Policy Choices for Contemporary Canada: The emerging role of fathers as primary caregivers

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Introduction

The nation-state of Canada developed pragmatically, in a long series of events. Not so long ago the notion of mutual respect[1] between bureaucratic administrators and the "public" was more of a utopian dream than any reality in practice. The "mob" was a group objectified, and often, guided by paternalistic authority and discipline. Contemporary Canada reveals a different environment; mutual respect is a goal that, on occasion, can be witnessed in the interactions between citizens and government officials. Most importantly though, it is no longer a dream. Mutual respect is now a realistic and anticipated goal that many are striving toward. Ultimately, however, it is a democratized administration that citizens seek, one that is capable of adjusting to the dynamic social environment and that welcomes and invites citizen participation in the development of policy.

The following pages examine this philosophy, as applied to a contemporary issue: caregiving. Although many still cling to traditional values and the concept that "woman" is the only or the natural selection for the caregiving role, evidence now suggests otherwise. More recently, fathers who recognize the importance and value of raising their children have taken on the role of caring for children. In numerous cases, fathers are raising their children alone. Unfortunately, the state is slow to recognize the changing family structure and impedes the development of this emerging role by *presuming* it is always the female who is the primary caregiver.

This paper first explores theoretical possibilities for citizen participation in which citizens interact with government within policy communities or policy networks. It is followed by a case study of one single parent father and his children as they struggle to receive benefits from the Canada Child Tax Benefit program through Canada Customs and Revenue Agency (CCRA). The third section analyzes theoretical constructs, and outlines four concerns: 1) CCRA's mechanisms to gather information; 2) Regulation 6302 of *The Income Tax Act;* 3) the intention of the Child Tax Benefit; and 4) the interaction between this individual father and the Problem Resolution Program. The fourth section discusses CCRA's current application of the *post-parliamentary theory* and extracts two perspectives that may be able to move the engrained traditional philosophy toward a more socially equitable application. The first perspective is more a practical consideration in that the judicial system may recognize the importance of both the well-being of children as well as the caregiving role that a parent (regardless of sex) provides. The second perspective remains a worthwhile pursuit, to have administration recognize the value of embracing both the social justice principle together with a "customer focus."[2]

From the onset, it should be recognized that the purpose of this paper is not to discount the obvious imbalance of lone-parent families headed by women or to diminish the struggles that many single mothers face. The focus is that children may be subjected, as in the Smith's case, to a substantial reduction of their incomes. Ultimately, families and specifically children are going without. Guided by the notion that "rights" were developed to protect minorities, it is under this premise that this paper asserts changes must be made.

Section 1: Citizen Empowerment and "Public" Participation Theory

The notion of democratic administration, as Lorne Sossin suggests, means different things to different people; however, "in virtually every case, citizen 'empowerment' lies at its core" (Sossin, 2002, p. 78). Sossin defines the ideal of citizen empowerment by understanding that interaction between citizens and public administration transcends dichotomous labels of left or right and that

> …the administrative process would require a fundamental restructuring of bureaucratic norms... Such a restructuring would have as its goal a form of public administration in which public officials would view their interaction with citizens on a similar footing to their interaction with political officials – as a source of authority, legitimacy, and policy direction (Sossin, 2002, p 87).

Sossin continues to acknowledge that "democratic administration, whether seen as a reform project for increased accountability or for increased participation, raises the same fundamental question, namely, how to transform people from the object into the subject of government" (Sossin, 2002, p. 79). The World Bank recognizes the value of giving administration the opportunity to provide discretionary measures in pursuit of social justice. Their *2001 World Development Report* states "[o]fficials also need tractable regulatory frameworks, with proper performance incentives and mechanisms to ensure accountability and responsiveness to clients, including poor people" (*World Bank,* 2001, pp. 99/100).

Many scholars have pursued what it means for citizens to participate in policy decision-making. Bishop and Davis (2002) acknowledge that governments have always spoken with recognized individuals and interest groups, but they also identify that there is now substantive evidence to suggest a rising demand for citizen participation. They perceive this change as being driven by citizens' distrust of public institutions. This declining trust has also been correlated with the decline in social capital (Putnam, 2000) and perhaps adds to the manifestation of the "democratic malaise." Of course, one of the difficulties with "participation" as a concept is that it can be highly contested, along with other concepts such as globalization or democracy itself. In fact, "liberals, radicals and authoritarians all favour participation, a tribute to the term's symbolic potency and semantic hollowness" (Edelman, 1977, p. 120).

