réciprocité entre pairs (relevant de l'entraide mutuelle) existe lorsqu'un groupe homogène s'auto-organise, sur la base de relations égalitaires, pour répondre à ses besoins, comme en témoignent les expériences de chômeurs qui s'unissent pour créer leur propre emploi ou les systèmes d'échanges locaux (SEL). La réciprocité multilatérale se distingue des autres formes en ce qu'elle relève d'initiatives reposant sur la participation conjointe de divers groupes d'acteurs (consommateurs ou usagers, salariés, bénévoles, groupes de la communauté), placés dans des relations symétriques et égalitaires. Gardin cite en exemple les régies de quartier ou les nouvelles formes de coopératives (sociétés d'intérêt collectif en France, voisines des coopérative de solidarité au Québec) et consacre en fin de chapitre quelques pages à l'analyse des difficultés de reconnaissance et d'institutionnalisation de la réciprocité multilatérale, vue comme l'idéal type de l'économie solidaire.

L'une des contributions majeures de l'ouvrage, le chapitre 3 est consacré à l'analyse des modalités d'hybridation ou d'articulation des principes économiques dans divers types d'initiatives solidaires (les services individuels quasi collectifs, les services collectifs et les structures d'insertion sociale, les nouvelles formes d'échange, incluant le commerce équitable), en distinguant la phase d'émergence des initiatives et la phase de consolidation. Il constate que si la réciprocité domine dans la phase d'émergence (« et cherche à avoir un effet levier sur les autres économies et notamment sur la redistribution », p. 79), il en va autrement dans la phase de consolidation, où la place de la réciprocité est très variable et où la nature de l'articulation entre les ressources relevant des divers principes économiques diffère selon les types d'initiative. « Le mixage entre ressources du marché et ressources de la redistribution est directement lié à la nature des biens et services rendus ... » alors que l'importance de la réciprocité résulte « des modalités de constitution, des types d'implication des usagers et des bénévoles dès la conception des initiatives solidaires » (p. 87). Dans la suite du chapitre, l'auteur illustre comment les initiatives de l'économie solidaire sont constamment tiraillées entre le principe de réciprocité et les deux autres principes, menaçant d'être inféodées soit à la logique marchande, soit à la logique étatique. Pour qui a suivi les débats sur le développement de l'économie sociale au Québec depuis le milieu des années 1990, ces analyses sont extrêmement éclairantes. Elles invitent à prendre acte des tensions entre les divers principes économiques constitutifs de ces expériences; en insistant sur les risques toujours possibles et parfois avérés d'instrumentalisation de l'économie sociale/solidaire, elles indiquent aussi, a contrario, les garde-fous possibles.

En quatrième et dernière partie, Gardin critique la nouvelle sociologie économique pour son insuffisante prise en compte du principe de la réciprocité et cherche à pallier en partie cette lacune en revisitant les travaux de Pierre-Joseph Proudhon, l'un des penseurs de la réciprocité et du mutuellisme, ainsi que ceux de Georges Gurvitch, sur le droit social et le droit économique. La réciprocité, conclut-il, peut participer à un

réencastrement sociopolitique du marché, ce qui pose par ailleurs la question de son rapport à l'État et l'urgence de penser une forme de reconnaissance politique et juridique de sa contribution à l'intérêt général.

En terminant, cet ouvrage clair et bien écrit, qui articule analyses de terrain et conceptualisation, possède plusieurs qualités. Les grilles d'analyse proposées contribuent à sortir l'économie solidaire de la catégorie fourre-tout, du concept-valise, en ce qu'elles permettent de classer des expériences hétérogènes sous l'angle des modalités différentes d'hybridation des principes économiques. Un autre de ses points forts consiste à rappeler que c'est par la prédominance du principe de réciprocité que l'économie solidaire peut prétendre participer au renouvellement du modèle de développement, ce qui est sans doute aussi la condition de sa propre survie, comme le rappelle Guy Roustang en préface de l'ouvrage : « Peut-on espérer que la réciprocité devienne hiérarchiquement supérieure (Dumont, 1983, p. 222-262) aux autres principes, c'est-à-dire que le principe de réciprocité soit dominant dans l'ensemble économique? Sans doute est-ce une condition pour la survie ou le développement des réalisations de l'économie solidaire qui sans cela seront des corps étrangers qui donneront lieu à un rejet » (p. 12).

