

Corruption in Canada: What do we know?

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Introduction

In world comparative terms, Canada enjoys a desirable and well-deserved reputation for high living standards, democratic freedoms, and responsible and clean government. Canada consistently ranks at the top of the United Nations' list of best countries in which to live. For seven years in the 1990s, Canada held first place in the Human Development Index (HDI), the UN's measure for a country's quality of life standards, as measured by indicators of life expectancy, knowledge and literacy, and GDP per capita. Although its ranking recently has fallen, Canada remains squarely in the HDI's top ten, placing fourth in 2004.¹ Canadians enjoy a GDP per Capita of \$27,840 and life expectancy is 79, one of the highest in the world.² In addition, Canadian citizens enjoy full political rights and civil liberties.³

Canada also enjoys a very good record on international measures of corruption. Two prominent such measures widely cited in the literature, among anti-corruption activists, and by political officials world-wide, are Transparency International's annual Corruption Perceptions Index (CPI) and related Bribe Payer's Index (BPI). CPI scores range between 10 (highly clean) and 0 (highly corrupt).⁴ Since 1995, Canada has

¹ The top five countries on the UN's 2004 Human Development Index, in descending order, are Norway, Sweden, Australia, Canada, Netherlands. The only other American country in the top ten is the United States, in 8th place. As for the others of the largest OECD States, the ranking are as follows: Japan, 9; United Kingdom, 12; France, 16; Germany, 19. *Human Development Report 2004: Cultural Liberty in Today's Diverse World*. <<http://hdr.undp.org/reports/global/2004/>>

² Freedom House, Table of Social and Economic Indicators. <<http://www.freedomhouse.org/research/freeworld/2003/tables.htm>>

³ In its survey, Freedom House evaluates individual countries based on a checklist of questions largely derived on the standards of the Universal Declaration of Human Rights. See <<http://www.freedomhouse.org>>

⁴ TI's CPI scores countries according to the degree to which corruption is perceived to exist among politicians and public officials, ranking them accordingly. A composite index, it uses data from surveys of business people and country analysts collected by independent institutions to establish each country's score. TI's most recent CPI draws on seventeen such surveys from thirteen different institutions, including Gallup International, PricewaterhouseCoopers (PwC), Economist Intelligence Unit, Columbia University, Freedom House, World Economic Forum, World Bank, and others. Typical survey questions ask respondents to assess such factors as the prevalence of bribery and corruption in the economy; the frequency of corruption in various contexts, such as in tax avoidance or obtaining import/export permits or subsidies; the extent to which corruption is a constraint on business; the degree to which corrupt practices are 'widespread'; and similar indicators. Although the data collected relates to perceptions rather than to measurements of real phenomena, the methodology of the CPI is attentive to bias problems in the survey

consistently scored among the top ‘highly clean’ countries, with scores ranging between 9.2 at the high end (CPI 2000) and 8.5 at the lowest (CPI 2004). In its Bribe Payers’ Index surveys, Canada also ranked high among the countries least likely to contribute to bribery in international business.⁵

Despite its declining rankings on the CPI in recent years, Canada’s high scores on both the CPI and the BPI confirm the general assumptions and experiences of the majority of Canadians who do not normally encounter public or private sector corruption in everyday life. In Canada, as one observer recently noted, “police don’t demand bribes, judges are independent and kickback is a dirty word.”⁶ Despite concern in some quarters that Canada’s rankings are not *higher* than they are on these indices⁷, anti-corruption activists cite Canada’s strong record on the CPI and BPI to its credit, especially within the context of the current international anti-corruption agenda. In addition, the Canadian government has in place numerous institutions, rules, and procedures to protect integrity and ethical conduct in government and in public life. In the decade of the 1990s in particular, the Liberal government of Canada paid an unprecedented level of attention to ethical issues.⁸ Under the leadership of Prime Minister Jean Chrétien, the government introduced significant ethics initiatives in 1994, including the introduction of a new *Conflict of Interest Code* and a federal Ethics Counsellor.⁹

Yet the government’s increased attention to ethics rules begins to seem somewhat ironic when considered in light of another trend in Canadian politics in the 1990s: a growing cynicism and anxiety among Canadians about a decline in ethics in government.¹⁰ Such concern has been spurred by a spate of minor and serious scandals related to breaches of ethics and accountability in government. These include, most

results. Moreover, TI argues, “since actual level of corruption cannot be determined directly, perceptions may be all we have to guide us.” Despite remaining concerns about the use of perceptions to measure and compare corruption levels across states, since its first index appeared in 1995 TI’s annual CPI has grown in substance and sophistication and has achieved widespread legitimacy as the leading public indicator of countries’ records on corruption.

⁵ See Tables 1 and 2 in Appendix.

⁶ James Travers, “Martin must tackle corruption,” *Toronto Star*, 25 September 2003.

⁷ CBC News Online, “The Seeds of Scandal,” February 24, 2004.