Grappling with the notion of participation, Bishop and Davis reveal trends and underlying preferences, and identify common threads that are woven through the discourse, ranging from limited consultation to direct democracy. Of course, there are obvious questions of levels or degree of power sharing and perhaps more importantly, the relationship between traditional representative institutions and new consultative processes. Unfortunately, as Bishop and Davis suggest, this range of understanding can make participation a political weapon, rather than a rational application of a model for effective citizen involvement.

Bishop and Davis developed a model, *Participation as Discontinuous Interaction;* it asserts that participation levels are correlated to a particular policy, as well as the techniques and resources available, "and, ultimately, a political judgment about the importance of the issue and the need for public involvement" (p. 21). The authors develop and propose a "five way characterization" of participation.

1. *Participation as Consumer Choice* is asserted as an important new possibility for consumer (nee citizen) influence on policy initiatives and outcomes. Bishop and Davis walk a tightrope, pointing out its potential benefits while at the same time, selecting modest critics who state that the difficulty for both proponents and critics of New Public Management (NPM) is that it is "embryonic." There is no claim to serve social justice in the NPM model; not only do citizens

suffer, but so do civil servants. Unqualified[3] citizens, in their role as recipients of benefits, have neither the ability to exercise any degree of market power nor the ability to exercise their free choice. Gindin (2001) suggests that when any attempts are made to utilize social justice as a challenge to the legitimacy of the market or private property, social justice becomes "a sin because it imposes limits on freedom" (*Unpublished Notes,* p. 3). Although Bishop and Davis question whether the market provides legitimate grounds for inclusion as a participation model, since they are focusing on participation, they avoid criticizing NPM; rather, they suggest that NPM has possibilities for reshaping policies. (For a detailed analysis and critique of NPM, see Andrew Stark, 2002.)

2. *Participation as Control* is typically identified with the use of referenda. The driving force for recent proponents of referenda is communication technology, such as the Internet, as well as cable and satellite communications. Bishop and Davis recognize the standard objection, that complex issues are reduced to epigrams and pictorial simplicity but consider the possibility that "virtual democracy" may find a legitimate place amongst participation mechanisms.
3. *Participation as Standing* is a more recent model and, as the authors state, is limited as a broad tool for participation. The means and abilities of many citizens to access its judgements are quite limited. While the judicial system may be a more neutral site for negotiation, the courts must adhere to the Rule of Law. Social justice can be overlooked; as Antole France (1894) writes "…the majestic equality of the law, which forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread." Further, this model does not support a setting for hearing contrary ideas and arguments outside the context of law, but rather, can appear more as one group attempting to assert its rights over another group's rights.
4. *Participation as Partnership* is a model for "future directions for participation and, indeed for the character of governance" (p. 23). Bishop and Davis state that the emerging role of government to act as a mediator between competing interests – implicitly citing government as a neutral observer without "interests" of its own – falls short of reality in practice. The authors point out one pitfall, "[p]artnerships risk supporting organised groups at the expense of those who have little voice…" (p. 23).
5. *Participation as Consultation* is the most familiar form. It implicitly acknowledges that government still retains the power to make the final decision and includes the notion that those being consulted have the capacity to comment, and the ability to influence the decision. When there is conflict, this model also offers the "appearance of action," which deflects criticism or reinforces decisions already made. Interestingly, Bishop and Davis consider this type of participation addresses the "social justice principle." They also see "customer focus" as the catalyst driving institutions towards continuous improvement as being part of this model. Bishop and Davis do not correlate what may on reflection appear obvious to readers. Having a customer focus demands *continuous* improvement and therefore suggests *continuous* interaction. One action cannot happen without the other. Combining the principle of social justice with a "customer focus" provides substantial possibilities for improving citizen involvement in the policy process. Further, if social justice is a motivator of the process, there should be less need to deflect criticism. As a result, the consultative process would not offer merely an "appearance of action."