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Book Review **by John Simoulidis**

The Food Sovereignty in Canada: Creating Just and Sustainable Food Systems.
Edited by *Hanna Wittman, Annette Aurélie Desmarais, & Nettie Wiebe*. Halifax, NS and
Winnipeg, MB: Fernwood, 2011. 219 pp. ISBN 9781552664438

What kind of food system does Canada have? Is it just and sustainable? Is an alternative food system possible? The answers drawn from reading this collection are sobering and distressing on the first two counts, but hopeful on the last. This volume, along with an earlier collection by the same editors (Wittman, Desmarais, & Wiebe, 2010), grew out of a conference on “Food Sovereignty” held at the University of Saskatchewan in 2008. Many of the contributors are members of the National Farmers Union (NFU), a founding member of a transnational peasant and farmers’ movement called La Via Campesina. This movement embraces a vision of food sovereignty in conscious opposition to the prevailing “neoliberal industrialized food system.” Its ultimate aim is to “put the control of productive resources... in the hands of those who produce food” (p. 5).

“Food sovereignty” embodies an alternative moral idea of what our food systems ought to be for: sustaining livelihoods, ecosystems, and lives. These social ends—which *are* economic ends—ought to be given precedence over profit-maximization. Achieving food sovereignty requires shifting our food systems away from linear profit-driven “food chains” towards multi-dimensional just and sustainable “food webs” (pp. 16-17). While there is little sustained theoretical analysis of the nature of capitalist profit-oriented agriculture, the readers of this journal will find that the idea of “food sovereignty” offers fertile ground for studying and mapping out the size and structure of the social economy and non-profit sectors in Canadian agriculture.

The opening chapter by Weibe and Wipf outlines the recent history of the food sovereignty movement and the challenges, obstacles, and promise this holds for Canada. This movement emerged as a response to the impact of neoliberal globalization on agriculture and trade across the world in the 1980s. While its practical meaning might vary, the concept of food sovereignty can be broadly understood “as the right of nations and peoples to control their own food systems, including their own markets, production modes, food cultures and environment” (p. 4). Food security is rooted in power relations, and is thus fundamentally political. A paradigm shift towards a food system based on food sovereignty depends on seeing how “sustainable food production and genuine food security are a function of community-based control over the food system” (p. 5).

In chapter two, Qualman examines Canada’s neoliberal food system and argues that any objective consideration of its effects makes the “strongest possible case for food sovereignty-based policies” (p. 21).

Farmers increasingly rely on off-farm income, agricultural support programs, and debt-financed industrial expansion. One of the more alarming observations he makes is that while our agricultural system has generated three-quarters of a trillion dollars worth of agricultural goods since 1985, the net market income of farmers (excluding state transfers) was zero over the same period (p. 20). The state of our agricultural system is symptomatic of a classic staples trap that is ultimately turning farmers into sharecroppers and serfs who are increasingly vulnerable to being dispossessed of their land (p. 35).

In chapter three, Beingessner's interview of Terry Boehm and Hilary Moore (former NFU president and current president of NFU Local 310 – Lanark County) provides insight into the practical meaning of the statistical realities that Qualman identifies for small- and medium-sized farmers and rural communities. Much of the discussion here (and throughout the book) revolves around the hard choices farmers face between adapting to the requirements of “capitalist agriculture” and using food sovereignty as the basis of constructing an alternative “mode of production.” In chapter seven, Magnon's analysis of the “limits of farmer-control” in his case study of the (recently eviscerated) Canada Wheat Board (CWB) is instructive with respect to the limits of market-power based strategies which frame “farmer cooperation in terms of economic goals” (p. 115). Farmers who do not embrace the (capitalist) industrial model of agricultural production find themselves marginalized within the policy-making process.