<http://www.cbc.ca/news/background/groupaction/stewart_scandal.html>

⁸ Howard Wilson, “The Constantly Rising Ethics Bar,” Notes for a presentation to the Canadian Centre for Ethics and Corporate Policy, Toronto, Ontario, 7 November 2002.

⁹ Office of the Ethics Counsellor, *The Report of the Ethics Counsellor on the activities of the Office of the Ethics Counsellor to September 30, 2002*. (Ottawa) 2002. Online at <<http://strategis.gc.ca/ethics>>

¹⁰ Mancuso et al 1998.

recently, an apparently wildly mismanaged gun-registration program, the cost of which inexplicably ballooned to \$2 billion;¹¹ allegations that the federal Privacy Commissioner misled Parliament about his expenses;¹² and apparent mismanagement of grants and contributions at the Ministry for Human Resources and Development.¹³ In relation to the latter, the Minister for Human Resources, Jane Stewart, ultimately took responsibility for the so-called ‘job-creation scandal’ in which grants and programs including the Canada Jobs Fund turned out to have been mismanaged in excess of \$1 billion in annual spending.¹⁴ The most significant scandal in Canadian government in recent years, however, is that surrounding the government’s mishandling of a \$250 million advertising and sponsorship program, throughout the period 1995-2002. This Sponsorship Scandal currently is the subject of three separate inquiries (a public inquiry, parliamentary inquiry, and a criminal investigation), civil litigation, and persistent questions about the participation and accountability of numerous bureaucrats and elected officials, up to and including former prime minister Jean Chrétien. The scandal was a major factor in Canada’s most recent elections, in which the governing Liberal party was reduced to a minority government, and is the centre of a good deal of media attention and public outrage.

Apparently, Canada has not been immune from the trend identified by della Porta and Vanucci, in which “corruption increasingly appears a problem common to most if not all democracies.”¹⁵ But what, if anything, do these recent scandals reveal about the level of political corruption in Canada? Are they idiosyncratic events, the product of a few ‘bad apples,’ or do they indicate a bigger problem of widespread corruption in the political system? Scholars of Canadian politics have for the most part not engaged directly with such questions nor with the wider literature on political corruption in comparative politics. While a few Canadian scholars have addressed the subject of

¹¹ CBC News, “Gun Registry Cost Soars to \$2 Billion,” 13 February 2004.

<http://www.cbc.ca/stories/2004/02/13/gunregistry_rdi040213

¹² CBC News, “MPs Say Privacy Commissioner ‘Deliberately Misled’ Them,” 13 June 2003.

<http://www.cbc.ca/stories/2003/06/13/radwanski_report030613>

¹³ S.L. Sutherland, “‘Biggest Scandal in Canadian History’: HRDC Audits Start Probity War,” *School of Policy Studies Working Paper 23*, Queen’s University, August 2001.

¹⁴ Jackson 2001, p. 114.

¹⁵ Della Porta and Vanucci 1999, p. 4. According to these authors, “popular control has proved ineffective and the perception that corruption, while concealed, is widespread has fueled a general distrust of and dissatisfaction with politics, public institutions, and the governing elite.”

government ethics, accountability, and integrity, with a focus mainly on conflicts of interest, no Canadian study to date has attempted to apply a comparative measure of corruption to the Canadian political context.

The scope of this paper, too, is modest in this respect. Focusing on the current Sponsorship Scandal, the approach of this paper is to analyze this one prominent case of political scandal in light of the principal-agent framework for corruption analysis suggested in the growing international literature on political corruption. The goal is to discuss the scandal in a way that is at least minimally meaningful for a conversation with extant studies of corruption in comparative politics. The guiding question of the analysis is: To what extent is the activity revealed in the Canadian Sponsorship Scandal properly conceived of as an instance of political corruption?

To provide context for this analysis, the paper begins with short reviews of the literature on ethics and accountability in Canadian government; the various institutions, rules, and procedures in place in Canada to protect integrity in public life; and various approaches to the analysis of political corruption suggested in the literature on this topic. A discussion of the details of the sponsorship scandal is then followed by analysis according to the component parts of a corrupt transaction: the public officials involved (agents); the recipients of the favour (third party); and the favour provided and payoff gained (the exchange).

The Literature on Government Ethics in Canada

To date, scholars of Canadian politics have not engaged with the literature on political corruption in an attempt to measure the level of corruption in Canada or compare political corruption in Canada to that in other countries.¹⁶ A few Canadian scholars have, however, begun to address a growing concern for ethics in government, in different ways. Greene and Shugarman (1997) survey the rules and practices governing patronage, conflicts of interest, and undue influence in Canadian government affairs, and describe a number of scandals that have arisen in relation to each. Their study assesses the ethical deficiencies in Canadian politics and suggests appropriate remedies, noting that in

¹⁶ For a brief, journalistic attempt, see CBC New Online, "Handling Scandal: How Canada measures up," 5 April 2004. <cbc.ca/news/background/groupaction/handlingscandal3.html>

Canada “the infrastructure needed to support honest politics is, depending on the issue, either partly built, neglected, or non-existent.”¹⁷

The collection of essays in Langford and Tupper (1993) takes a similar approach while surveying questions of patronage, conflict of interest, political party financing, scandals, and the like in various Canadian municipal, provincial, and federal contexts. In his important work on the concentration of political power in the central agencies of the Canadian government, especially the Prime Minister’s office, Savoie (1999) indirectly touches on the subject of integrity and accountability in government.

