CANADA - UNITED KINGDOM COLLOQUIUM 2017

DILEMMAS OF DEMOCRACY: CHALLENGES TO THE INTERNATIONAL ORDER

16 - 18 NOVEMBER 2017
Runnymede-on-Thames Hotel, Egham, Surrey
2017 CANADA-UNITED KINGDOM COLLOQUIUM REPORT

“Dilemmas of Democracy: Challenges to the International Order”

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For really I think that the poorest hee that is in England hath a life to live, as the greatest hee; and therefore truly, Sr, I think itt clear, that every Man that is to live under a Government ought first by his own Consent to put himself under that Government; and I do think that the poorest man in England is not at all bound in a strict sense to that Government that he hath not had a voice to put Himself under.

Colonel Rainsborough, Putney Debates 1647

As organisers of this year’s Colloquium, we have great pleasure in presenting the Rapporteur’s Report on the discussions that were held in Runnymede on 16-18 November 2017.

The chosen topic of Democracy proved timely given recent developments in world affairs during the course of the year, and we were fortunate in having a wide range of knowledgeable experts from both countries, who brought a mature perspective to the many issues confronting Democracy and the democratic process, as we have known it in the post WWII era.

The importance of the subject was underlined by letters of support received from the two prime ministers, which are included in this Report, sending their best wishes for the success of the Colloquium.

The conclusions arising from the discussions at the Colloquium, together with the recommendations which we make to the two Governments and their policy advisers, are set out in summary form at the beginning of the Report. You will find on reading the Report itself the full context in which our recommendations have been made.

Thanks are due to our respective committee members and advisers for the help and support they have provided in putting together the programme for this Colloquium, and to Lord Thomas for his skilled and patient chairing of our sessions.

Special thanks are due to our sponsors whose names and logos appear on the cover of this Report. In the current environment of fiscal restraint, their financial support for our efforts is greatly appreciated.

Finally, may we thank Richard Davies for taking on the onerous task of reporting on our deliberations as official Rapporteur, and for the wide ranging and thoughtfully set out conclusions contained in his Report.

Notwithstanding the many changes and tensions that have featured over the years since our annual Colloquium first started in 1971, we remain confident that the close and friendly bilateral relationship between our two countries remains strong.

Philip Peacock
Chair, Canada-UK Council

The Hon. Hugh Segal, OC, OOnt
Principal, Massey College, Toronto
During my visit to Ottawa in September, Prime Minister Justin Trudeau and I agreed to enhance cooperation across a broad range of issues, covering shared domestic challenges, trade, defence and security. This year marks the 150th anniversary of the British North America Act which established the Dominion of Canada. It reminds us of our long history of cooperation and friendship. But this relationship is also about looking ahead. I am determined that we should continue to build on our already solid foundations to ensure we have a bilateral relationship fit for the 21st century.

Through its annual colloquium, which covers topical policy discussions, the Canada-UK Council supports a broadly-based UK-Canada relationship. These long-established annual meetings develop practical policy proposals and foster lasting contacts and friendships between UK and Canadian experts in the various fields chosen for discussion.

This year the colloquium is taking place in the UK and will consider the “Dilemmas of Democracy”. The venue – Runnymede, site of the sealing of the Magna Carta – is evocative and appropriate. As I said recently at the UN General Assembly, in today’s world we face challenges that go right to the heart of who we are as nations. These challenges test our values, our vision and our resolve to defend the rules and standards that underpin the security and prosperity of our fellow citizens.

I offer the participants in this year’s colloquium my very best wishes as they grapple with the many questions in front of them and identify ways that the UK-Canada relationship can deliver the best solutions.
Statement from the Prime Minister of Canada

Few countries share as much in common as Canada and the United Kingdom. Prime Minister May and I recently met to deepen our historic partnership on a number of issues, and move forward together to face some of the most pressing issues of our time.

For over forty years, the annual Canada-UK Colloquium has offered tremendous opportunities for our parliamentarians, business leaders, scholars, and young people to deepen the already broad ties between our two countries. We live in a time of great change and rising uncertainty. People are urging us – as governments, businesses, and non-government organizations – to better address disparities across the globe and adopt a more inclusive vision of the world.

This year’s event in London will focus on the particular challenges facing democracies today. Delegates will consider Canada and the UK’s democratic systems, and how our governments can best respond to the anxiety that people are experiencing. Many people are concerned about what the future may hold: that globalization and technological change will leave them behind, and that their kids will not have the same opportunities as they had. Around the world, we need the middle class to feel more confident about its prospects and about its future. We need to support people in a changing economy and an increasingly globalized world.

In Canada, we have worked hard to promote economic growth that benefits the middle class and those working hard to join it. Since forming government, we have raised taxes on the wealthiest one per cent so we could cut taxes for the middle class. We have put more money in the pockets of nine out of ten families through the Canada Child Benefit, and strengthened the Canada Pension Plan so more Canadians can achieve a strong, secure, and stable retirement.

To help Canadians prepare for the jobs of today and tomorrow, we have boosted investment in skills and training and introduced an ambitious Innovation and Skills Plan. Our plan includes measures that will benefit everyone, from students looking to get work experience, to adult workers juggling the costs of returning to school, to unemployed or underemployed people hoping to improve their skills.
We live in an increasingly interconnected global society. As people are more and more connected, so are the challenges we face. Now more than ever, countries need to collaborate to both ask the tough questions about the world’s most pressing challenges, and pursue the right answers to ensure that everyone has a chance to succeed.

For over forty years, the Canada-UK Colloquium has been a vital link between our two countries on the issues that really matter to people on both sides of the Atlantic. Take time over the next few days to develop new networks and listen with open minds to the ideas of others. It will not only be to your personal benefit, but to the benefit of both our countries, as we work together to find solutions that leave no one behind.

Ottawa
2017
3. The 2017 CUKC Colloquium Programme

Colloquium Chair: The Rt Hon. The Lord Thomas of Cwmgiedd

Colloquium Rapporteur: Richard Davies, QRA Consultancy

**Briefing Day on 16 November 2017**

- Briefing at the House of Lords, by The Rt. Hon. The Lord Ahmad (Foreign & Commonwealth Office), Andrew Percy MP (Conservative) and The Rt Hon. Emily Thornberry MP (Shadow Foreign Secretary)
- Lunch hosted by the Canadian High Commissioner, Mrs Janice Charette at the official residence
- Visit to The British Library, hosted by Dr Caroline Brazier (Chief Librarian)

*Welcome Reception & Dinner with a keynote address by Chris Skidmore MP (Minister for the Constitution, UK Cabinet Office)*

**Programme on 17 November 2017**

*Venue: Runnymede on Thames Hotel, Egham, Surrey*

**Opening Remarks** by the Chair: The Rt Hon. The Lord Thomas of Cwmgiedd

**Session 1: The Context: Challenges to the Rules-based International Order:**

- The Rt Hon. The Lord Butler of Brockwell, former Cabinet Secretary
- Dr Randall Hansen, Interim Director, Munk School of Global Affairs, University of Toronto

**Session 2: The Decline of Deference: Popular Alienation and Loss of Trust in Established Political Structures:**

- Amol Rajan, BBC Media Editor
- Dr Tom Axworthy, Public Policy Chair, Massey College

**Session 3: Direct Democracy: Referendums, Petitions and Citizens’ Assemblies:**

- Prof. Sir John Curtice, University of Strathclyde
- Jane Hilderman, Executive Director, Samara Canada

**Break-Out Sessions**

*Welcome Reception & Dinner with a keynote address by The Hon. Karina Gould (Minister of Democratic Institutions, Government of Canada)*
Programme on 18 November 2017

Reports of Breakout Groups:

- Federalism in Canada, Devolution in UK, Pooling of Sovereignty:
  - Prof Robert Hazell, Constitution Unit, UCL
  - Dr David Cameron, Dean Faculty of Arts and Sciences, University of Toronto

- The Courts:
  - Marina Wheeler QC
  - Provost Mayo Moran, Trinity College, University of Toronto

- The Role of the Second Chamber:
  - Baroness Jay, House of Lords
  - Senator Peter Harder, Leader for the Government, Canadian Senate

- Party and Electoral Systems:
  - Peter Kellner, former President of YouGov
  - The Hon. Allan Rock, former Minister of Justice

Break-out Group Session Rapporteurs:

- Misha Boutilier, University of Toronto
- Kasim Khorasanee, University College, London
- Dr Tiina Likki, Behavioural Insights Team, London
- Jennifer Orange, University of Toronto

Session 4: Maintaining Democratic Support for Open Trade, New Technology and Globalisation:

- Guy Falconbridge, London Bureau Chief, Thomson Reuters
- Dr Peter Loewen, School of Public Policy & Governance, University of Toronto

Rapporteur’s Summary and Concluding Remarks
4. Colloquium Objectives

Since 1971, the annual Canada-UK Colloquia have sought to advance ideas and developments between specialists and policymakers in diverse areas of interest and concern to both countries. These meetings are an important adjunct to the Canada-UK public policy forum recently created by the two Prime Ministers to deepen the bilateral relationship. The objectives of the Canada-UK Colloquia have evolved over the years to focus closely on the current policy priorities of the two countries. The key objectives include:

- Building up contacts between experts in the two countries;
- Contributing to the development of public policy in both countries;
- Identifying ways in which the UK and Canada can work together in an international context to meet their objectives in specific policy areas;
- Finding ways of achieving positive outcomes from the events and encouraging follow-up; and
- Encouraging active participation of promising young people to ensure that the benefits of the exchanges are carried forward in the future.