Can the policy-making process be made more democratic and inclusive? In chapter four, Roppel, Desmarais, and Martz (2006) present the conclusions from a report they authored that uses a food sovereignty framework to argue for empowering women in the agricultural policy development process. Building on this report, the authors summarize “what kind of agriculture and food policy women farmers might propose in its place” (p. 60). The outline of this alternative (Figure 4-2 and Appendix) speaks to the need to: “strengthen farmers' power in the food chain,” “ensure public ownership of genetic resources and seeds,” “shift government focus from free trade to fair trade,” “support farm women's leadership development,” and “acknowledge benefit of, and increase focus on, non-intensive production systems” (p. 73). This is a policy framework that explicitly values, and can contribute to the development of, the social economy.

The “food sovereignty” movement in Canada overlaps with social economy and non-profit sector research areas in a variety of ways. There is Kneen's analysis in chapter five of the history of Food Secure Canada, a network of community-based groups, food advocacy organizations, and farmers that was formed in 1999. Its aim is to promote food sovereignty through forging direct relationships between food consumers and producers, promoting information sharing, and policy advocacy (People's Food Policy Project, 2011). In chapter six, Morrison's analysis of the long history of the idea and practice of food sovereignty in Indigenous communities highlights the struggle to maintain, against social and economic marginalization, an ecologically-grounded food system that “recognizes the ways in which the ability to grow healthy food is directly connected to maintaining the health and integrity of neighbouring Indigenous ecosystems” (p. 99).

In chapter eight, Engler-Stringer seeks to integrate a food sovereignty perspective into community nutrition and health education programs so that the “social and environmental relations around food” can be made visible both to consumers and community health practitioners. In chapter nine, Hansen provides an insightful and instructive analysis of urban agriculture and a history of community gardening: we can grow a culture of civic engagement in our own backyards. Friedman's analysis in chapter ten explores the historical role civil society organizations (like FoodShare) have played in promoting social innovation in the infrastructure of a local agri-food economy (the Golden Horseshoe region). She traces out many examples of efforts in and around Toronto to “scale up” networks “of small private and social enterprises” (p. 171), which have helped close the gap between rural producers and urban consumers of food. In chapter eleven, Wittman and

Barbolet examine the “policy contradictions and structural constraints for developing and strengthening sustainable food systems” in BC given the prevailing “neoliberal food regime” and the efforts of organizations like Local Food First to overcome it (p. 192).

What kind of food system do Canadians want and need? This volume contributes to this debate on behalf of an alternative vision based on food sovereignty and shows how elements of this alternative are already being implemented across the country. The political struggles that are needed to bring about a just and sustainable food system are tremendously complex—there are a variety of sites of struggle at the local, provincial, national, and global levels. Local struggles cannot be divorced from those over global neoliberal free-market policies and institutional arrangements: there can be no food sovereignty if agri-business is successful in its push for the inclusion of intellectual property rights (for instance, genetically modified organisms, and seed patenting) in global free trade agreements. The food security of all Canadians depends on positive outcomes from all of these struggles.

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Book Review by Greg Procknow

High Ideals and Noble Intentions: Voluntary Sector-Government Relations in Canada. By Peter R. Elson. Toronto: University of Toronto Press, 2011. 224 pp. ISBN 9781442610989

High Ideals and Noble Intentions is a unique phrase borrowed from a speech made to the International Association for Volunteer Effort by Jean Chrétien in 1998 that Peter Elson uses as his book's title. Like the title, this is a unique and refreshing book that serves as a wake-up call for those busily engrossed within the voluntary sector, including volunteers, board members, and funders et cetera. At its core, Elson's work presents in multitudinous detail the government's historically feeble attempts at procuring a stable and lasting relationship with the voluntary sector.