Unique among these works for situating its analysis in the context of recent non-Canadian literature on ethics and corruption in government, Mancuso et al (1998), taking a public-opinion centred definition of corruption, provide comprehensive empirical data on Canadian mass opinion to uncover Canadian attitudes and expectations about what is proper or improper behavior in public political life. Among its findings, their random survey of 1,400 respondents showed that most Canadians will not tolerate lying about public matters but do believe it is acceptable for a politician to lie to protect his or her privacy; that Canadian women are less tolerant than Canadian men about ethical breaches in general; that Canadians tend to hold politicians to a higher standard than they demand of themselves in the conduct of business; that Canadians view politicians as having lower ethical standards than journalists and civil servants; and that in the area of conflict of interest, Canadians lack a clear framework for understanding where the boundaries ought to be.¹⁸

In a somewhat related analysis, Jackson (2001) points out that Canadian attitudes and expectations about what constitutes ethical behavior in politics has shifted significantly over the course of the past four decades. While it once may have been perfectly acceptable for a widely respected minister to keep his eye on his own stock portfolio while directing federal cabinet decisions on economic matters, this is no longer the case.¹⁹ In light of these changing social norms, since at least the 1980s under the leadership of Prime Minister Brian Mulroney, Canada’s political establishment and

¹⁷ Greene and Shugarman 1997, p. 194.

¹⁸ University of Toronto, news@UofT, “Canadians say Politicians Can Lie to Protect Privacy,” 16 October 1998.

¹⁹ See Marci MacDonald, “Inside Paul Martin’s Empire,” *The Walrus*, October 2003.

governing institutions have striven to develop appropriate guidelines for the conduct of politicians and public officials.²⁰

Ethics and Integrity Rules in Canada

It is important to note that Canada has numerous institutions in place to protect integrity in public life, including a robust legislative framework; government departments, organizations, and agencies devoted to this task; and a variety of policies and procedures to guide the behavior of bureaucrats and appointed and elected officials.²¹

The most important body of legislation addressing corruption in Canada is the *Criminal Code*. The *Criminal Code* prohibits a wide range of corrupt activities including bribery, frauds on the government and influence peddling, breach of trust in connection with the duties of office, municipal corruption, selling or purchasing office, possession of property or proceeds obtained by crime, fraud, secret commissions, and laundering proceeds of crime.²² The *Corruption of Foreign Public Officials Act*, furthermore, criminalizes bribing a foreign public official, as well as possession or laundering of proceeds from such bribes.

Other Canadian laws directly address the integrity of public officials. The *Public Service Employment Act* stipulates the meritocratic appointment of public officials. The *Parliament of Canada Act*, the Rules of Senate of Canada, and the Standing Orders of the House of Commons address conflict of interest issues for Senators and Members of Parliament. The *Immigration Act*, the *Income Tax Act*, and the *Privacy Act* contain various provisions prohibiting bribery and the misuse of information for personal gain on the part of public officials. The *Access to Information Act* also establishes an enforceable right of access to information for Canadians.

²⁰ Jackson 2001.

²¹ Department of Justice Canada, "Canadian Public Integrity and Anti-Corruption Measures." www.canada.justice.gc.ca/en/cons/final2.htm; and Mark S. Schwartz, "The Canadian Government Current Status, Legislation & Policy," *Transparency International Canada* <http://www.transparency.ca/Readings/TI-A01.htm> Last accessed 1 November 2004.

²² Mark S. Schwartz, "The Canadian Government Current Status, Legislation & Policy," *Transparency International Canada* <http://www.transparency.ca/Readings/TI-A01.htm> Last accessed 1 November 2004.

In addition to legislation, a number of departments and agencies contribute to integrity and accountability in the Canadian government. Among these are the Office of the Auditor General, the Office of the Ethics Counsellor, the Information Commissioner, the Treasury Board, the Department of Justice, and Provincial Ombudsmen.²³

In their review of the government of Canada's approach to ethics, Glor and Green (2003) distinguish between criminally corrupt activity in government, which is rare in Canada, and unethical activity, which is less rare. Since the 1980s and especially throughout the 1990s the government focused a great deal of attention on building a culture of ethics and integrity through procedures to guarantee fair elections; rules to ensure ethical decision making in the legislative, executive, and judicial branches of government; and steps to improve the transparency, accountability, and efficiency of government.²⁴ This "ethics regime for public officials" has succeeded in defining corruption and has "set a context for protecting the public both from individual and collective unethical behavior."²⁵