5. Summary of Discussions and Recommendations

This year’s theme was ‘Dilemmas of Democracy: Challenges to the International Order’. As societies become more open and connected, people are becoming more directly involved in their own governance. Yet it is becoming increasingly hard to meet public expectations or to sustain trust in representative democracy. Traditional democratic structures are under strain not least from new technologies, so there is an urgent need to reinforce their potential for good. The following recommendations for action were identified. They are of two main kinds: First, those suggesting immediate joint engagement between our two countries; and Second, those suggesting sharing of experience. [The paragraph references below are to paragraphs in the text of the Report which provide supporting reasoning and rationale.]
First, the Governments of the United Kingdom and Canada should:

Take early steps to establish and reinforce a joint cyber alliance to identify how best to protect our societies from cyber-misinformation and manipulation, to implement measures to do so; and to capitalise on opportunities to sharpen the case for liberal democracy and open societies. The alliance should contribute to engagement with the Commonwealth, and others, to develop new distributed ledger technologies to buttress trust in representative governments, capitalism and social markets, not least through the collection of fair tax payments.

Establish joint machinery to liaise on initiatives to achieve upgrades in technical and vocational education. We need to do much more to equip young people to cope with a world in which Artificial Intelligence and robotics are likely to cause major disruptions in the employment market, and to help promote productivity growth. That should be accompanied by measures to reduce the effects of disparities of wealth in the UK and Canada, not least by considering a programme of inter-generational transfers of skills likely to result in stronger investment returns.

Exchange expertise on the management of devolved powers, and liaise on difficult policy areas and operations. This will be especially important in the context of the distribution of powers repatriated to the UK from Brussels following Brexit. Canada has a great deal of knowledge and experience in the area of devolved power.

Give continuing and explicit support to leadership from Canada and UK in the International Construction Measurement Standards Coalition Management Consortium recently launched in Vancouver for the development of transparent and consistent professional standards in costing, measurement and procurement.

Take measures to establish a robust policy and expertise exchange, with regular meetings, on the protection of electoral system neutrality, whether from cyber and disinformation threats from hostile powers, foreign intelligence, rogue and criminal organisations.
Through the Canada/UK Public Policy Forum, embraced by Prime Ministers May and Trudeau at their bi-lateral meeting in September 2017, pursue ongoing collaborative work on joint strategies, around the world and specifically in the Commonwealth, to promote the linked values of pluralism, open markets, the rule of law and human rights fundamental to the freedom based development of the Western world.

**Second, the two Governments should share experience on:**

The maintenance of *public confidence in the judiciary* especially as regards appointment, succession planning, public education, diversity and accessibility.

The establishment of *conventions* for the use of referendums and citizens’ assemblies, and on the precedent set by Canada’s Clarity Act, especially in advance of any future proposal in the UK to change electoral systems or for any major constitutional change.

The structure and role of the *Second Chamber* in each country given their acknowledged value, recent changes in Canada, and the scope for further Lords reform.

The extent to which *publicly funded media* are developing their ability to challenge misinformation and to deploy accurate facts, and the scope for requiring e-platform providers to conform to the same or similar regulatory requirements applying to conventional media.

The public positioning of *civil rights* in relation to the Canadian Charter of Rights and Freedoms and the need to secure greater public legitimacy for, and understanding of, human rights legislation in the UK – and effective but humane approaches to the control of immigration.
The *professional formation, development, and codes of practice* of electoral process practitioners, educators and journalists and the degree to which they support the values of liberal representative government as a preliminary to establishing best practice.

Measures to underpin the capacity of the *civil services* to excel in delivering targeted outcomes, whilst sustaining impartiality and integrity.

Taking opportunities to make a more audible and compelling case for an *open society*, in the interests of global prosperity, security co-operation, cultural exchange and aid initiatives.

*Third, it is recommended that the Canada-UK Colloquium in both countries should engage in stimulating action to implement the Colloquium’s recommendations.*
6. Rapporteur’s Report

Introduction

1. This is a report and a reflection on the 2017 Canada-UK Colloquium in November 2017 on the Dilemmas of Democracy: Challenges to the International Order. It is informed by papers presented in advance, by discussion in plenary sessions, and by conclusions reached in break-out exchanges captured by colleague rapporteurs.

2. The event was held during the one hundred and fiftieth anniversary of the granting of Dominion status to Canada. In September 2017, the Prime Ministers of the United Kingdom and Canada affirmed their intention to further the already close relationship between the two countries, particularly at a time when both were beginning to address their relationship with the European Union in new ways. This year’s Canada-UK Colloquium thus represented a natural and important adjunct to the ‘public policy forum’ created by the two Prime Ministers to deepen the bilateral relationship.

3. The Colloquium’s theme was timely, and the subjects dealt with were wide ranging. Moreover, the context inhabited by these two well established and strong political cultures was notably anxious and unsettled. There was a perception throughout the discussions that, as societies become more open and connected, individuals sense a feeling of empowerment and want to be more directly involved in their own governance. This made it harder for representative democracy in its traditional form to satisfy their demands, and thus to sustain trust in its effectiveness.

4. The Colloquium could easily have rehearsed a litany of discontents, perplexities, and general angst. The dialogue could have lost its way in a narrative stew of glib assumptions on matters such as Trump, Brexit, China, Russia, North Korea, Iran and Saudi Arabia, not to mention populism, the vilification of elites and fake news. It was well understood that these preoccupations could easily have become self-indulgent, and that confirmation bias could have arisen.

5. However, at no time did the Colloquium lose its way. Indeed, there was a prevailing feeling throughout the discussions that the strength of the financial and human capital available in both countries would equip them well to face the future, and the dilemmas of representative government in particular, with genuine assurance. At no stage were the advantages possessed by both countries discounted.

6. This report seeks to capture the realistic, measured and broad flavour of the Colloquium. Where possible, indications of consensus are identified; although, naturally, participants did not agree on everything. Nonetheless, this Report seeks to reflect the balance of discussion, not the rapporteurs’ personal views. It was accepted that easy presumptions about the persuasive strength of liberal democracy in the immediate post-war era, and especially following the collapse of
the Soviet Union, were no longer tenable, if indeed they ever were. The notion that history had reached a terminus seemed quaintly naïve even when formulated in the 1990s. It seemed bizarre now. Yet the overall judgment emerging from the Colloquium was that whilst the challenges and problems facing representative democratic government were substantial, they were not insurmountable.

7. Clearly, the global tectonic plates had been bound to shift, and were now shifting. This had around the world exposed models of government that could easily be presented as competitors to liberal democracy. They offered confident alternatives in the business of securing both stability and prosperity for large populations. Such regimes had a clear interest in denigrating the West, in claiming that the West’s rules and values were no more than an expression of raw power and ambition. The relative peace enjoyed by the United Kingdom and Canada since 1945 might have disguised the need for a realistic appraisal of the prevailing international order, yet there was never a time when it had been safe to view power relations between States with insouciance or complacency.

8. However, participants did not take the view that a grave inflection point had been passed or that the scope for avoiding a catastrophic diminution in the reputation of liberal democracy, and its capacity to enable people to flourish, had vanished. On the contrary, there was a strong determination to keep faith, to redouble efforts to make the case for civilised values, and to address the dilemmas of democracy head on. The wave of democracy-building across Latin America, Eastern Europe, and elsewhere in the last half century was as significant as it was unpredicted. There was no reason to regard the emergence of illiberal developments in Venezuela, Turkey, and arguably in Poland or Hungary, as constituting evidence of a wholesale retreat from democratic values.

9. In part, the Colloquium discussion reflected a common view of the principal dilemmas confronting democratic government in the West, and about what democracies and democratic values amount to. These ideas have long pedigrees and contested meanings. Plainly there were now many more people with the inclination and resources to argue from presumptions and definitions that are simply confused or mischievous.

10. Participants were well aware that for the immediate future it was vitally important to have sharper, clearer and more persuasive answers to critical questions about what values the West is seeking to sustain; how we seek to shape rules for national and international governance and, above all, why? When the cry goes up: ‘Why your values and rules, and not ours?’ there must be answers that carry weight. Further, it was accepted that challenges to, and disenchantments with, liberal democratic government arise for reasons. Indeed, there was a strong appetite for facing up to them and for speaking up in support of our political institutions, for politicians, and for their capacity to bring about change for the betterment of people’s lives - for acting and not procrastinating.
Dilemmas: the conceptual and the practical

11. Many practitioners in government tend to take the view that ‘if it’s about philosophy then it doesn’t matter’ and that ‘government is just about the possible and the practical’. But ideology and philosophy matter when it comes to the exercise of power and the creation of legitimacy and effectiveness. Participants needed no tutorial on this - but at the margin there was a recognition that public understanding of the contradictions and dilemmas implicit in concepts of democracy and their underpinning values was frail to non-existent.

12. Democracy is not without flaw; a distinction between democracies and autocracies is that democracies have open dialogue about their flaws.

13. The legitimacy of democracies and their ability to encourage pluralism is tied to realities and perceptions surrounding fairness. Fairness issues cannot be side-lined if democracies are to thrive.