High Ideals and Noble Intentions relies on scholars and researchers who have on prior occasion explored voluntary sector/government relations; however, Elson goes beyond this and uses persuasive evidence to depict the maladjusted marriage of the voluntary sector and the Canadian government. Relying heavily on statistical portrayals provided in reports consolidated by the National Council for Voluntary Organizations dating back to 1980, Elson uses a wealth of primary sources (e.g. House of Commons debates) to complement his narrative enquiry.

Elson argues that the historical record documenting the relationship between Canada's federal government and its voluntary organizations shows the weakness of this relationship, which is only rarely mutually productive and supportive. He advocates the idea that a strong government partner is necessary for a flourishing voluntary sector, but when the government lacks the will to establish a relationship with the sector, then the latter needs to "independently invest in establishing itself as an inclusive and significant sectoral representative" (p. 158). Given this argument, the author's avowed intention is for his book to contribute to the understanding and practice of voluntary sector/government relations in Canada. Further, he argues that when a more sustainable and productive policy relationship between the two is fostered, it will prove beneficial to all Canadians. To this end, the book poses two broad questions: what accounts for the relationship that exists today between the government and the voluntary sector? And what has been the impact of key historical developments on voluntary sector/government relations today?

High Ideals and Noble Intentions addresses three issues (noted as critical junctures) at the cynosure of voluntary sector and governmental affairs: policy and advocacy, federal funding, and the federal regulatory regime. The three critical junctures explored are: (1) the 1930 amendment to the Income War Tax Act (chapter three), because both the regulatory and statutory contrivances implemented in it paved the requisite

groundwork for their reinforcement and consolidation in 1967 when the CRA developed a centralized effort to register and regulate charities; (2) regulatory changes made in between 1987 and 2003 to permissible political activity, as mandated by the release of Information Circular 87-1 (chapter four) in conjunction with Information Circular 78-3 and Political Activities CPS-022, which collectively amount to a momentous institutional shift in admissible political actions within the current legislative framework; and (3) the alteration from citizen-based project funding to service-based contract funding between 1994 and 1996 as provided through Paul Martin's Program Review, which has precipitated long-lasting impacts on the government/voluntary sector funding relationship.

Elson's work engages with an important epoch in Canadian history by unveiling the hidden idiosyncrasies of adverse governmental policies mandated for voluntary sector organizations, and proffers a compendious historical account of how the voluntary sector has been shaped in the 20th century.

The book, perhaps the most comprehensive work to date in terms of mapping Canada's rich history of the third sector, is unswervingly focused in detailing antiquated English legislature and its reciprocal influence on both the Canadian voluntary sector and the Canadian Federal government. Although the book provides manifold recondite descriptions of tax incentives and deductions, Elson does offer a concise history lesson throughout with accomplished ease. Elson's punctilious approach in both research and writing does justice to his seven recommendations (he notes them as being *Seven Principles of Engagement*), which are propounded below:

1. *Affiliate and organize*: Build a formal representation structure that will augment rather than depreciate the power of any one nonprofit organization.
2. *Build an agenda*: Anticipate, communicate and maintain a vision of an improved future, one that considers the entire voluntary sector and its relationship with the community.
3. *Communicate*: Ask for what you need: It is better to ask for too much as opposed to asking for too little.
4. *Engage your community*: By accessing both sectoral social and economic capital.
5. *Form an identity*: Know who you are by crafting an intrinsic profile of your organization.
6. *Invest in research*: Without requisite investments in research, key financial, societal, and policy issues are often ignored and misconstrued.
7. *Strive for social justice*: Create policy and legislative legacies that serve the best interests of both citizens and the voluntary sector.

The book does, however, have some shortcomings. For example, Elson openly acknowledges excluding mutual aid associations as well as quasi-governmental organizations such as colleges, universities, and hospitals. Moreover, Elson's analysis is often one-sided, relying heavily on addressing the relationship between the federal government and the voluntary sector as influenced by the government, i.e. governmental policies burdening or unburdening the voluntary sector. By so doing, Elson has underappreciated the manifold influences of the varied nonprofit groups that positively shape government operations and requisite services provided to Canadians. Further, Elson does not address questions such as: does, or has, the voluntary sector influenced policies that impact how federal governments govern themselves? Or, do government agencies depend on voluntary sector support and how would it affect federal government operations if nonprofit sector funds and support were withdrawn?