Despite this variety of measures concerning ethics and integrity in the Canadian government, however, there is cause to argue that ethics rules in Canada remain somewhat undeveloped. Mancuso et al (1998) have noted, for instance, that conflict of interest regulations at the provincial level, where each government has developed its own rules, are more developed than at the federal level. In general there is no single, coherent body of government ethics rules in Canada, rather there is "a crazy quilt of regulations patched together over the years, usually in response to particular scandals or issues."²⁶ The rules in place, moreover, are full of loopholes. Canadian ethics regulations provide few provisions for transparency and any allegations are dealt with on an ad-hoc basis rather than according to a standing investigative procedure. When it comes to conflicts of interest, gifts and gains, patronage, and lying, according to Mancuso, "nothing but

²³ This review is not exhaustive. For a complete review, see Mark S. Schwartz, "The Canadian Government Current Status, Legislation & Policy"; See also The Department of Justice of Canada, "Canadian Public Integrity and Anti-Corruption Measures," <http://canada.justice.gc.ca/en/cons/final2.htm> Last updated 2003-04-24.

²⁴ Glor and Green 2002-3, p. 43.

²⁵ Glor and Green 2002-3, pp.58-59.

²⁶ Mancuso et al. 1998, p. 26. Little attention has been paid in the literature to a study of ethics and integrity at the municipal level, where opportunities for corruption may be particularly common.

honour prevents Members from using official influence or confidential information to further their private interests.”²⁷

Theoretical Framework for Analyzing Political Corruption

That scholars of political corruption disagree on how best to carry out social scientific research on this problem is a well rehearsed theme in the growing body of corruption-related literature.²⁸ Students of corruption are frequently reminded of the various approaches scholars have used in defining corruption, operationalizing this concept for research, devising typologies for its measurement, and designing corruption studies. To briefly sketch these matters:

- At least six different approaches to the conceptualization of corruption can be identified: Public-interest centred definitions; public-office centred or legalistic definitions; definitions that rely on widely agreed societal norms to determine corrupt behavior; definitions based on the concepts of patrimonialism versus rational-legal systems of public administration; market-centred definitions; and the principal-agent model, which conceives of corruption as the perversion of agency relationships.
- The literature on political corruption also encompasses a variety of typologies with which scholars categorize particular activities according to their degree of corruption: ‘Honest’ versus ‘dishonest’ graft; ‘Black’, ‘Grey’ or ‘White’ corruption, according to the numbers and types of individuals that consider the behavior at hand to be corrupt; and corruption with theft, or without theft.

Arguably, the most comprehensive framework with which to analyze political corruption is that proposed by Peters and Welch (1978) to analyze potentially corrupt acts according to the component elements apparently involved with political activity or exchange. These are the public official involved, the favour provided, the payoff gains, and the donor of the payoff or the recipient of the favour.

²⁷ Mancuso et al. 1998, p. 27.

²⁸ Lancaster and Montinola 1997; Goudie and Stasavage 1998.

In a more succinct version, making explicit reference to principal-agent theory, della Porta and Vanucci (1999) define political corruption as a function of the following three elements: (1) “a secret violation of a contract that, implicitly or explicitly, specifies a delegation of responsibility and the exercise of some discretionary power”; (2) where an *agent* has acted in favour of a *third party* and in violation of the interests or preferences of the *principal*; (3) and where the principal is the state or the citizenry.²⁹

The framework for the current analysis draws on similar elements, leading to the following three questions with reference to the Canadian Sponsorship Scandal. First, who are the agents involved and what was the nature of their duties? For instance, are they high level public officials ostensibly carrying out political duties, or lower-level public servants confined to administrative tasks? What level of discretion did the agent(s) properly possess in relation to the decisions taken that led to the scandal? Presumably, the higher level the public official, the more discretion in hand, the greater the potential violation of the public trust (i.e. perversion of the agency relationship with the citizenry) and the greater the level of corruption inherent in the transaction(s) under inspection.

Second, who are the third parties in this scandal and what was their benefit? In Peters and Welch’s framework, a political favour is considered less corrupt where the third party is a political constituent rather than not, and where the benefit is widely shared among multiple parties rather than a single person or firm. Therefore the relationship of the third party to the agent is an important factor in determining the level of political corruption inherent in a particular transaction, as is the generalizability of the benefit. The more personal the nature of the relationship, and the more particularistic the benefit, the more corrupt the transaction.

Third, what was the nature of the exchange? Was it carried out in secrecy or transparently? Was it an explicit short term exchange of favor and benefit (*quid pro quo*), or a more vague, long term, generalized exchange (for instance a political campaign contribution without explicit understanding of preferential treatment to follow)? Was the exchange carried out through an extraordinary activity or in the routine performance of the agent’s public duties. Did the payoff involve significant, large sums or minimal benefits? Was the exchange part of an ongoing relationship of exchange or a one-off

²⁹ Della Porta and Vanucci 1999, p. 17. Rose-Ackerman’s (1999) framework is similar, too.

event? In answer to all these questions, an exchange will be considered less corrupt when the latter conditions obtain rather than the former.