14. On that basis, elected representatives are needed to sift arguments, priorities and interests and to take decisions on behalf of all (even when opinions were sharply divided). Constraints of time, inclination, or ability made anything else impossible or otherwise dangerous. After all, would you rather try to heal yourself when sick as opposed to seeking a cure from someone who has the experience and expertise to provide one, and, why ask me to decide questions on subjects that I know little about?

15. In the 1960s, some commentators suggested that the tensions within liberal democratic values, for example between differing ideas of equality and differing ideas of freedom, could best be resolved by promoting democratic government as a majority of minorities - as a form of interest group pluralism. However, that depends on the strength and agility of the underlying associations, and even whilst it lasts, the difficulty of building a coalition that meets the needs of shared interests can be immense and insecure.

16. More recently, apathy has become disreputable - seen as corrosive of legitimate government and a source of misgiving. So, tools to engage people in understanding the demands of government, and the value of direct or deliberative democracy, have attracted increasing attention. Yet these do not have a reliable answer to problems implicit in the aggregate interplay between power, time, and consensus-building for government. Too much happens, too fast, in too much complexity to make deliberative or participative methods appropriate for everything.

17. Electoral reform is often seen as a way of transcending these problems. The arguments for different forms of voting are well known, but every proportional or analogous system has a propensity to transfer mandates to coalitions that emerge in which parties negotiate their own trade-offs behind closed doors after the vote and without transparency. That can leave voters with a government programme
they did not vote for, and a process of decision making that is so complex as to be unintelligible and ultimately untrustworthy. The mathematics of voting preference beloved of Lewis Carroll has the potential to yield the perverse outcomes easily recognisable to Alice in her Wonderland.

18. Participants held a common view about democratic values. At the heart of modern representative democratic government lies liberty under the law, not equality (in some form) alone. It is government for a fixed period following elections untainted by coercion; with an independent judiciary, media and academia, an impartial civil service, an opposition free to oppose without sanction; lawful civilian control over the security, armed and police services; and checks and balances on government that are assiduously protected.

19. The political culture must feature freedoms of speech, association, enterprise and religion - a willingness to debate without rancour and to accommodate one another’s views with civility and tolerance. It must recognise the importance of inclusion for the sake of social justice. It must be capable of supporting citizens, communities and collaboration, as well as consumers, choice and competition. It cannot be constrained simply by big state or free market concepts. Modern democratic representational government in its various forms throughout the West is, or ought to be, increasingly concerned with enabling people to flourish - that is government by, for and with the people.

20. Needless to say, such broad agreement did not dispose of some fundamental problems. Apart from the conceptual complexities and questions of definition, democratic institutions plainly face a number of key practical dilemmas. The following featured prominently in discussion during the Colloquium:

(1) Participation - self-interest versus solidarity

The positive modern impulse for social justice and inclusion has prompted, and been accompanied by, growing prosperity. Since the 1940s more people have been freed from the constraining effects of employment in mass production than ever before. More people have the time and resources to pursue their personal interests - to choose their own identities - to challenge and dispute - and those interests have become ever more complex. In circumstances in which self-identity has predominated over preferences for collective activity, the difficulties of maintaining social solidarity and cohesion have become profound. Diversity can mean no more than that people define themselves in contradistinction to others. That form of identity politics separates people from one another - sometimes consciously and mischievously, and sometimes unconsciously. At worst it is actually exclusive rather than inclusive.

Participants were clear that these cultural changes mattered - perhaps more than economic change itself. It was clear that past conventions of deference to authority
and hierarchy had ebbed away. Apathy had given way to a ‘blame society’, cynicism and torpid election turnouts, but hardly to something positive by way of constructive political engagement. The decline of deference certainly had its positive aspects, but there remained a question as to how far it should go and whether it might reach a point at which it becomes impossible to govern or set standards at all. It was clearly important to view every element of the political scene through both an economic and a cultural lens.

(2) Change - the pressure of expectations versus the scope to meet them

Participants were in no doubt that the more open and diverse a society becomes the greater the public’s expectations of politicians, and the harder it becomes to meet such expectations. Technological, social, and economic change is happening so fast that it sometimes outpaces the capacity of institutional frameworks to respond. Largely as a result of this, people have begun to engage directly in the political process, through online petitions and campaigns for example, although these might seem to others to be no more than palliative or displacement activity. The resort to referendums (especially in the UK) has been a reaction to this appetite for direct involvement. Public patience and the willingness to delay gratification has been exhausted - swept aside by self-awareness, secularisation and materialism. Moreover, the levels of government have become so numerous that they are incomprehensible even to the reasonably well informed - with damaging implications for the credibility of ‘the rule of law’ and for gaining consent.

There is little public appetite for the patient deliberation necessary for good outcomes that can withstand scrutiny. Political leaders find it increasingly hard to challenge public opinion or to shape policy for the long term, because particular elements in the electorate react savagely to anything that looks likely to affect adversely their interests or special attachments. The challenges for government in such a climate are under acknowledged - government institutions find it ever harder to shape and implement policy, and the appeal of judicial review and pressure group scrutiny becomes ever more inhibiting and complicating.

In the UK, for example, there is little scope for easily securing cross party consensus on the future funding of the NHS or of social care, or about re-balancing the economy after prolonged ‘quantitative easing’. In Canada, energy transmission issues, evoke similar difficulties. Public opinion is unlikely to change without political leadership at some level. The problem is that people at once distrust conventional politicians and yet simultaneously ask huge things of them. Those who have never subjected themselves to the rigours of the ballot box and are never likely to, and who do nothing to champion the role of politicians and public institutions, may reasonably be open to criticism when they complain about absent political leadership. However, the problem of a lack of trust remains.
(3) Markets - the benefits of freedom versus the associated risks to people’s working futures

Much technological innovation has commercial consequences that produce great wealth for a few. The increasing preponderance of internet commerce carries echoes of the capital aggregation arising from railway building in the nineteenth century. Participants recognised that an increasingly global and interdependent economy had shifted the terms of trade for the labour market - and not to the benefit of everyone within it. In addition to this, the ever increasing cost of labour and overheads has put long-established businesses at risk of limiting the scope for salary gains in real terms, and of undermining employees’ trust in hitherto acknowledged values and aspirations - such as reciprocal loyalty or the benefits of hard work. The problem for liberal democracy turns on the weakening presumption that so long as the shift in manufacturing patterns through globalisation generates more wealth, no one loses and some may benefit considerably.

Where that assurance fades, the case for redistribution of income and of wealth becomes stronger. However, in so far as the potential for redistribution arises, it does so at some cost to the underlying principles of open markets and societies. Whilst open societies and free trade create huge benefits, some people lose out and it becomes harder to show that their interests are being attended to, or that, in overall social terms, the benefits of modern technology outweigh the costs.

(4) Populism - in an open and connected society

This term featured in the course of discussion, but it was not given any precise definition. It was taken to mean the habit and practice of seeking to divide a polity between ‘the people and the powerful’, and to mobilise the former against the latter for political advantage, often on a single issue of perception or identity. It was recognised that populist movements could interlink. Thus, the convergence between populism of left and right was increasingly evident, even though the right tended to be anti-Islamic and the left anti-Semitic.

Some kinds of populism used any mischief, even extreme measures, to reinforce advantage, including intimidation, violence, vilification, and media manipulation. Others, like Momentum in the UK, were manifestations of statist or nationalistic enthusiasms, which were nonetheless opaque as to motive and unflinching as to method.

It was readily understood that populist movements came in different forms and strengths in the West – and had done so throughout the twentieth century. Some now often featured mass rallies, explicit and intemperate challenges to elites, leadership cults, ‘branding’ that progresses from a national to an international
stage, anti-Semitism, and Islamophobia. They all deployed the available tools of electronic social media.

It was also accepted that many media outlets were exploiting anxiety about the manifestations of populism for commercial advantage; that some commentary about ‘fake news’ was itself fake; and that there were profoundly difficult issues associated with achieving balance and impartiality in reporting. Participants recognised that current political debate had become so coarsened and cynical that there was now a tendency to attach the term populism to ‘anything I don’t like or agree with’. This reflected a trend towards odious and casual stereotyping rather than towards honest efforts to understand the lives, virtues and difficulties of others. This was noticeable in the crass labelling of ‘ignorant bigots’ in the UK, ‘red-necks’ in Canada, and ‘trailer-trash’ in the US. Again, such incivility and vehemence divided people almost wilfully into different camps with attendant demonisation and mutual incomprehension.

People were not insensitive; they knew when they were being patronised and diminished and resented it keenly. There was no reason to suppose that good political judgment resided solely amongst ‘elites’ or those who felt entitled to exercise political power and office. There was every reason to expect that ‘elites’ of every kind should recognise that they are under a continuing obligation to earn public respect and to respond to people’s needs actively.

At the same time there was broad agreement, as of November 2017, that so far as the UK and Canada were concerned things could be a great deal worse. Canada was currently without a populist party though had not been immune from populism in the recent past. The 2017 General Election in the UK had seen the reassertion of two party dominance in a multiparty environment - whatever that might ultimately portend. There was certainly no evidence put to the Colloquium that populism was unchallengeable. Rather the feeling was that the centre ground needed to be strengthened - and quickly.