Elson's book is a strong and necessary contribution to the field, even though one feels at times as if he is weighing the reader down with his convoluted chronicles of government intransigence throughout the 20th century. I wonder, throughout Elson's work, if he maintains jaundiced opinions towards the Canadian government, or is just simply critical of the government's hampering of support to the voluntary sector. Although the author does a grand job of defining the three critical junctures in the relationship between the voluntary sector and the federal government as mediated by the government, I would have liked to see three more critical junctures as influenced by the voluntary sector that have inaugurated change in this relationship. Despite these shortcomings, *High Ideals and Noble Intentions* is recommended reading for third sector researchers, policymakers, voluntary sector advocates, and students across varied disciplines linked with health, social justice, economics, and governmental studies.

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Book Review by Alicia Schatteman

Philanthropy in America: A History. By *Olivier Zunz*. New Jersey: Princeton University Press, 2012. 396 pp. ISBN: 9780691128368

Philanthropy: Not made in America but remade decidedly American. The first question one might ask when confronting a book with such a scope as this one is why take on describing and analyzing philanthropy in America almost since its inception? To ask this question, however, is to miss the point, as *Philanthropy* is much more than a chronology from the 18th century to today. Instead, Zunz has woven social commentary along with the evolutionary tale of philanthropy, consciously tying this story to where we are today. The purpose of the book is to tell the story of how philanthropy in America began as a tale of the incredibly wealthy, but slowly evolved into mass philanthropy, involving Americans of all means. This book also deals with how the nonprofit sector developed, which the author describes as a partnership from its earliest beginnings between government and philanthropy, a hybrid of capitalism. The work is academic in terms of the rigour of research but written in a language and style accessible to all readers.

The book is divided into nine chapters, with an introduction and conclusion. The chapters are written chronologically, beginning with the post-Civil War era. The author describes how personal wealth had grown quickly, creating more than 4,000 millionaires for the first time ever. John D. Rockefeller Sr. and Henry Ford were in fact billionaires by 1916. Individuals with such vast wealth had the means to contribute to philanthropic institutions. They had lofty ambitions, such as improving mankind, but also had the means to make progress towards that goal. It was the era of infrastructure development, with the building of many prestigious institutions, like libraries, museums, hospitals, and universities. Reformers and the new philanthropists worked together to address large social problems instead of doing typical charity work.

One of the most important creations from this era was the “foundation,” as a way to centralize donations and then distribute those funds across various organizations and for a variety of causes. The foundation, Zunz argues, is an American invention created as a result of the incredible wealth realized around the turn of the 20th century. Foundations have radically changed the philanthropic landscape, both in the United States and around the world. Private foundations such as the Carnegie Foundation and the Rockefeller Foundation reflected, and still reflect, the personal priorities of the donor.

As new forms of philanthropy were invented in the US and abroad, there was also a shift toward funding to address larger public problems, such as public health. World War I brought to light many health issues which could be addressed with a concentration of resources and the dedication and interest of a broad and

engaged community. Philanthropists supported sanitation schemes and a number of disease prevention initiatives associated with hookworm, malaria, yellow fever, hunger, and influenza.

Zunz points out that most of these new ideas about philanthropy were predominantly evident in the northern United States. But what about the south? Philanthropists and reformers alike both felt that universal access to education was the key to solving the race relations crisis. Yet, without a vote, and therefore without political power, reformers could not raise the political capital to provide tax money for black education. Instead, philanthropists had to work to garner funds that were outside political control. This is just one example of how Zunz takes us on a journey of self-reflection and illuminates a nearly forgotten history of giving, sacrifice, and perseverance.