In the next section of this paper, the details of the Canadian Sponsorship Scandal are described and an analysis applying the theoretical framework described above follows. The guiding question for this analysis is to assess whether the Sponsorship Scandal is a case of serious political corruption, or, as former Prime Minister Jean Chrétien has attested, merely an isolated “administrative problem.”³⁰

The Sponsorship Scandal: Overview

Canada’s sponsorship scandal originated in a special effort undertaken by the federal government of Canada, under the leadership of Prime Minister Jean Chrétien, to strengthen Canadian federalism in the wake of the Province of Quebec’s 1995 referendum on separation. A serious challenge to Canada’s national unity, the referendum ended in October 1995 with Quebec voters rejecting separatism by the narrowest of margins. In response to this near-crisis, the federal government moved to strengthen its position. The government solicited an advisory opinion from the Supreme Court, which found that the constitution of Canada provides no right to secede and that any secession settlement must protect the rule of law, the principle of federalism and the rights of minorities.³¹ Parliament subsequently passed the Clarity Act to put in effect the Court’s advice.³²

In tandem with this constitutional-legal response to Canada’s national unity crisis, the federal government also embarked on a program to ‘win the hearts and minds’ of Quebecers, or at least raise the visibility of the federal government within the province of Quebec. Its main instrument for doing so was an extensive federalism advertising campaign. The government contracted advertising agencies in Quebec to execute the Canadian government’s plan to fund with federal dollars various hunting, fishing, and other recreational and community events across the province. The program, carried out by a branch of the federal ministry of Public Works, disbursed approximately \$40 million

³⁰ Quoted in CBC News Online, “Timeline of Recent Events,” 16 August 2004.
<<http://www.cbc.ca/news/background/groupaction/timeline.html>>

³¹ William Johnson, “How to Kill Quebec Separatism,” *Globe and Mail*, 6 December 2000.

³² Canadian Law Site, “Clarity Act: Ottawa Spells Out Rules of Separation.”
<<http://www.canadianlawsite.com/clarity-act.htm>>

per year over seven years, until, in the wake of the massive scandal, Prime Minister Paul Martin disbanded the branch responsible and ended the program in December 2003.

Ultimately, it emerged that this program served primarily as a boondoggle for Liberal Party supporters in Quebec and was carried out through “blatant political influence, secret dealings, misappropriated resources and dysfunctional management.”³³ The scandal unfolded as a series of public disclosures revealed a record of massive spending, little accountability, questionable value, and possible self-dealing among top government officials and Liberal Party insiders. For example, in May 1999, the federal government issued a \$615,000 contract to the Quebec advertising agency Groupaction Marketing Inc. to report on the value to the government of sponsorship deals – deals that Groupaction itself had handled for the government. In August 2000, it emerged that advertising companies in Quebec hired by the government, including Groupaction, were subcontracting their printing business to Lithographie Dickson, a firm that had hired the son of Public Works Minister Alfonso Gagliano, the minister in charge of the program, as its director of marketing and business development in 1999. In the wake of public criticism over this apparent conflict of interest, in January 2002 the Prime Minister removed Gagliano from Cabinet. However, instead of a conflict of interest rebuke, Gagliano received from the Prime Minister a new diplomatic posting – becoming Canada’s ambassador to Denmark.³⁴

Ongoing scrutiny of the sponsorship program revealed that the government had paid inexplicably large sums to Groupaction for studies or reports that apparently were never completed or were of negligible value to the government. These included \$550,000 for a 1999 report that was never delivered; \$615,000 for a 1999 report consisting of a 20 page listing of projects looking for government money; and a \$575,000 report to evaluate the impact of federal government sponsorship of recreation events. This report, of generally poor quality, included recommendations for events that had already taken place.

³³ Les Whittington, “Aides tried to hide role, inquiry told,” *Toronto Star*. 20 October 2004.

³⁴ Actually, the federal ethics counsellor cleared Gagliano of any conflict of interest in this case. For a review of the limits on the independence of the ethic counsellor from the Prime Minister’s Office, however, see Jackson 2001.

The growing sponsorship scandal continued to develop throughout 2002. In May 2002, Canada's Auditor General Sheila Fraser released a report saying that federal bureaucrats broke "just about every rule in the book" in their dealings with the Quebec marketing firm Groupaction.³⁵ On top of the \$1.6 million in federal contracts awarded to Groupaction, investigations also revealed that another Quebec firm, Group Polygone, had received almost \$40 million in government sponsorship contracts since 1997. The RCMP began a criminal investigation into these contracts. In September 2002 the RCMP raided the offices of Groupaction in Montreal, removing files and documents.³⁶ When Prime Minister Jean Chrétien retired from politics in December 2003, after a 40 year career, he did so before the full facts of the sponsorship scandal became known, but amidst growing public outrage and declining public popularity nonetheless.