21. There was broad consensus among participants about why we are where we are, and why liberal democratic government might appear to be under stress. In addition, the Colloquium identified a number of specific factors that illustrate the current dilemmas of democracy, an examination of which might facilitate a sturdy response. In doing so it was deliberately selective - with an eye to both manageability and relevance.
The sources of present discontent

22. The Colloquium discussion featured broad agreement on the following reasons why the challenges to representative government have arisen: (A short and relevant bibliography appears at the end of this Report, together with a brief list of references.)

(a) Iraq. The invasion of Iraq in the early years of the new millennium had had a baleful effect on the reputation of both the US and the UK, and indeed on the standing of Western democracies in general (despite Canada’s refusal to support the invasion). The weakness of the *casus belli* and the apparent lack of UN authority robbed the cause of moral authority. The subsequent failure to plan for the after-war effects laid the groundwork for Russian opportunism in Syria, and diminished the West’s capacity to influence Iran in its current regional competition with Saudi Arabia. The long war in Afghanistan did nothing to restore respect for the West’s ability to contribute to the control and shape of the world.

The consequence of all this has been that China’s model of authoritarianism combined with market economics, and Russia’s model of capitalistic oligarchy, have gained ground. They offer alternatives where once there appeared (for some) to be none - and they are not without influence within Western countries themselves. Western electorates have arguably lost confidence in international systems and structures which they had previously almost taken for granted.

Participants did not argue, however, that the institutional order created after the Second World War had failed and needed to be refashioned. Even as regards the UN it was *not* the case that the Security Council had *never* been effective; rather it had not been effective enough. The record of other multilateral bodies and of capital markets was of contributing to and stimulating global wealth generation, even if the distribution of the benefits had hardly been equable. The greatest need was not to replace the established international institutional framework, but to reinforce it.

Participants argued that the UK and Canada needed to make a more confident, audible and compelling case for the post-war international order, especially the importance of freedom, open markets, due process and pluralism. This needed to be sustained and elaborated, for the sake of the future, in such areas as security co-operation, trade, cultural exchange, and aid; and as the organisational basis for meeting global challenges from climate change and species extinction to nuclear proliferation and pandemics.

(b) The long-lasting effects of the 2008 crash. The accumulation of massive public and unsecured private sector debt had generated a cyclical downturn in the financial markets that was compounded by the exponential growth of US based securitised mortgage obligations. These were traded internationally on the basis
that they were sound financial instruments, but the collapse in the market for such products, and the resulting losses, squeezed the banks’ capacity to make credit available for recovery. This prompted a severe shock to the international financial system with a knock-on effect still felt today.

It is, nonetheless, possible to exaggerate the effects in the UK and Canada. Participants pointed to the relatively positive profile for income distribution and social mobility in the UK (notwithstanding misgivings by some commentators about progress in recent years), and the degree to which income and employment have held up in both countries. Although statisticians and economists have identified marked disparities of wealth accumulation, the top 1% of earners now pay some 27% of total income tax. Then again, there has been unceasing pressure on the incomes of the ‘just about managing’ in the UK, the ‘middle class’ in Canada, and ‘median earners’ in the US, arising from flat real terms income growth.

That said, in the UK much of the commentary about ‘austerity’ and an alleged ‘decade of destitution’ has been wildly overblown, given the way in which public expenditure has continued to increase since 2010, albeit subject to tough pressures. Equally, Canada’s experience has been framed by the steps taken in the early 1990s to put public finances onto a sound footing, and by its conservative approach to bank management and regulation pre-crash. In fact, Canada emerged from the economic crisis in better shape than every other Western country, but still suffered a knock-on effect from the woes of its neighbours and trade partners.

Nevertheless, the trends are not strikingly positive - and forward projections for growth remain weak, particularly in the UK. In general terms, the alienation of people from politics and their distrust of governmental institutions, appears to have accelerated post-crash and there is no obvious break in the trend. Survey data has suggested that deference towards decision makers continues to evaporate given the pressures that the least advantaged have faced in terms of disposable income and the ensuing drag on spending. The fact that large US and also some UK banks continue to be seen as having, with the complicity of governments, nationalised their losses whilst retaining their accumulated profits, and have done so without adequate penalty for those responsible, has undeniably sharpened public opprobrium towards banks and distrust of financial institutions generally. Nor had the greater emphasis on democratic processes since the financial crash produced any mitigating effect on the alienation felt by the general public towards politicians and financial regulators for their part in this state of affairs.

(c) Governmental failure to act decisively on the micro economic and social effects following fiscal consolidation. Attempts in the UK since 2010 to achieve fiscal consolidation, following increases in public expenditure and debt post-2000, have
put real pressures on public services - in particular on housing, education, and health. These services matter to people. Participants noted that it would have been open to UK governments to mitigate the effects of social change for disadvantaged people and their communities (including those associated with immigration) but that opportunities to do so were missed. The experience of devolved government and city mayors has yet to show any agility or strongly positive result in achieving leverage for employment and skills development by exploiting local contract power in either Canada or the UK. The prospects for enhancing social mobility were still being constrained by inattention to differing circumstances affecting regions and cities. **Participants were sympathetic to suggestions that action to change the focus would be timely.** The new Child Benefit in Canada, the testing of new anti-poverty measures in Canada and Europe were seen as positive and helpful.

There was relatively little discussion amongst participants of the relationship between tax, public expenditure, and public attachment to representative democracy. The lack of engagement by many with the dynamics of public finances may well fuel expectations that can never be satisfied. On the one hand there is a widespread belief that public expenditure is generally a good thing. On the other there are unacceptable levels of waste, examples of poor value for money, and incompetence in shaping and implementing vastly expensive programmes, underpinned by taxpayers’ money (1). In so far as the public at large focuses on such issues, the damage to confidence in the government apparatus is bound to be severe. However, it is all too easy for people to conclude, however unfairly, that no one seems to learn lessons from the misapplication of public money, and that no one is subject to personal penalty when things go badly wrong - as they all too frequently do.

**(d) The education and training deficits.** There is a widening gap between those who have exploitable skills and those who do not, and the level of skills required for particular jobs. This is not helped by the transfer of labour costs to cheaper locations off-shore, or by the transfer of whole businesses to overseas owners thereby potentially reducing the range of skills required. Moreover, it is no longer clear that by working hard at school or college young people will gain successful employment and a secure future. This presents huge challenges for educators in motivating young people to engage with education at this most critical stage in their lives. At the extreme, large numbers of young people face a lifetime of serial contracting or short-term employment gigs (sometimes accompanied by ‘zero hours’ agreements), with no institutional loyalty in return, and no social conscience on the part of employers in providing a steady career on the model of earlier generations. The advantages of home ownership and a stable pension presumed to have been possessed by many of their parents seem denied to young people today - and perceptions count. Participants recognised that currently high
levels of employment were welcome, but that the quality of those jobs was important too. If badly paid, or precarious, or unlikely to generate pride in their workplace, there was bound to be a sense of alienation among those affected, from which the political system was unlikely to escape censure.

There is a heavy bias in favour of investment in higher education at the expense of technical and vocational training both in Canada and the UK. The cavalier disregard for technical and vocational education leaves roughly half of all young people remaindered, and knowing it. They are given nothing like the resource and attention available to those who take university programmes.

Heavy debt servicing obligations post-graduation are having, and will continue to have, adverse and conceivably damaging consequences for higher, and indeed further, education. Even allowing for the differing regimes for student finance in Canada and the UK, and different expectations about part-time working to fund a degree or other qualification, many young people may arguably fall prey to disenchantedment, and blame governments for the perceived lack of interest shown by governments in alleviating ‘intergenerational’ concerns.

Despite successive warnings over decades, the UK and Canada seem unable to make a major assault on weak technical and vocational education and training. Moreover, participants were conscious that Artificial Intelligence and robotics were likely to cause major changes in employment markets in the foreseeable future, displacing many jobs and creating new opportunities and demands for others (2).

It would seem almost wilfully negligent to evade action to equip young people to adapt, not only through more rigorous attention to the value of learning as a benefit in itself, but also through concentration on the benefits of skills acquisition. In so far as the UK and Canada faced productivity problems, initiatives to upgrade the worst performing sectors seemed essential. Overall, participants regarded the case for action to re-balance investment in favour of vocational and technical education as overwhelming.

(e) The demographic shifts involving rapid population aging in the West.

There was a clear recognition that many older people in the West fear having to depend on straightened resources for longer, with attendant uncertainties - and opportunities for the unscrupulous to exploit the vulnerable. The failures of some central governments to address social care with the same drive as had attended the original development of health services remained a problem needing urgent action.

The fact that action was not happening and that, in the UK at least, the problem was being finessed by reliance on low-price nursing and support staff from overseas, was bound to aggravate distrust in government. It was also likely to
exacerbate inter-generational suspicions and resentments. Meanwhile, wherever population aging is prominent, productivity in the labour force will have to rise if living standards are to be maintained. That relentless economic pressure is bound to have a dispiriting effect, and its frustrations will be, and are being, visited on the political process.

(f) The effects of globalisation - free trade and markets. There was no contesting the extent to which the WTO, NAFTA and the EU have enhanced economic returns for highly skilled labour and innovative investment. Yet to a degree, this has been achieved at the price of damaging the prospects of the unskilled. Some participants stressed that the case for international organisations to act as engines of economic growth - and thus for supporting democratic legitimacy - has not been, and is not being, made strongly enough. That leaves people with the impression that populist analysis and prescriptions are un-contestable, reinforcing the narrative of alienation among younger voters.