Richardson (2000) presents a different view of the dynamics between government and policy change by examining the participants in policy debate. He describes *post-parliament theory*, which asserts that policy change generally takes place within the policy community only when the community itself consensually agrees it is necessary. The communities and networks are stable and hold shared views. Judge (1993) concludes that the policy communities' stability demands a highly restrictive membership with vertical independence and protection from other networks and from the

"public," including parliament. The power of the actors within the policy networks derives from their making the decisions on which issues will be included as well as those which will be excluded from the policy arena.

Richardson (2000) suggests an alternative that reveals policy-making that is much more malleable, erratic and certainly less controllable. In this model, interest groups become more active in order to reduce their uncertainty, and at the same time, these movements usually create more activity amongst other interest groups, thereby leading to further uncertainty. The predominant actor that interest groups must contend with, he suggests, is government. If interest groups are to survive, they have two basic choices: either accept defeat on the current issue and hope to win on another *or* seek alternative venues where their influence may be felt.

One possible alternative is to seek out allies, which Fritschler (1975, p. 3) describes as "anti-policy community politics." Interest groups can employ more than direct action or protest; they often combine the former strategy with private negotiations between their representatives and state officials. Social movements also by-pass regular, routine consultation in order to place new ideas or issues into the public domain, increasingly using the courts as a mechanism to gain attention. However, for customary policy communities that have established their franchise in the policy arena, any "new ideas are a potential threat," unless of course, they originally generated them or if they can mould them to suit their needs (Richardson, 2000, p. 1019). A new idea or knowledge is a powerful change agent and has the potential to make radical change, "in public policy and to the power and composition of existing policy communities and networks" (p. 1020).

Kane and Bishop (2002) also emphasize the participants, but from the perspective of government. They suggest that the first and perhaps most obvious step to change is the identification of "stakeholders" who the authors specifically consider to be "those extra-governmental individuals and groups who form part of the 'community' to be consulted" (p. 88). Of course, if policy-makers consider the social justice principle (as Bishop and Davis suggest they should) as an inherent part of the consulting process, then it is obvious that the interests and values of "others" who would be affected by a policy must also be consulted. However, equal rights do not mean equal opportunity, and as Kane and Bishop state, "[t]hese interests and sensibilities must be given equal respect, if not necessarily equal weight" (p. 88).

To provide a map or a synthesis of the various models would be impossible. "Public" participation cannot be reduced to a single, static strategy. However, to empower citizens and legitimize government action, citizen participation in policy development must always be a fundamental element, regardless of the "tool" utilized. In reviewing the modes of participation, Bishop and Davis' *Participation as Consultation* is the most effective when customer focus and the social justice principle are the predominant features. As a result, Bishop and Davis' assertion that participation levels are "discontinuous interaction" does not embody the ideal; rather, participation should be a *Continuous Interaction,* regardless of the technique implemented or the resources available. In my opinion, *Continuous Interaction* has the potential to make participation effective and empower citizens, if both the social justice principle and customer focus are embraced together.

Section 2: The Case Study…

The Family Allowance, which began in 1944, was the first "universal" payment paid by the federal government of Canada to citizens; in this case, mothers. It led the way to other universal programs, such as the Canada Pension Plan. The benefit became part of Canadian identity, and in a small way, created a bond between citizens and the nation-state. Universal meant each child, through his or her mother, received the benefit, regardless of the social position of his or her family. The department now called Human Resources Development Canada administered the funding. In 1992, the program

dramatically changed as part of the Income Security Program (ISP) Redesign, a proposed $200 million project that ended up costing taxpayers closer to $400 million (*Canada Estimates,* 1997). "The Redesign Project will reduce costs and will ensure that statutory benefits are provided to the right recipients, on time, in the right amount" (*Canada Gazette,* 1994, 4-26). In August 1995, the Family Allowance program was put into the hands of Canada Customs and Revenue Agency, which maintains and polices the program today (*Richers* 17.681-13) under its new name, the Canada Child Tax Benefit.

In the case at hand, John Smith and his wife legally separated in 1998. There were two children born from the marriage (in 1992 and 1995). Smith and his spouse agreed that both children should *remain* under his primary caregiving role. This was formalized through the Family Court system. In January 2000, Smith entered a common-law relationship. Smith and his common-law partner informed the CCRA of the marital status change through H&R Block (an income tax filing company) and their personal income tax returns in April 2001. The relationship ended in February 2002. Since that date, there has been no further contact between them. In April 2002, Smith again informed H&R Block that his living situation had changed, and his tax submission was adjusted accordingly.