In February 2004, the Auditor General of Canada, Sheila Fraser, produced a much anticipated report on her audit of the government's sponsorship program.³⁷ The auditor's revelations proved shocking. Using notably blunt language, Fraser's report to Parliament showed that between 1997 and 2001 the federal government had mismanaged hundreds of millions of dollars in a "scandalous" and "appalling" abuse by the Liberal government of the sponsorship program. The Auditor General revealed that in this four year period, more than \$100 million dollars out of \$250 million received by the program went to pay communications consultants and ad agencies that had close ties to the governing Liberal party. Moreover, there was little evidence that government received any value for these commissions and fees paid to various ad firms in Quebec.³⁸ Among the most noteworthy payouts, Groupaction received an estimated \$61 million in this period and another Quebec firm Groupe Everest received an estimated \$55 million.

Perhaps most shocking, the Auditor General found evidence that Canadian crown corporations and government agencies including the RCMP, Via Rail, Canada Post, and the Old Port of Montreal were implicated in shady financial transactions related to the

³⁵ CBC News Online, "Origin of a Scandal," 12 August 2004.

<www.cbc.ca/news/background/groupaction/timeline_origin.html>

³⁶ See CBC News Online, "Origin of a Scandal," 12 August 2004.

<www.cbc.ca/news/background/groupaction/timeline_origin.html>

³⁷ See Office of the Auditor General of Canada, November 2003 Report, Chapter 4 <<http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20031104ce.html>>

³⁸ Les Whittington, "Sponsorship deals weren't scrutinized: Bureaucrats signed contracts while Guité was absent; Relied on other staff to investigate contract invoices," *Toronto Star*, 2 November 2004.

sponsorship program. In at least three cases, Quebec marketing and communications firms collected large commissions for serving as conduits for federal funds targeted to crown corporations. In one case, the government provided a \$3 million sponsorship of events surrounding the 125th anniversary of the RCMP – an agency of the crown that already displays the Canada ‘mark.’ Three Quebec agencies – Lafleur, Media/I.D.A. Vision, and Gosselin, collected \$1.3 million of these funds before passing the remaining \$1.7 million to the RCMP.

In a second instance, the same agencies plus Groupaction collected similar commissions in connection with a \$5 million government sponsorship of a television series about Quebec hockey great Maurice Richard. In this case, Lafleur concocted a fictitious contract to funnel \$1 million to the television production through Via Rail, and earned a \$112,000 commission to do so. Canada Post paid \$1.6 million dollars, even though there was no contract or any documentation for the transaction, in contravention of its own policies. In all, communication agencies received \$440,000 in commissions without signing any contracts or providing any services. Lafleur and Media/I.D.A. also collected another \$225,000 in commissions for acting as go-betweens in the government’s \$1.5 million sponsorship of the Old Port of Montreal, to purchase a new screen for its science center.³⁹

About these transactions, The Auditor General Sheila Fraser has noted,

Rules were broken at every stage of the process for more than four years with little evidence of value received for the money spent...I am speaking about breaking, not bending, the rules. In several cases, sponsorship funds were transferred to five Crown corporation using highly questionable methods. These methods were apparently designed to pay commissions to communications agencies, while hiding the source of funding and the true nature of the transactions. There was little respect for Parliament and the parliamentary appropriations process.⁴⁰

³⁹ Mapleleafweb, “Findings of the Auditor General,”
<http://www.mapleleafweb.com/education/spotlight/issue_49/findings.html>

⁴⁰ Sheila Fraser, “Ethics and Accountability in the Federal Government: Room for Improvement?” Notes for an address to the Canadian Centre for Ethics and Corporate Policy, Toronto, Ontario, 8 March 2003.

The chair of Parliament's public accounts committee, John Williams said at the time: "This is a simple money-laundering scheme organized on a grand scale."⁴¹ For his part, former prime minister Jean Chrétien refused to comment on the unfolding scandal throughout 2003. In March 2004, retired from office and visiting overseas, Chrétien noted to the press that the sponsorship scandal was simply the result of "an administrative problem."⁴²

The Sponsorship Scandal: Analysis

Further details and facts of the government's handling of the controversial sponsorship program remain to be uncovered. The sponsorship scandal is currently the focus of several investigations. An independent commission, chaired by Justice John H. Gomery, is now charged with the mandate to identify people responsible for the creation of the sponsorship program; to clarify how communications and advertising agencies were selected; to document the management of the sponsorship program by officials at all levels; to document the receipt and use of funds and commissions that were disbursed by any person or organization; and to identify any other circumstances related to the sponsorship program or advertising activities deemed relevant to fulfilling this mandate.⁴³ Although not all the facts of the case have yet come to light, unfolding testimony at the Gomery inquiry contributes to the following analysis.