Thus, there are now the ‘anywhere’ people(3) who are mobile, adaptable to technological change and can find worthwhile futures regardless of origin. Set against them are the ‘somewhere’ people (3) whose lives are, for various reasons, constrained by place, culture, occupation or a life on benefits – which leaves them trapped in disadvantage and with a clear sense of losing out. Participants agreed that action was needed by both Governments to ensure that the full benefits of economic success feed through to their citizens and beyond, without destroying incentives to taking risks and investing.

The trend towards globalisation would necessarily involve updating tax and financial reporting regimes for multinational corporations to discourage regional and international low tax regime shopping. It would be good to encourage greater philanthropy among individuals and corporations. It was recognised that if such actions of this kind were not taken then populism would gain further ground.

(g) The effects of globalisation - immigration and migration. Participants were sensitive to the view that it is dangerous and deluded to dismiss people who are asking: ‘Who is helping to look after me and mine?’ and getting no answer, as racist, nationalistic (as opposed to patriotic) or just xenophobic. There was a clear contrast between the relatively settled preference in Canada for open trade and immigration, and severe anxiety about immigration coupled with openness to trade in the UK (even if there were questions as to how strong that favourable opinion towards free trade actually is).

This pointed to the critical importance of treating issues of volume and control of immigration together - along with humanely relating public benefits to citizenship. It was recognised that in the UK, the enormous and historically unprecedented increase in net migration since around 2005 had been ‘self-inflicted’. Once largely eastern European countries (the EU8) joined the EU in 2004, net migration into the
UK (from the EU and elsewhere) exceeded 200,000 almost every year, and was sometimes over 300,000.

Whatever the virtues and gains of immigration in principle, these had not convinced a large part of the electorate, especially in Europe, who regarded the argument that ‘we all gain’ as disingenuous. Many had been disconcerted and distressed to the point of feeling that they do not recognise their own country or community any more – something that surveys had found expressed in many jurisdictions and arising for other reasons as well.

It was difficult to avoid the conclusion that this feeling of alienation had arisen in the UK because of the way in which the Government had exercised its discretion on immigration. There had been a clear failure to address the implications of so large and so rapid an increase in volume. Participants agreed on the importance of avoiding an exquisite disdain for the roots of populism - so running the risk of perpetuating a failure to see things from the standpoint of those directly affected.

At the same time the emerging conclusion reflected a concern (notwithstanding different circumstances in Canada and the UK) to ensure that the volume and control of immigration should be demonstrably humane and linked to the benefits and obligations of citizenship - demanding though that would always be.

(h) Disparities of wealth. Participants acknowledged the considerable increase in the value of assets owned by a tiny minority of individuals and corporations since the 1970s. In consequence there were bound to be strong perceptions that the rules were skewed unfairly - to the disadvantage of the majority. People have noticed the extraordinary increase in, for example, the pay of CEOs of publicly quoted companies, and even University Vice Chancellors. Brandeis once commented: ‘We can have democracy, or we can have great wealth concentrated in the hands of a few, but we can’t have both.’

Participants were conscious that public perceptions that corporations and individuals were evading as well as avoiding tax had the potential to turbo-charge the anti-capitalist critique. Yet capitalism and trade, free of the protectionism that had been so toxic in the past, were bulwarks of democracy. In reality, capitalism took different forms in different places. There was no necessary connection between capitalism and malpractice. Markets were inevitable, but where free trade and free markets were perverted, those with least were likely to lose most. The idea that there might be some alternative model to capitalism that had no ill effects at all was clearly no more than fantasy.

It was pointed out in discussion that the empirical evidence did not demonstrate a causal link between the increase in wealth inequality and the diminution in trust towards public institutions. Nonetheless the relationship between visceral
perceptions of economic unfairness and political culture seemed hardly likely to be favourable to the latter, even if the two were no more than correlated. People are more exposed to understanding their deprivation relative to others than ever before. This is bound to generate dissatisfaction and envy, especially in circumstances in which there is now an overwhelming cultural presumption that everyone is equally valued. In all, there was unease that governments had not been innovative in devising models for dealing with the social impacts of wealth disparity. Participants urged that wealth disparity be confronted in ways offering scope to protect enterprise and increase investment returns for both public and private good.

(i) Public information and the media. There was agreement that the public had noticed that some of the biggest developments of the last fifteen years had been completely missed by the mainstream media before their emergence. The list included the effects of immigration in the UK, the financial crash, Brexit, the election of Donald Trump, and the results of the 2017 General Election in the UK.

Participants agreed that the weakness of mainstream media in sustaining strong analytical capability had seriously damaged people’s willingness to trust what they were being told. In any event, large segments of the population gathered their news not from the conventional media but from their own electronic sources. They were conscious that anyone can generate thoughts, opinions and beliefs through social media. Lives are now lived in electronic space. The distinction between being personally ‘on-line’, and ‘off-line’, was no longer clearly defined.

The public had also detected that stories, presentation and ratings had become more important than rigorous command of what is real and what is not. The scope for generating a ‘common news agenda’ had evaporated. People had themselves developed a kind of complicity in filling the public space with subjective sentiment of questionable quality. At the same time people had grown suspicious of the ‘commentariat’ - including experts such as economists or pollsters whose record in calling big events had also been undistinguished. People want to know ‘what is going to happen and how will it affect me’ - and they want to know now.

Whether this critique is regarded as left or right-wing, it is serious. The media cannot just offload responsibility for the weakening trust and confidence in representative democracy to social media. The media’s own fears for market share have driven some of them to favour vapid narrative and presentation over tough journalism. It was recognised that to an extent ‘alternative facts’ and ‘fake news’ were not new phenomena - but their scale of reach was now vastly greater. There would always be a difficulty in appearing to give oxygen to contentious opinions, and no public broadcaster could reasonably be expected to adopt a vague position as regards distinguishing thought, opinion and belief. What such media could do
would be to take a rigorous approach to investigating what might be claimed as facts and to challenging them when they were found to be insecure.

There was keen Colloquium discussion on the scope for treating electronic-platform providers as publishers and requiring them to conform to regulatory standards and policing of content obligations equivalent to those applying to publishers in the conventional media, logistically difficult though this would be on a practical level. It was, nonetheless, increasingly hard to accept that such highly profitable platforms should be exempt from responsibility for the way in which they were used. The promotion of hate, murderous threats and intimidation is wholly inimical to liberal democracy. Why should they be tolerated? Indeed, why should the public not expect to have access to ‘trusted sources’ in electronic, broadcast and print media which are validated in the public interest against classic fact checking disciplines applied by many print journalists already? Participants favoured more concerted action in high visibility by publicly funded media, to challenge misinformation and misleading facts, and to do so for reputational gain. There was likewise support for the idea of introducing formal systems of professional certification to distinguish real from fake news.

(j) The corruption of privacy - the merging of public and private; and cyber reality. Suspicion of the mainstream media extends to all information providers - including those publishing scientific research and other forms of evidence. People are ever more aware of the way in which charities and interest groups position their messages in such a way as to have maximum influence on their target audience. The public sense the degree to which self-interest drives organisations’ and individuals’ pitches, and how far they pay less than scrupulous attention to facts. They also sense the extent to which government organisations can be captured by pressure groups and used as ‘sock puppets’. They realise that persistent ‘stakeholder’ determination to change attitudes and build ‘awareness’ can yield unhealthy ‘clientism’, especially in small polities.

People also sense the way in which it is possible to play fast and loose with all data - and of how ‘big data’ has the potential to intrude in private lives. At the same time, some are prepared to transfer what has hitherto been hidden in the darker recesses of the mind into the public domain - such as trolling, misogyny, and savagery. Participants felt that social media had the face of a monster that we hardly knew how to control to civilised purpose.

The effects on the quality of political debate and on politicians who risk their futures at elections (and whose use of language is generally careful) are bound to be troubling. They are amplified by philosophies of relativism, meretricious cultural criticism, secularisation and the cynical disparaging of politicians by people in largely ephemeral occupations like stand-up comedy.
Such effects also reflect the hollowing out of ‘big tent’ associations such as political parties and unions; and the opportunities for inter-State cyber hacking as an extension of war ‘by other means’. The result is a preference for self-regarding autonomy over social solidarity and for the suppression of free expression - a retreat to ‘safe places’, censorious treatment of real or alleged ‘micro-aggressions’ and deliberate ‘no-platforming’. There was no doubting that these phenomena have to be confronted by active citizens and responsible institutions (like universities). Equally it was unlikely that this could be done without concerted governmental and regulatory assault on the worst manifestations of cyber-reality - from cyberwarfare to trolling.

However, it was not the case that new cyber technologies necessarily had adverse implications for trust and confidence in representative government. The UK Government’s Chief Scientist commented recently that ‘distributed ledger technologies have the potential to help governments to collect taxes, deliver benefits, issue passports, record land registry transactions, assure the supply chain of goods and generally to ensure the integrity of government records and services.’ (5) The UK is part of the Digital 5 joint working group which includes Estonia, Israel, New Zealand and South Korea. It would surely be fruitful if Canada and the UK were to establish a joint cyber alliance to identify how best to protect their societies from cyber-misinformation and manipulation; and to implement measures to do so in support of open societies and liberal democratic values.