On August 20, 2002, six months after the common-law relationship ended, instead of receiving the monthly Canada Child Tax Benefit as he expected, Smith received a bill from CCRA for $6900. The period from January 2000 (the beginning date of the current relationship) until August 2002 (the current date) was the timeframe that CCRA was billing Smith because he was living in a common-law relationship, with a woman, and because the benefit is to be paid to the woman. Simultaneously, Smith's ex-common-law partner had $6900 electronically deposited into her bank account. The woman refused to return the money; the Canada Customs and Revenue Agency had informed her that no one, including the Canada Child Tax Benefit, could take the money back. She was and is legally entitled to the monies.

It was only after speaking with administrators at the CCRA that Smith discovered he should have informed the CCTB directly of his change in living arrangements. Declaring that change when filing his personal income tax was not sufficient, although the outcome and consequences would not have been any different. The CCTB staff told Smith "all policies were available to the public and that it was his responsibility to read the fine print" (Interview #1, Oct. 26/02). The program administrators also informed Smith that the law required him to fill out the *Change of Marital Status Form*, although the form was currently on back-order.

A staff member of the Problem Resolution Program told him "he should have had a better relationship and that if he had, this wouldn't have happened" (Interview #1, Oct. 26/02). Smith was not asked for any details, neither his name nor his ex-partner's. John Smith had alone applied to receive the Child Tax Benefit. His children spent overwhelmingly the majority of their time in his home and under his responsibility. He was and still remains both children's primary caregiver; however, according to Regulation 6302 of the Income Tax Act, he was not the "*eligible individual*."

The provisions laid out in Regulation 6302 of the Income Tax Regulations outline the criteria that define an *"eligible individual"* in respect to receiving the Child Tax Benefit. Amongst the eight factors, two are highlighted. First, the *eligible individual* is the parent ("parent" does not infer biological) of the child who primarily fulfils the responsibility for the care and upbringing of the children. Second, the parent who primarily fulfils the responsibility for the care and upbringing *is presumed to be female.* In relation to the first factor, John Smith was and is the children's primary caregiver, and is responsible for the care and upbringing of his children. In relation to the second factor, the presumption that a female is the primary caregiver is simply wrong in this case.

In the *Canada Tax Cases* (1998) it is cited in Cabot v. R. that Regulation 6302 sets out the criteria to determine which person qualified as the eligible individual *"where more than one person*

applied for the benefit" (p. 2893, emphasis added). Justice Bowman (*Canada Tax Cases,* 1999) states that "[b]oth parents must have filed the notice under subsection 122.62(1) or they would not even have been considered for the benefit" (p. 2231). The judge also reiterates the purpose of the legislation: the "child tax benefit is to benefit the child" (1998, p. 2900). For the case in point, *only* Smith applied to receive the CCTB; his common-law partner had not done so. The purpose is also made explicitly clear: the Child Tax Benefit is to add to the children's well-being.

Today, John Smith and his children continue to receive the CCTB at half of the means-tested amount. The CCRA will re-establish the payment to its original level of benefit when there is no longer an outstanding balance.

Section 3: What Went Wrong?

The transfer of the Child Tax Credit to the CCRA and its subsequent Problem Resolution Program has positioned a social policy in the hands of an administration whose conduct is aligned with the organizational processes, thinking and culture narrowly defined by the collection and disbursement of tax revenue. And – it is no longer universal. Only through "means-tested" criteria will a child receive the benefit. CCRA also presumes that the woman is the primary caregiver – she does not need to be the biological "mother" but only that she be designated as the female sex, and living at the same residence as the children. Like the Family Allowance, the benefit is paid to the woman. There are some grave fallacies embedded within this argument and the subsequent legislation.

Originally, the program's objective was to ensure that some degree of financial "emancipation" was provided to *women* to care for their children (Vibart, 1926). The rationale was that by paying the benefit directly to women, it ensured that they had some control over the small benefit received. However, just because a woman lives in a family that has an annual income of $12,000 or alternatively, $500,000, does not necessarily mean that she has any control over distribution of the income. Should this social transfer support only women and children living on low incomes or should it support all children? Is one type of parent more deserving than the other? In fact, just because women and children live in middle or high-income households, does not mean they have access to any of the resources or assets. Who is the benefit intended to target today, women or children? The "rule" also supports the stereotypical notion that a woman is *the* caregiver. According to Statistics Canada (*2001 Census*) 245,825 lone-parent families are headed by males. Although they are a minority (the remaining 1,311,190 lone-parent families are headed by females) *these male single parents* are the primary caregivers to their children. With many and perhaps most institutions recognizing the changing patterns of the "traditional" family, what happens when the primary caregiver is not a woman?