The Agents

Both the Parliamentary inquiry and the Gomery inquiry have introduced to the Canadian public a list of government staff, senior bureaucrats, and elected officials that participated in different ways in the sponsorship program scandal. At the top of the hierarchy of individuals implicated on the government's side so far is Alfonso Gagliano, the former Minister for Public Works under whose portfolio the sponsorship program operated. Although Gagliano has denied close involvement in deciding which ad firms

⁴¹ Quoted in CBC News Online, "Timeline of Recent Events," 16 August 2004. <<http://www.cbc.ca/news/background/groupaction/timeline.html>>

⁴² Quoted in CBC News Online, "Timeline of Recent Events," 16 August 2004. <<http://www.cbc.ca/news/background/groupaction/timeline.html>>

⁴³ These terms of reference are verbatim from CBC News Online, "Sponsorship scandal inquiries." 20 July 2004. <http://www.cbc.ca/news/background/groupaction/sponsorship_inquiries.html>

and programs would receive sponsorship funds and contracts, credible testimony from members of his staff suggests otherwise. Rather, it appears that Gagliano maintained close supervision of the program and was the ultimate decision making authority on where sponsorship funds would be allocated. A question remains as to whether and to what extent other elected officials – including former Prime Minister Jean Chrétien – were also involved in sponsorship program decisions or, at the very least, to what extent they were aware of the ongoing mismanagement of the program. What has become clear from the testimony of a number of witness to the inquiry, however, is that the sponsorship program was a very high priority for the government after 1995 and was frequently the topic of high level discussion between Gagliano, Chrétien’s chief of staff Jean Carl, and the bureaucrats that ran the program.

Two of these top bureaucrats were Chuck Guité, the senior official in charge of the sponsorship program until 1999, and Pierre Tremblay, Gagliano’s former chief of staff who took over the program in 1999. Tremblay died before the investigations into the program started. However, his staff have testified that he was an active alcoholic and was frequently unable to work after noon because of his drinking problem. It appears that Tremblay’s ineffectual leadership seriously weakened any oversight of the program. As for Guité, the RCMP have charged him on six fraud related charges for his alleged role in fabricating false contracts and organizing secret financial transactions between Canada’s crown corporations and several Quebec marketing firms.

It also appears that Gagliano, Guité, Tremblay, and their close associates wielded absolute discretion in how they operated the sponsorship program. Until 1999, in fact, the \$40 million per year sponsorship program included no set guidelines for deciding which community events qualified for funding, and for how much. In response to growing scrutiny of public spending in general and access to information requests from the media, the officials in charge of the program eventually did draft guidelines for sponsorship funding decisions. But these remained largely cosmetic, designed to be vague and “flexible” so as not to limit the ultimate discretion of the Minister in making the final decisions as to which events would be funded by Ottawa.⁴⁴

⁴⁴ Les Whittington, “Grants Awarded to ‘big Liberals’,” *Toronto Star*, 15 October 2004.

The Third Parties

The sponsorship program clearly benefited a handful of small marketing and communications firms in Quebec that together earned over \$100 million in fees and commissions over four years in return for very little work. Groupaction, Groupe Everest, Lafleur, and the other firms involved were a small clique whose owners and managers had close ties to the Liberal Party of Canada. Indeed, evidence from testimony at the Gomery Inquiry indicates that political affiliation “was a consideration” for the sponsorship program’s managers in determining which events would receive federal sponsorship dollars.⁴⁵ In other words, in doling out lucrative contracts, the government sponsorship program clearly favored Liberal party loyalists. Political ties defined the nature of the relationship between the government and the beneficiaries of the program. The report of the Auditor General concluded that there was little evidence that the public gained any benefit from the program’s disbursement of these funds. Indeed, the communication agencies often provided little or no services for their fees and commissions.⁴⁶

The Exchange

It is difficult to identify the exact nature of the exchange between the Quebec ad firms and the managers of the sponsorship program. One feature of the transactions emerging from the various inquiries is that deliberate efforts were made to protect the secrecy of the decision making. Officials involved in the program instructed their staff to eliminate paper trails, remove specific personal references in the records, and keep information on the files at a minimum.⁴⁷

A peculiar aspect of the sponsorship scandal as an instance of political corruption is that it is unclear whether there was any direct quid pro quo flowing to the officials involved in the decisions to allocate funds and commissions to specific firms. Allegations have arisen suggesting that this may be the case. It appears that after retiring

⁴⁵ Les Whittington, “Grants Awarded to ‘big Liberals’,” *Toronto Star*, 15 October 2004.

⁴⁶ Mapleleafweb, “Findings of the Auditor General,”
<http://mapleleafweb.com/education/spotlight/issue_49/findings.html>

⁴⁷ Les Whittington, “Aides tried to hide role, inquiry told,” *Toronto Star*. 20 October 2004.

from the public service in 1999, for instance, Chuck Guité received funds from Groupe Everest. This possibility will be a major aspect of the criminal investigation now under way against Guité. Certainly, the financial transactions involving crown corporations appear to have been constructed expressly and for the sole purpose of transferring large sums of cash to Quebec ad firms. The benefit from this for the sponsorship program and/or its managers, however, remains unclear. At the very least, generalized benefits would presumably accrue to the Liberal Party of Canada, and its elected officials (including Gagliano and Chrétien) through party financing contributions made by the Quebec ad firms and through ongoing support for the Liberal Party.