23. In all, there was general agreement on the character of the dilemmas and challenges confronting liberal democracy and on how they had become manifest. There was a recognition that they were indeed substantial. Equally there was a ready appreciation that there would be advantages in sloughing off past complacency, and facing up to inevitable changes in national and international power relationships.

Some more granular analyses of specific dilemmas and challenges

24. The analysis of the challenges and of their origins was broadly shared. However, there were some differences of emphasis and assessment. These were most evident in break-out discussions on particular topics:

(i) Could greater use of direct democracy, such as referendums, petitions, and citizens’ assemblies help to renew trust and confidence in politics and government?

Here the feeling was cautious. There was no clear evidence that such initiatives would lead ineluctably to uncontested or secure outcomes, or a boost to confidence in politics and democratic government. There were positive
indications, but insufficient evidence, to suggest that measures to sustain democratic support ‘between elections’, and efforts to refresh and renew Parliamentary procedures, were achievable or could have positive outcomes in themselves (6).

There was no dissent from the argument that little had been done to work through how such experiments in direct democracy might usefully secure stronger public understanding of the legitimate boundaries between the role of the citizen, the legislature and the executive in representative government. In the UK, experience had shown that petitions were commonly rejected and referendums did not necessarily settle issues for good. In Canada, even careful preparatory work involving citizen assemblies had resulted in proposals (for example, on changing electoral systems) that had not been approved in subsequent referendums. Voters participated where they considered an issue mattered - and did not just follow party lines in all circumstances.

As to whether referendums should be encouraged or otherwise banned, the general view was that, whilst they carried serious risks, in so far as there was political or social pressure to put a particular issue to a referendum, it was highly desirable that procedures of the sort captured by the Canadian Clarity Act should apply in advance. There was a suggestion that referendums should be banned altogether, partly because of associations with despotic regimes in the 1930s, and partly because of the traumas associated with the way identity politics in Scotland and Quebec had featured prior to referendums there. The case of Catalonia was briefly referred to. However, this did not gain general support mainly because the promise of a referendum appeared on occasion to be a useful device to reassure the public that unwanted changes will not happen, or will not happen without one.

That said, it was accepted that there was a continuing case for seeking to **identify and prescribe consistent rules and conventions on the holding of referendums, such as when they should be held, and when not**. Participants were sympathetic to the argument that greater attention should be given to shaping public information on an independent footing, and with a proper focus on explaining the likely consequences of a vote for or against a given proposition. It was recommended that the UK should consider the Canadian Clarity Act of 2000 as a possible model for future referendums in the UK, including any lessons to be drawn from it in light of its perceived deficiencies.

There was some interest in setting minimum voting thresholds for approval. The weight of argument favoured a 50% plus one rule, familiar to those interested in the devolution referendum for Wales, where the margin for ‘Yes’ was 0.6% on a turnout of 50.22%. That suggested that there might be mileage in establishing a minimum turnout threshold, in particular for matters involving constitutional
change. There were no voices *against* using novel deliberative initiatives, particularly at the local or regional levels, although it was accepted that they were bound to be moderately costly and time consuming. However, there was also no presumption that they could make a major contribution to a healthy political culture as to the legitimacy of government or its effectiveness. They might have some positive effect from time to time and from place to place, but they were unlikely to be comprehensively beneficial.

There was less attention paid to changing the existing electoral systems. Electorates found the subject boring and irrelevant to their more pressing concerns. They could see no compelling benefit from change - especially since it would very likely involve more politicians, and more politicians without any experience of anything other than party politics, more complexity and less transparency, and more intrusive regulation. There were some who spoke in favour of putting elections onto IT based systems - purely on the grounds that pencil, paper and voting booth were alien to so many who lived on-line. However, the practical risks of hacking and fraud appeared so serious as to eliminate favourable opinion altogether.

On the other hand, and in marginal discussions, there was a clear sense that the legal and operational frameworks governing registration, political campaigning and elections needed close and continuing attention in both countries - and that this mattered more than shifting from one electoral system to another. In the UK, stronger rules were required for combating external interference, tougher penalties were needed for flouting election expenses regulations, and reforms were needed to improve voter identification and polling station accessibility. As regards external e-based interference, it might well be that lessons could be learned from exchanges within the proposed cyber-alliance.

A key conclusion of the Colloquium was that action should be taken to share experience of the conventions for the use of referendums and citizens’ assemblies in Canada and the UK (particularly in advance of any changes to the electoral systems) as to when they are appropriate, when they should be binding, and how far the consequences of a decision either way should be spelt out.

(ii) *Does respect for the independence of the judiciary remain secure in both countries?*

There was a firm recognition that the independence of the judiciary had been vital in protecting fundamental rights in the UK and Canada. However, there was also a clear difference in the way in which the Canadian Charter of Rights and Freedoms and the UK Human Rights Act were perceived by the public.
In Canada, a national ‘conversation’ had developed a sense of ownership of the Charter as integral to what it meant to be Canadian. By contrast, the Human Rights Act was often seen in the UK as a ‘foreign’ instrument, notwithstanding the UK’s key role in developing the European Charter and the Court of Human Rights. This view had prevailed despite the efforts in the UK of the Joint Parliamentary Committee on Human Rights (which has no parallel in Canada).

There was considerable interest in taking advantage of Brexit to enlarge understanding in the UK of what the legal framework for human rights should look like, and to encourage greater public understanding of the legal system as a whole. It was striking that those with judicial experience in the UK had not spoken up enough for basic principles like ‘innocent until proved guilty’. They had not sought to explain why such principles mattered. They had preferred to react in self-referential ways - emphasising their shock at critical tabloid headlines, and the abuse of judges on line. The concluding view was that continued public respect for the judiciary should not be assumed, in either country.

There was also keen interest in encouraging opportunities for judges and politicians to speak to one another, and to develop greater understanding of the pressures they respectively face and the contexts in which they work, although this should be without prejudice to the principle of judicial independence. Indeed, it would be useful to extend this idea so that politicians from different jurisdictions meet more often to discuss areas of common interest and concern. As things stand, politicians who rarely meet one another from Provincial or devolved administrations have little scope to cross perceptual boundaries in the way that is common in the State Parliaments. The need to create opportunities to make connections may well become more pressing as devolution continues to develop in the UK.

For their part judges were conscious that politicians were increasingly inclined to repose confidence in the judiciary as a useful tactical device. Parliaments frequently left issues open to the exercise of judicial interpretation, which brought the judiciary into the public arena, especially over the reconciliation of conflicting human rights. High-profile cases putting judges’ decisions at odds with public sentiment were therefore inevitable and not always helpful in highly charged cases. None of this was likely to boost trust in the judicial process and in particular the authority and impartiality of judges.

Lord Reed’s dissenting judgment in the Miller case on the exercise by the UK of Article 50, is worth quoting: ‘For a court to proceed on the basis that if a prerogative power is capable of being exercised arbitrarily or perversely, it must necessarily be subject to judicial control, is to base legal doctrine on an assumption which is foreign to our constitutional traditions. It is important for courts to
understand that the legislation of political issues is not always constitutionally appropriate, and may be fraught with risk, not least for the judiciary.’

It would be prudent to take precautionary and concerted action to sustain public confidence in the judiciary, especially as regards modernising appointment processes, succession planning, enhancing public understanding of judicial roles, and setting clearer ground rules for the intervention of judges (such as by the President of the Supreme Court in the UK) into matters of political debate.

(iii) Second Chambers - Their purpose and uses in the democratic context.

Participants agreed that Second Chambers served two useful functions, namely: subjecting proposed legislation to ‘sober second thought’, and providing checks and balances on the actions of the lower house. Both the Canadian Senate and the House of Lords offer an impressive pool of knowledge and experience needed for effective and appropriate scrutiny of legislation proposed by the government of the day. However, there was distinct unease about the size of the Lords and the associated processes for appointment.

There was no disagreement that those processes should be more merit-based, and that there should be more transparent constraints on the exercise of a Prime Minister’s prerogative in making appointments to the upper house. That prerogative had become a form of patronage that risked making the upper house appear illegitimate to many observers. UK participants supported limited term appointments to the upper house (though this is not constitutionally possible in Canada). There was also support for a substantial reduction in the size of the Lords and for minimum attendance requirements.

There was a recognition that, in the case of the Lords, major reform was highly controversial and that there was little prospect of parliamentary time being given to it in the foreseeable future, however pressing the issues may be. It therefore made sense in the short term to proceed by way of more modest, incremental changes, such as by adopting the 2017 Burns Report on reducing the size of the Lords to 600. Participants were not in favour of an elected Second Chamber, in either country, but there were grounds for making appointments more representative in terms of background and experience and, in the UK, more relevant to geography and devolution.

In all of this, it was understood that the Canadian Senate was a product of seminal historic debates on how best to make a federal system work, and about how best to protect minority interests. The Lords by contrast was the product of organic, empirical and untidy history whose origins do not lie in legislative scrutiny at all. This accounted in some measure for what many perceived to be the arcane practices and procedures of the Lords. Nonetheless the need for rigorous
legislative review by a revising chamber was real and pressing. Participants did not feel that this function was something that could be delegated to citizens’ assemblies as the weight of business would simply overwhelm them.

Participants acknowledged that the Canadian Senate was also not without flaw. It did not have an independent business planning committee or an oversight body to ensure ethical probity, and has no provision for dealing with gridlock between the two chambers. Governments have not been especially imaginative in working out how to use the upper chamber to air difficult issues before the legislative process is begun in earnest.