Smith made several attempts to rectify the problem, representing himself with the public service, including approaching his local Member of Parliament in the first week following the CCRA's adjustment. About the same time, a staff member at the Finance Minister's Office (who is responsible for the administration of the CCTB) suggested writing a detailed letter to the Office of the Minister for reconsideration. This detailed letter was completed and forwarded to the Minister on January 22, 2003. The response (dated March 21st, 2003) outlined Regulation 6302, denying Smith's claim and directed him to the office of The Problem Resolution Program of the CCRA for any further questions.

The Problem Resolution Program (the "Program") is a section of the Canada Customs and Revenue Agency. According to staff, the program's overarching goal is to mediate disputes between legislation and citizens' interpretation of that legislation (Interview #4, May 15/03). Note that the mandate has nothing to do with justice, or fairness as is the broader goal of the CCRA. It is no wonder then, that the Program's mantra is the Rule of Law when claims oppose the writing of Regulation 6302 of *The Income Tax Act*. Although certain, and perhaps most, members of the Program may feel sympathetic toward alternative claims, such as the Smith case illustrated above, their allegiance binds

them to the Minister, thereby forfeiting any discretionary ability while reinforcing the "justness" of policy-makers' decisions. As difficult as it may or may not be to enforce legislation on a personal level for the administration of the Program, their ability to serve justice is also narrowed by the Rule of Law. Justice, they claim, should be found through the civil litigation process.

Administrators of the Program perceive that justice should be claimed from Smith's ex-common-law partner (an unemployed, single mother of three who has no financial ability to fulfill any award). Any legal costs associated with pursuing a civil lawsuit, would no doubt be a further burden on Smith, and if not Smith, the Canadian taxpayer. In other words, the Program is asserting that the burden of responsibility falls upon the ex-common-law partner, while simultaneously denying any onus of responsibility upon the Program or the staff. Interestingly, the website states that the Program will also "look at ways to prevent the same problem from happening again" (CCRA Website); however, staff did not show any willingness to seek out reforms.

The Problem Resolution Program recognizes itself as somewhat limited, insofar as the public accesses the general enquiries services or "other" normal channels to solve a problem before the initial contact with the Program takes place. In fact, CCRA's website is explicit in stating that *all* avenues should be exhausted before initiating an enquiry with the Program. According to senior Program officials, (Interview #4, May 15/03) all members are highly skilled and trained; usually employment within this division of the CCRA takes place through advancement and promotion from both the rank and file and management.

Within the CCRA's website, it is reiterated on numerous occasions that most problems are resolved quickly and accurately through normal channels. When working within the Program, however, problems are prioritized. There is no identification of *how* the Program establishes the priority. This rather ambiguous feature is highlighted in the CCRA's *2001-02 Annual Report to Parliament*. According to "Schedule B" of the *Report*, the Problem Resolution Program acknowledges the industry standard that return contact should be made within 24-48 hours, and with resolution taking place within fifteen days; further, that there is a target to reach this goal one hundred percent of the time. Unfortunately, under the heading of the Program Resolution Program, empirical data was "not available" relating to its responsiveness or its effectiveness. The one category made available, which was based on 2001-02 Results, revealed a 76 percent effectiveness rate, although as suggested, this figure was based on a sample that was not statistically representative.

In a follow-up interview with the senior staff of the Program, it was simply reiterated that they were bound by law to enforce Regulation 6302, regardless of the information provided by either the cited court cases (above) or by any sense of social justice. Even the acknowledgement that the ex-common-law partner showed no parental care or concern for the children's upbringing by either staying in contact with them or by returning the Child Tax Benefits to them, added any value to the review (Interview #4, May 15/03). While the officers showed personal empathy and perhaps remorse for their dutiful behaviour, as well as disdain for the behaviour of Smith's ex-common-law partner, the only discretionary ability that they were "legally" able to pursue was to reduce the scheduled repayment amount to a "tolerable" level for Smith. They would neither speculate on how to "look at ways to prevent the same problem from happening again" nor venture into any possibility for further negotiations.