While it remains for the public inquiry to uncover further details, a couple of points about the sponsorship scandal are clear. First, the sponsorship program itself originated as an ostensibly legitimate public program. However, at best, high level officials in charge of this program grossly mismanaged the public funds for which they were responsible. At worst, in awarding lucrative contracts without proper documentation, guidelines, or public accountability these officials may have conspired to reward third parties in return for some as yet unidentified benefit to themselves.

Second, although criminal proceedings have not concluded, it is likely that some criminally corrupt behavior is at the core of the scandal. Whether or not this criminal activity is limited to one or two individuals (e.g. Guité) or is part of a broader self-dealing network of illicit activity at the basis of the entire sponsorship program is unknown.

Conclusion

Does this case reveal a general pattern of misconduct, or is it an “administrative problem,” an episode unrelated to broader patterns in Canadian government and from which no generalization about political corruption is possible? The lack of published studies in this genre attests to the difficulty of judging the answer.⁴⁸ On the one hand, as della Porta and Vanucci (1999) note, “corruption *in* a democracy is always the corruption

⁴⁸ Langford and Tupper 1994, p. 6.

of a democracy.”⁴⁹ Yet, clearly, the government of Canada for the most part does function to the benefit of the majority of Canadians, most of the time. Although public disaffection with the governing Liberal party in the wake of this scandal contributed to electoral losses for the party in the June 2004 election, the sponsorship scandal is not likely to lead to widespread regime breakdown akin to the Mani Pulite experience in Italy. Moreover, criminally corrupt transactions involving such large sums in the public sector remain the exception in Canada.

At the same time, there are certain features of the Canadian political system that may yet bring political corruption to the fore as a matter of public concern. The trend in Canadian politics over the past two decades has been toward increasingly centralized power with decreasing accountability.⁵⁰ Combined with a parliamentary tradition of strong party discipline and lack of transparency, these features do not appear to encourage high levels of ethics and integrity in Canadian politics. The extent to which this trend contributes to conflicts of interest, political scandal, and corruption in government is a question worthy of discussion.

A few further observations about political corruption in Canada bear remark. First, considering that Canada is one of the world’s longest standing and most admired democracies, it is particularly noteworthy that precious little attention has been paid to political corruption in the scholarly literature on Canadian politics. Canadian scholars have not attempted to measure of the level of corruption in Canadian politics. The Corruption Perceptions Index produced by Transparency International is the best such measure to date. Perhaps more attention to the comparative analysis of corruption in democracies is warranted altogether.

Second, the federal nature of the Canadian political system is such that Canada’s ‘crazy quilt’ of ethics regulations is unlikely to be transformed into a coherent national approach to ethics in government, any time soon. Rather, Canada is likely to continue to lack a systematic approach to ethics challenges in public life.

Finally, it is interesting to note that the political scandals that have attracted the most interest among Canadian journalists and the Canadian public manifest features

⁴⁹ Donatella della Porta and Alberto Vanucci, *Corrupt Exchanges: Actors, Resources, and Mechanisms of Political Corruption* (New York: Aldine De Gruyter, 1999), p. 10.

⁵⁰ Savoie 1999.

unlike those which most countries battling widespread corruption normally experience, that is straightforward bribery and quid pro quo transactions between agents and third parties. As the case of the sponsorship scandal has illustrated, the kind of corruption that tends to be prevalent in Canada is not so clearly transactional. Rather it has to do with mismanagement of the public purse for political rather than monetary gain, in cases where the money flows *out* to the third party in return for soft benefits to the public officials or political party.

APPENDIX

TABLE 1 - Canada's CPI Scores, 1995-2004

Source: Transparency International, "Corruption Surveys and Indexes"
<http://www.transparency.org/surveys/index.html>

Year	Score	High-Low Range	Number of Surveys Used	Rank	Comparison to Other Countries (sample)
2004	8.5		12	12	Behind UK (which scored 8.6)
2003	8.7	6.5-9.4	12	11	Tied with UK and Luxembourg. Less 'clean' than Australia, Singapore, New Zealand, Denmark, and others.
2002	9.0	8.7-9.3	10	7	Tied with Luxembourg and Netherlands. Ranked more clean than UK (8.7)
2001	8.9	8.2-9.7	8	7	Ranked more clean than Netherlands, Australia, Norway, UK (8.3)
2000	9.2	8.9-9.1	9	5	Only Finland, Denmark, New Zealand, and Sweden ranked higher.
1999	9.2	N/a	10	5	
1998	9.2	N/a	9	6	
1997	9.10	N/a	5	5	
1996	8.96	N/a	6	5	
1996	8.87	N/a	5	5	

TABLE 2 - Canada's BPI Scores, 1999 and 2002

Source: Transparency International, "Corruption Surveys and Indexes"
<http://www.transparency.org/surveys/index.html>

Year	Score	Rank	Other Countries
2002	8.1	5	Australia, Sweden, Switzerland, and Austria ranked higher.
1999	8.1	2	Tied with Australia. Sweden ranked first, with a score of 8.3

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