Zunz then traces the development of mass philanthropy, with the expansion of the ideal of giving to the middle and working classes. The culture of giving, interestingly, centered on the ideal of thrift, as a way to improve your own personal well-being and the well-being of others. The idea emerged that you could be a “good” American if you invested some of your savings in others, especially to support a potential health threat that could affect anyone. At this time, in the early 1900s, community chests and community foundations were also established to pool resources at the local level that would support local charities. In this way, philanthropy was broadened (across the country and around the world) but also deepened, with average Americans adopting a philanthropic role in society.

Although the book is well researched, the writing is also accessible. The author also does not shy away from the more controversial assertion that philanthropy is intertwined with politics. The American government has attempted to place distinctions between the education of stakeholders and the advocacy or lobbying of policymakers, although these distinctions are continually being tested and regulations rewritten.

The only possible shortcomings of the book, which would add to its hefty size, would be additions to the text and format to make it more useful as a teaching resource, particularly at the graduate level. This could mean the addition of a visual timeline with significant highlights illustrated or key points summarized at the beginning of each chapter. Although not intended to be a textbook per se, the text has great value as such. At nearly 400 pages, it is impossible to highlight every notable characteristic. Instead, this review has touched upon only a few of the book’s contributions to explain the evolution of philanthropy in America, how philanthropy is responsible for growing democracy, and how Americans turned a basic value of giving into a decidedly American value. Others have tried to do justice to this rich and vast history (see, for example, Freidman & McGarvie, 2003), but Zunz has written a book so obviously well researched and detailed, yet accessible to all audiences. Philanthropy is wrapped up in the story of American civil society and Zunz takes readers on this journey of discovery. It is a book worth spending time with, dipping into chapters or spending long hours immersing ourselves.

There are definitely two major strengths of this text. The first is the contextualization of philanthropy in America and how it was made distinctly American. Although continuing to evolve, this historical treatment of philanthropy is ambitious, but achieved. The second major strength is the gap filled by *Philanthropy* as a teaching resource. Zunz not only models the scientific method of research using in-depth evidence collected through multiple methods and extensive citations for each chapter, but makes the results understandable for all audiences, including undergraduates. As a professor of nonprofit studies, I believe *Philanthropy* should be required reading for introductory classes in the field, as well as for more in-depth analyses of the notions of philanthropy in America. It is noteworthy that the book is being translated into French for release in Fall 2012,

which will broaden its accessibility to audiences in French Canada and other parts of the French-speaking world.

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Book Review

by Elizabeth Russell & Jenna Hawkins

The Social Economy: Working Alternatives in a Globalizing Era. By *Hasmet M. Uluorta*. New York, NY: Routledge, 2009. 256 pp. ISBN 9780415775939

Motivated by what he identifies as a “global crisis of reproduction,” Hasmet M. Uluorta explores the emerging role of the social economy in the paradigmatic shift from that of “employment” to that of “work”; a shift which has produced changes in what kinds of labour workers expend and how their labour power is understood. Having become increasingly precarious in the market-driven economy, the conception of labour has changed from rational to reflexive. This shift is demonstrated in a change in workers’ employment motives from purely financially-driven ones toward increasingly socially-conscious motivations, involving both paid and non-paid labour. The growth of the social economy and a changing understanding of labour are the book’s central themes: the transition from paid employment-derived identity to an emerging consciousness of *being-in-the-world-with-others* (discussed further below). Uluorta develops a theoretical framework for conceptualizing these changes, drawing from Marxist philosophical traditions and testing against an original empirical study.

Uluorta ultimately suggests that the gradual withdrawal of the state from social programs since the 1970s, in conjunction with the rise of precarious employment as a normative yet disadvantaged status, has prompted both the need for, and desire of, workers to engage in labour differently. Specifically, workers are now seeking out opportunities to use their labour in a more socially meaningful way. This argument is strengthened by an exhaustive quantitative study in Toronto, Ontario, Canada, that demonstrates substantial growth of the social economy. Uluorta outlines three primary aims for this book: providing practical insights to encourage further implementation of alternative working practices; providing an innovative theoretical and empirical framework to analyze this paradigm shift; and providing a useful reference point for future research.