Thanks for coming; case closed.

Using the models proposed by Bishop and Davis to examine the case reveals both inadequacies and possibilities. *Participation as Consumer Choice* is an illegitimate participatory model. This model does not take into account the notion of social justice, or a governments' obligation to be socially responsible to the citizen. *Participation as Control* excludes many (and often those who are the subject of the policy initiative) from participation. *Participation as Standing,* also supported by

Richardson (2000), can provide an opportunity for interest groups or individual citizens to by-pass the regular, routine consultative process in order to place new ideas or issues into the public domain. Smith has the right, although not necessarily the opportunity, to use the court as a mechanism to claim justice. Alternatively, as Fritschler (1975) asserts, Smith could seek out allies to assist him, although as Smith states, he is "not aware of any politically active single-father groups" (Interview #6, July 31, 2003). *Participation as Partnership* can widen the abyss between those who hold power and those who do not, and in this instance, falls short of reality in practice.

Participation as Consultation is an ideal, but unfortunately also fails the test in practice. With that said, it is not a model that should be discarded. Kane and Bishop's assertion that consultation with stakeholders must take place is directly relevant to this particular case. Had policy-makers the ability or the political will to include parents in the CCTB's policy formation, perhaps Smith's case never would have occurred. Although the Problem Resolution Program gave the *appearance* of action, insofar as making space and time available to speak with Smith, the outcome was already decided before they sat at the table, turning the process into something more closely aligned with manipulation, rather than sincere, legitimate participation. The interaction between Smith and staff of the Problem Resolution Program had neither a social justice nor a customer focus perspective. Building the capacities of the "public" and civil servants will bring democratic administration a step closer to reality.

The purpose of democratic administration is the transformation of people into the subjects, rather than the objects of government. This case is important in these terms. Administrators should have the ability to pursue social justice, to have (albeit limited) discretionary abilities as well as malleable statutory frameworks and mechanisms to ensure accountability and responsiveness to clients, including poor people. This case underlines how important the ability is. This study also highlights the development of alienation and distrust of citizens by government institutions and public service employees.

Section 4: A New Direction…

The preceding case study illuminates the need for effective citizen participation to address social justice and citizen empowerment on an individual level. I believe that Richardson's (2000) description of *post-parliamentary theory* best illustrates the interactions between government administrators and an individual citizen in this case. *Post-parliamentary theory* excludes individual (as well as collective citizen participation) and at the same time, protects administrators from the "public." Program administrators also decided that reforms, in light of this case, would not be considered, even though the Program's goals suggest otherwise. Others could argue that *Participation as Consultation* is also valid because administrators gave the appearance of action and reinforced the decision that was already made, as well as deflecting criticism by referencing the Rule of Law.

However, building on Bishop and Davis' theory of *Participation as Consultation, Continuous Interaction* can make citizen participation effective, whether on an individual basis or a collective whole. This construct can manifest in practice and transform citizens into the subjects of government by combining social justice with the philosophy of a customer focus.

Customer focus is more than addressing various stakeholders' needs in a consultative process before policy is formulated; it means that members of the organization continually monitor "client" needs and wants with structured mechanisms, such as regular focus groups, as well as unstructured opportunities, for example, feedback from front-line workers and clients. This focus is complemented by the organization's systems, which capture relevant information. In turn, the organization designs its systems, processes, and services to satisfy those needs and wants (Deming, 1986). The ascension of

legislation does not end the process of clearly understanding the changing needs of clients. A customer focus anticipates change and the organization then adjusts its processes to respond to emerging situations or facts.

Although the Problem Resolution Program did not refer Smith to alternative dispute resolution venues, according to a publication produced by the CCRA, *Your Rights* (2000) there is still the opportunity to appeal the assessment to the Tax Court of Canada. It is a choice that Smith *can* exercise, and at the writing of this paper, he is considering. The "Test Case Centre" at the University of Toronto could also provide a challenge to the *Charter* as this case also highlights the discriminatory practices of the CCRA legislation. Sossin (2002) states: "the courts provide perhaps the significant supervision of administrative action. Courts have the authority not just to publicize bureaucratic wrongdoing, incompetence, or malfeasance, but to impose remedies as well" (p. 78).