A major focus of discussion was on the value of positioning reform of the Lords as part of wider constitutional reform in the UK following devolution, and to ensure that the procedures for achieving internal inter-governmental cohesion post-Brexit actually worked for the benefit of all parts of the United Kingdom, and thereby preserving its integrity. The balance of opinion was for taking action to embrace the opportunities for reform energetically, and for sharing experience on the structure and role of the Second Chamber.

(iv) Can pooling of sovereignty be made to work and are asymmetries of internal governmental systems viable?

There was relatively little discussion of the possibilities and pitfalls of pooled sovereignty. The assumption that nation states between them face inter-connected challenges that were better resolved by means of a supranational authority (as in the case of the EU), lurked in the margins of the discussion without any real test. However, no one claimed that multilateral organisations that involve no formal transfer of sovereign power (such as NATO) were in some way deficient in discharging their respective functions. This suggested to some that arguments for pooling sovereignty are frequently made without sufficient reflection, and without much evidence, as to what may be counted as gains.

Clearly, identity and beliefs about ‘who we are’ and what scope we have to decide ‘our own fate’ lodge deep in the popular and political psyche. Scepticism about the benefits and operational integrity of pooled sovereignty has featured in decades-long debate demonstrating clear splits within most political parties in the UK. It plays out even now in arguments about harmonisation in the EU, and about flexible association agreements based on recognition of mutual standards.

Participants appreciated that in Canada, federalism was critical to forming the nation, not least given the position of francophone Quebec, and the place of First Nation and Inuit peoples. The division and devolution of powers remained of critical constitutional importance in Canada. For that reason, mechanisms to
support intergovernmental decision and ministerial liaison are treated as essential (and also to a degree to the US border States).

Analogous machinery is vastly more attenuated within the UK, partly in consequence of differences in party political control within each of its distinct national and devolved governments. So far as devolution was concerned, participants took the view that the genie had been let out of the bottle and there was no likelihood of it being put back.

Thus, whilst the UK is not a federal state, it can no longer be accurately described as a unitary one either.

Participants felt that without intergovernmental liaison machinery with real clout, the likelihood of sustaining coherent government within the UK will be diminished. Participants saw real merit in the Canadian approach, and in action to ensure that the different constitutional entities of the UK do not create conflicting standards and regulations that would make it impossible for the country to be governed as a single State. Participants agreed that it would be useful to share experience of how the management of devolved powers, and overall liaison in the operational issues arising from them, can be made more effective.

Participants also noted that Canada and the UK are amongst a small number of countries that currently accept that in principle, they are themselves divisible. Yet very little attention is given to the rules for handling division or even to rules for making unity work. It is assumed that unity will win out over arguments for separatism. In Canada, unity is built upon shared commitments to multicultural values, peacekeeping, the Charter of Rights and Freedoms, healthcare, the Clarity Act and ‘not being the US’. In the UK, unity is a consequence of history, family ties, attachments to specific institutions like the Monarchy and the common law, and being an island and geographically distinct from the Continent, though still part of Europe.

Plainly many people have multiple identities. However, their coherence - a preference for sharing common purposes, defending one another’s security, and generating scope for mutual fulfilment - cannot be taken for granted. Participants considered that the UK and Canada have much to learn from one another in buttressing dynamic internal co-existence. The experience of handling overlapping sovereignties with First Nation and Inuit peoples is a case in point.

(v) The professions

In reflecting on the dilemmas and problems confronting representative government, there were a number of sidelong glances at the professions in general. There was some sympathy for the argument that trust and confidence in
government could not be sustained if professional bodies did not play a full part in sustaining their own relationships with the state and in helping to make good government possible.

The leading professions took seriously their obligations to uphold the public interest - to protect those they serve, to maintain standards and to promote public trust and confidence. Canada and the UK would do well to exchange information on how professional formation, continuing professional development, and codes of conduct in specific professions might help to strengthen the virtues and values of effective government. As a first step, professional bodies like electoral process practitioners, educators and journalists should share best practice.

Participants chose to apply a wider lens to professions to include the civil services. The International Civil Service Effectiveness Index introduced by the University of Oxford and the Institute for Government, comparing the effectiveness of a country’s central government civil service against others around the world, placed Canada, New Zealand, Australia, and the UK (in that order) at the top of the rankings. As in the case of the judiciary, there nonetheless seemed no reason to assume that a well performing civil service (recruited to a career on merit, committed to impartiality, and working to clear codes of conduct) would necessarily command public confidence for the future.

Some (7) have detected a subtle shift in the attitude of politicians, whose taste for special advisers, executive offices and the appointment of external advisers, might foreshadow a desire to become their own chief executive or executive board member, thereby setting the terms of service themselves in their own interests. Governments should be alert to any sign that a service might be slipping in the performance of its obligations and it was therefore desirable that the UK and Canada should share information on measures to underpin the capacity of their civil service to perform well, deliver good outcomes and to sustain their impartiality and integrity.

There were important developments in the fields of property and construction where Canada and the UK have taken a lead which it was considered should be sustained. These relate to overcoming barriers to international trade and investment. In that context it is plainly necessary that there should be transparent and consistent professional standards in the disciplines of costing, measurement and procurement so that purchasers can compare responses to tenders on a sound basis. Without such standards there is a clear risk of commercial and trade manipulation with damaging implications for relationships between and within States.

Such standards are as important for the investment of large pension funds - such as those actively managed in Canada - as they are for the process of infrastructure development of all types. In this context, the International Construction
Measurement Standards Coalition (ICMSC) launched in Vancouver in 2017 has taken a prominent role in gathering professional bodies and other organisations to work together to develop and implement international standards for benchmarking, measuring and reporting construction management costs. The two governments should give active support to the ICMSC for the future.

Proposals for Action

25. The Colloquium did not indulge in a search for transformative solutions. It did not allow itself to become preoccupied with any one issue or problem. It sought positive outcomes and realistic suggestions that could be followed up in practice at official and political level. It was deliberately selective in shaping proposals, but was conscious of the value of examining the issues on a broad front in order to identify ways to reduce the undoubted threat to liberal representative democracy.

26. The Colloquium’s proposals are set out in the Summary of Discussions and Recommendations at the start of this Report.

Conclusion

27. The spirit of the Colloquium was that whilst politicians bear heavy responsibilities, it is not reasonable to expect them to carry the whole burden of upholding the values of liberal democracy and representative government. It is not possible to assume that Burke’s defence of representative government is securely accepted by the wider public today. The rationale for it now has to be projected constantly, and with no relaxation. Politicians may be asked to do better, but a very wide range of other organisations and individuals should be expected to do much more than they have asked of themselves before. We should be tested in this way - not just as regards the political context, but also in the economic and cultural context. The test is not just to be endured without conclusion. It must incite the action, and the resolution of all citizens, to uphold the democratic values of our two countries.

28. Participants at the Colloquium expressed the hope and expectation that the suggestions and recommendations emerging from their discussions will be considered seriously by the two Governments, and in particular by the new public policy forum established between them and announced by the two Prime Ministers in September 2017.
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May 2018
The 150th Anniversary of the British North America Act which established the Dominion of Canada is a good moment to reflect on the state of our respective democracies and the context in which they operate. Both nationally and internationally they are facing new challenges. The international institutions created by the victorious powers after World War II including the UN, the World Bank, the IMF and what became the WTO, reflected confident assumptions about the desirability, universal applicability and gradual ascendancy of democracy; respect for human rights; open, rules-based relations between states; and ever-expanding free trade. The 1941 Atlantic Charter expressed Roosevelt and Churchill’s hope of a world in which all peoples could ‘choose the form of government under which they will live...in freedom from fear and want’.

The post-war international polity was never uncontested either in Britain or Canada. The 1970s was a notable period of economic nationalism in Canada, and there were lively disputes – for example about the EU in UK and about NAFTA in Canada. But the liberal direction of travel and the process of globalisation was broadly accepted, supported as it was by strong economic growth, technological development and rising standards of living. Confidence was reinforced by the collapse of the Soviet Union and liberal democratic advances from South America to Africa and Asia. Some even postulated ‘the end of history’.

More recently the global system has come under unprecedented strain. Economic growth has slowed, especially following the financial crash of 2008; technological change and offshoring have had bleak implications for low- and semi-skilled workers in the former industrial heartlands; Russia has upset the status quo in Crimea and Eastern Ukraine; China is challenging the Pax Americana in its neighbourhood; and the Iraq war (conducted in the name of ‘liberal internationalism’) was one catalyst in the violent disintegration of the state system in the Middle East, which has demonstrated both the incapacity and the vulnerability of the existing international order.

The election of President Trump exemplified a rise of populism, understood as a rejection of established politics and of self-perpetuating political and financial elites who are accused of managing a corrupt system for their own benefit, while patronising and ignoring the concerns of those who have been left behind, and who have lost hope that they can improve their lot within the existing system. There has been a widespread reaction against globalisation and multinational trade which are held responsible for growing inequality and the displacement of workers from traditional industries. The populist tide has been marked by growing intolerance and scapegoating of minorities (immigrants, Jews, Muslims); misogyny; and support for demagogic politicians offering simple, often ethno-nationalist, solutions.