Much of the book is spent tracking the paradigmatic shift from “employment” to “work,” its historical trajectory and the role of the social economy. The (post-War, Fordist) employment paradigm, spanning from the 1940s to the 1970s, is characterized by two features: (1) the market-driven economy; and (2) government commitment to full employment, both of which featured the domination of Taylorist factory and assembly line labour by a primarily male workforce. This produced what Uluorta calls “rational” employment. As the paid labour market and state sectors underwent major changes in the 1970s, a movement away from “employment” and toward “work” was spurred. Uluorta suggests that this movement consists of an intersection of social, economic, and political changes – namely, global economic restructuring toward a service and knowledge-based economy, the mass entry of women into paid labour, the expansion of working hours, employer demands for an increasingly flexible workforce, and the shift away from welfare state principles –

which produced an economy and a workforce very different from that of the previous “employment” paradigm. He notes that this shift has resulted in workers requiring extra support and assistance (such as that offered by social economy organizations), and seeking more meaningful and reflexive labour experiences.

The theories and ideas presented in the book are important both scholarly and practically. Uluorta illustrates the value of non-paid work in a predominantly market economy through a unique and comprehensive theory of “economy” and economic activity, ideas that have been similarly approached in feminist literature (see, for example, Waring, 1999). Uluorta comprehensively develops his key concepts throughout the book, weaving together ideas of “employment,” “work,” and *being-in-the-world-with-others*, conceptualizations that guide the reader through the history of – and meaning behind – labour in our globalizing era.

The new experience of labour in the “work” paradigm is characterized by multi-activity, as workers engage in both paid and non-paid labour. Uluorta notes that, of course, workers continue to participate in paid employment, but now consider that non-paid social economy work carries equal importance. Although financial stability is essential, workers increasingly value “a sense of community, responsibility, solidarity, hope, care and dependence” (p. 8). As Uluorta argues, the social economy is expanding as workers seek opportunities to support this new consciousness of *being-in-the-world-with-others*. The growth of the social economy signals the paradigmatic shift toward “work.”

The author’s thesis – the increasingly important role of the social economy in contributing to the emerging consciousness of *being-in-the-world-with-others* and therefore in addressing the global crisis of reproduction – is expertly developed, both theoretically and empirically, throughout the book. His theoretical framework is tested against survey data collected from organizations and workers in the social economy in Toronto, which provides evidence of the growth of the sector in the early 2000s, and of an increasingly reflexive workforce whose understanding of their labour is changing.

The central ideas in this text are wide-reaching in significance, and are therefore relevant to academics in a variety of disciplines. However, the author’s writing style is not easily accessible to practitioners and students who lack a philosophical or economic background, given the complicated scholarly underpinnings of the theory. The jargon and complex philosophical references may add value to the text for some, but will likely alienate most readers, thereby undermining practical application of content for many social economy practitioners, students, and even academics.

For example, the survey items are thought-provoking and would be interesting to practitioners and researchers, but the results are analyzed and interpreted in a manner far removed from the participants’ lived experience of labour in the social economy. Inclusion of a qualitative data component, to illustrate participants’ experiences of labour, would contextualize and strengthen the impact of Uluorta’s argument of a changing understanding of labour, work and economy. We do, however, acknowledge that this book represents an ambitious and unique project, and has the potential to spur future and more accessible research in this area.

By providing a comprehensive historical and theoretical overview of the social economy in the global context, Uluorta achieves two out of his three aims. Unfortunately, the theory and results presented in the book cannot be easily applied to the study of labour in the social economy. Still, Uluorta successfully provides an innovative theoretical and empirical framework for examining the paradigmatic shift from “employment” to “work,” and encourages future research in this area by other social economy researchers.

Reference

Waring, M. (1999). *Counting for Nothing: What Men Value and What Women are Worth*. Toronto, ON: University of Toronto Press.

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