To remove the discriminatory presumption of *woman* (and traditional value judgement) being the primary caregiver from Section 6302, and by replacing "woman" with "parent," public administration would become more equitable and contemporary. The presumption can still be maintained through departmental rules and regulations, which would be much more flexible and importantly, allow administrators discretionary abilities. As Sossin (1993) argues, this is ultimately necessary to uphold social justice. This would not only support the emerging role of fathers, it would ensure that the children receive the benefit of the Canada Child Tax Benefit.

Conclusion

The combination of moving the administration from Canada's Human Resources to Canada Customs and Revenue Agency, along with the change from a demogrant to a means-tested transfer, has brought with it many other changes. Predominantly, it positioned a social policy within an "accounting" administration. Perhaps this administration was previously rewarded for applying, without exception, the legislation associated with the collection of taxes and at the same time, there was little or no requirement to be socially just, outside of the social justice principle embodied within taxation law. Many changes have occurred since the introduction of Family Allowances in 1944, including the perception of whom are caregivers.

One theoretical perspective suggests that there is the potential to apply reforms directly to legislation, as suggested by Bishop and Davis' *Participation as Standing Model,* to contest the validity of Regulation 6302 through Canada's judicial system. The second model, reconfigured from Bishop and Davis' *Participation as Consultation* model is proactive; *Continuous Interaction* anticipates change and has the ability to develop a relationship of mutual respect between public administration and citizens. *Continuous Interaction* would encourage citizen participation and ultimately, develop human capacities, which in turn, leads to citizen empowerment. This model can create an environment for citizens and civil servants that support their working together to find the "best" solution to a problem, rather than entering into a competition that is more focused on winners or losers.

Four problems were identified by way of this case study:

The *first problem* was the CCRA's mechanisms to gather information. The "Change of Marital Status" form does not appear to be the apparatus that notified the Child Tax Credit program of change; rather, I believe the eventual filtering of information from personal income tax submissions was the mechanism, in this case. This would suggest the form is an unnecessary duplication of administrators' efforts and adds unnecessary costs and delays. Further, tax law conveys that determination of the "eligible individual" is only considered when more than one person applies for benefits. Since Smith's was the only application filed, it would appear CCTB administration determined eligibility on the identification of "sex" alone, also stemming from Smith's income tax submission.

The *second problem* is the rule laid out in Regulation 6302 of the Income Tax Act. According to Regulation 6302, the woman is presumed to be the primary caregiver; and further, the benefits are to be paid directly to her. CCRA denied the benefits of the Child Tax Credit to Smith and his children because he had entered into a common-law relationship with a woman.

The *third problem* is the intent of the Child Tax Credit. Although the Rule of Law dominates decisions, citing tax cases that identify the benefit is to benefit the child did not alter administration's decision. Unfortunately, the Problem Resolution Program chose to ignore such evidence and rather laid claim that they were unable to utilize any discretionary abilities.

The *fourth problem* is the handling of the case by the Problem Resolution Program administrators. The CCRA's vision is to be "recognized and respected by clients for [their] integrity, fairness, and innovation in administering high-quality, yet affordable, programs…" (CCRA Website). From the evidence of this case, however, it would appear these are not their primary objectives.

Perhaps the notion of "democratic administration" is inherent in the changing roles of individuals and families within Canada's contemporary society. Bureaucratic departments and agencies developed traditionally, to cater for the "way we were." Today, Canadian citizens express a variety of new values and behaviours once considered socially unacceptable. The challenge for our bureaucracies today is, therefore, to develop appropriate responses to these changing social circumstances. Ultimately, this is what the paper is all about… how administration can be more participatory, and adjust more quickly to the changing needs and circumstances of the citizen accessing governmental services. This in turn should reinforce the notion of *Continuous Interaction*, which combines social justice and customer focus for citizen empowerment in the dynamics of policy development.

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[1] The notion of mutual respect was an ongoing theme, presented by many authors including Sossin (1993, 2000, 2002), Glor (1997), Greene & Shugarman (1997), Greene, *et al*. (1998), Inwood (1999), Albo, *et al*. (1993) in Professor Greene's graduate seminar titled "Democratic Administration."

[2] Customer focus in this sense should not be associated with the meaning underlying the notion of New Public Management insofar that citizens present themselves as consumers to public administration. For further definition, please see the discussion at Page 9.