These developments have shaken many assumptions about the future of world trade and the established international order, even calling into question what had been seen as the slow but inevitable ascendancy of core values such as freedom of speech and
independent courts. The connection between liberalism and democracy appears to be fraying, with the election of a growing number of illiberal leaders. Did President Trump’s election represent a *triumph* of democracy, as Viktor Orban, the nationalist and socially conservative Prime Minister of Hungary characterised it (and as many characterised Brexit in the UK) or was it rather evidence of a *crisis* of democracy?

Do Canada and the UK’s democratic systems offer a solid bulwark against threats to our freedom, prosperity and security? Are they still the best framework for managing the many threats that we face? The answer, perhaps, is that while there is still an underlying confidence in democracy as ‘the least worst form of government’, there is disagreement and confusion about how far the forms of democracy practiced in the developed world are suitable for societies with long histories of autocracy; how radically our democracies need to adapt to the new challenges that we face; and how they can be protected from themselves.

One part of this relates to the balance between freedom and security. As modern technology increases the potential for accumulation and manipulation of mass data for purposes of surveillance, do liberal democracies end up attacking themselves in the name of liberty? Another relates to the threat posed to rational debate by social media with no legal duty or financial incentive to strive for truth, in which objective facts are less influential in shaping public opinion than appeals to emotion and personal prejudice.

But the new circumstances force us to confront even more fundamental dilemmas of democracy. How, for example, should societies protect themselves against the “tyranny of the majority” prioritising its interests over a significant minority to the point of oppressing them? The subject was much debated by the founding fathers in America, and by such writers as John Stuart Mill and Alexis de Tocqueville. The Canadian and British systems were both devised to entrench constitutional and legal protections.

Are these systems robust? The UK, in particular, seems to be seeing a drift from parliamentary to majoritarian rule. The turmoil engendered by the referendum of June 2016 partly reflected different understandings of the authority that should be accorded respectively to “the will of the people” as represented by a slender majority in a consultative referendum, and to the sovereignty of Parliament. When the High Court upheld Parliament’s right to be consulted about the triggering of the referendum decision, some newspapers went so far as to characterise the judges as ‘Enemies of the People’. Was this a direct challenge to the independence of the judiciary and the rule of law, or the healthy questioning of a complacent closed shop? Even in Canada the avowedly anti-populist Justin Trudeau observed that Canadians ‘deserve better’ regarding the process for the appointment of Supreme Court judges.

Our established mechanisms of representative parliamentary democracy no longer inspire the trust and respect that they did, and there is increasing evidence of voter alienation, especially among the less educated, the poor and the young. Should MPs be expected to behave as role models, and should they endure the levels of public scrutiny to which they are subjected?
In Canada, there is renewed debate about how best to accommodate the rights and interests of indigenous people. Some would question the extent to which the First Nations should accept and engage with the settler parliamentary democracy that is Federal Canada.

In an effort to strengthen legitimacy, there have been moves towards devolution and decentralisation as well as increasing resort to different forms of direct democracy from national referendums to local action groups exploiting the potential of social media. Yet is further democratisation (involving regional Parliaments in the ratification of trade agreements for example, or electing Police Commissioners in the UK) an effective way to secure greater legitimacy and public support? And how do we protect our democracies against the abusive manipulation of social media to propagate falsehoods and to inflame hatred?

Some would contend that far from strengthening democracy, the experience of referendums has been to increase polarisation, dissatisfaction and the drift towards destructive populism. The more that people expect to be directly consulted about every decision that concerns them, the less - it would seem - do they defer to Parliament or other established structures, and the less can Governments inspire confidence that they control events or that they can get things done.

The conference will open with a review of the context in which this crisis of legitimacy has arisen. It will go on to examine some of the particular challenges faced by our democracies. What should be the limits upon ‘direct democracy’ and how can popular participation be channelled most effectively to constructive ends? How can we help to restore authority and respect to our Parliaments and other established institutions? How do we balance the competing wishes of international, national and sub-national majorities? What is the proper role of courts in our democracies?

Session 1: The context: Challenges to the rules-based international order.

Despite efforts to entrench a comprehensive international architecture, the global system is made up of competing systems, from Russia’s expansionist, authoritarian capitalism to the Chinese version (regionally assertive, but more interested in access to global resources than territory), to religious - notably Islamic - fundamentalism. Is the arc of history bent towards democracy, internationalism, tolerance and liberty, or was that always a Western delusion? Are we witnessing mere turbulence in the gradual achievement of a global system that also enables the world community to address common challenges such as climate change, species extinction and nuclear proliferation – or is the post-war order fundamentally damaged? What future for the established structures that have been called into question (the UN and the Bretton Woods institutions? EU? NATO? Commonwealth?) If we accept that an inter-connected world needs supranational arrangements for its effective governance, how should these be given democratic legitimacy?
Session 2: The decline of deference. Popular alienation and loss of trust in established political structures.

Is ‘populism’ a dangerous contagion, or is that merely the perception of a privileged and corrupt elite used to managing affairs ‘in the name of the people’ without actually wishing to empower the common man - in which case, is the election of the occasional Rob Ford or Donald Trump the sign of a healthy system? Insofar as populism is fuelled by fears over immigration, how can these be addressed without abandoning our commitment to open, welcoming societies and humanitarian principles? What is the role of the media in the new situation, and how in particular should the ‘mainstream media’ react to disintermediation and new economic, political and technical realities? How can social media be engaged as a positive force in our democracies, without encouraging ‘post-truth’ politics, ‘fake news’ and the proliferation of conspiracy theories? How should different voices (NGOs, civil society, labour unions, small business, multinational companies) contribute to democratic decision-making? How, in particular, should young people be empowered and enabled to contribute more effectively? Can trust in established structures be restored, or do they need to be uprooted and replaced?

Session 3: Direct democracy: referendums, petitions and citizens’ assemblies

There have only ever been three national referendums in Canada (over prohibition in 1898, conscription in 1942, and the Charlottetown constitutional change in 1992). Equally, there have only been three in the UK (over the EU in 1975 and 2016, and over the Alternative Vote in 2011).

- Are referendums corrosive of Parliamentary democracy? Is Germany right to prohibit them (whereas they are widely used by US States)?
- How can people - and especially the young - be encouraged to engage more actively in their own government? Insofar as they are choosing not to do so, is this evidence of a failure of traditional democratic processes?
- Is the ‘will of the people’ a useful or a dangerous concept in a democracy?
- Does the UK need a Clarity Act of the kind introduced in Canada, and special majorities for constitutional change?
- How should the clash be resolved when a Parliamentary majority is opposed by a plebiscitary one?
- Is it right to ignore dissenting Canadian Provincial (or in the UK, Scottish / Northern Irish / Welsh) majorities in the context of a national referendum? And what of First Nations in the Canadian context?
- Other approaches to consultative (or deliberative) democracy. Petitions. Citizens’ assemblies.
Session 4: Maintaining democratic support for open trade, new technology and globalisation

- ‘Under the onslaught of placeless, transnational capital, democracy as a living system withers and dies. The old forms and forums still exist - parliaments and congresses remain standing - but the power they once contained seeps away, re-emerging where we can no longer reach it’ (George Monbiot) Is this true? Insofar as it is, what should be done about it?

- Insurgent anti-establishment forces in France, Germany and above all the USA promise to end future trade deals and withdraw from existing ones. The UK is negotiating its withdrawal from the world’s largest free trade zone. How can popular support for international trade be restored?

- Is the backlash against ‘globalisation’ an inevitable consequence of its uneven impact and widespread economic exclusion? What educational, labour market and social policies might be devised to cushion the impact of change - and especially the impact of rapidly advancing robotics and Artificial Intelligence?

- Political stability in our democracies seems to depend upon maintaining growth (or restoring it, should it stall). Is continuous growth compatible with sustainable prosperity and with ‘ethical capitalism’?

BREAKOUT GROUPS


- What is the appropriate demos for different democratic decisions? Is ‘national sovereignty’ compatible with a strong and effective international polity?

- If elements of supranational government are desirable for managing a connected world, how can we best protect national and individual freedoms?

- The enduring power of “the nation” as a democratic focus. Competing identities.

- On what basis should Britain and Canada be seeking to find a balance between decentralisation, national and international responsibilities?

- How is it possible to combine national policy objectives with devolution/decentralisation without creating a ‘postcode lottery’?

- Government in cities.
B. The Courts

Are the UK and Canada vulnerable to such things as coups, self-perpetuating power structures and establishments, electoral manipulation and the oppression of unpopular minorities? Are our judiciaries a sufficient protection?

- What is the appropriate role of courts in relation to the legislature?
- Is the increasing recourse to judicial review a bad thing? If so, how might it be limited?
- To what extent should the UK and Canada subject themselves to the judgements of international courts and tribunals?
- “Quis custodiet ipsos custodies”. How should Parliament and people control the courts?

C. The role of the Second Chamber

- Are Second Chambers useful?
- What should be their role in legislative scrutiny and their powers in frustrating the elected Chamber?
- Who should serve in these Chambers, for how long, and with what processes for selection and deselection?

D. Party and electoral systems

- Voting systems. Is ‘First Past the Post’ achieving fair representation in the UK and in Canada?
- Selection of party leaders.
- Implications of the disintegration of big ‘broad church’ parties, falling membership and the emergence of new small parties.
- Experience of coalitions and minority governments.
8. UK and Canadian Participants

**United Kingdom Participants**

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