[2] "Unqualified" citizen, in this sense means that unlike having the power to represent her/himself as a taxpayer, and accessing certain inherent rights that are undeniable, unqualified citizens who are accessing social services from public administration take on a subordinate, disempowered role.

Sources

Albo, Gregory, Leo Panitch and David Langille. 1993. *A Different Kind of State? Popular Power and Democratic Administration.* Toronto: Oxford University Press.

Bishop, P. and G. Davis. 2002. "Mapping Public Participation in Policy Choices" in *Australian*

Journal of Public Administration. 61 (1). pp. 14-29.

Canada. 2002. *Canada Customs and Revenue Agency.* “2001-2002 Annual Report to Parliament.” Last Accessed: July 21, 2003. <http://ccra-adrc.gc.ca/ agency/annual/2001-2002/performance-e/SchedB.html>

---. *Canada Customs and Revenue Agency (CCRA).* Home Page. “Corporate Business Plan.” Last Accessed: July 21, 2003. <http://www.ccra.adrc.gc.ca>

---. 2000. *Canada Customs and Revenue Agency (CCRA).* “Your Rights In your dealings with the Canada Customs and Revenue Agency.” Ottawa: Queen’s Printer.

---. 1997. *Canada Estimate – Part 3 – Departmental Expenditure Plans, Part 3/4, 1996/97.* Ottawa: Minister of Supply and Services Canada.

---. 1994. *Canada Estimate – Part 3 – Departmental Expenditure Plans, Part 3/4, 1993/94.* Ottawa: Minister of Supply and Services Canada.

---. 1993. *Canada Gazette, Part II.* Statutory Instruments 1993, SOR/93-1 to 20 and SI/93 – 1 to 3. Ottawa: The Queen’s Printer. pp. 2-172.

---. 1992. *Income Tax Act – Part 1.* CTS 927. Ottawa: The Queen’s Printer.

---. Public Service Commission of Canada. “How Government Works: A Primer.” Last Accessed: November 03, 2003. <edu.psc-cfp.gc.ca/tdc/learn-apprend/psw/hgw/menu_e.htm>

---. *Statistics Canada.* Homepage. November 2002. <www12.statcan.ca/English/census01>

Deming, W. Edwards. 1986. *Out of the Crisis.* Cambridge: University of Cambridge.

Edelman, Murray. 1977. Political Language: Words That Succeed and Policies That Fail. New York: Academic Press.

France, Anatole. 2002. *The Red Lily.* (1894). Holicong, PA: Wildside Press.

Fritschler, A. L. 1975. *Smoking and Politics.* New York: Appleton-Century-Crofts.

Gindin, S. 2001. *Capitalism: Social Justice as Economic Freedom.* Unpublished Notes. Professor Gindin can be reached at York University; contact through email: <sgindin@yorku.ca>

Glor, Eleanor, D. 1997. *Policy Innovation in the Saskatchewan Public Sector, 1971-82.* North York: Captus Press.

Greene, Ian and David Shugarman. 1997. *Honest Politics: Seeking Integrity in Canadian Public Life.* Toronto: Lorimer.

-----, Carl Baar, Peter McCormick, George Szablowski and Martin Thomas. 1998. "Judicial Discretion and Democracy" in *Final Appeal.* Toronto: Lorimer.

Inwood, Gregory, (ed.) 1999. "Public Administration and Ethics" in *Understanding Canadian Public Administration.* Toronto: Prentice Hall.

Judge, D. 1993. *The Parliamentary State.* London: Sage.

Kane, J. and P. Bishop. 2002. "Consultation and Contest: The Danger of Mixing Modes" in the *Australian Journal of Public Administration.* Australia: Blackwell Publishing. 61(1).

Pound, R. W., D. Bigelow, C. Lau, L. Trickett and J. Wells, (eds). 1998. *Canada Tax Cases – judgements of the Supreme Court of Canada, Federal Court of Canada, Tax Court of Canada and provincial courts on taxation matters reported by Canada Tax Cases.* Volume 4, cited [1998] 4 C.T.C. Scarborough: Carswell Thomson Professional Publishing.

Pound, R. W., D. Bigelow, M. Perry, L. Trickett, D. Tsang, and A. Ng, (eds). 1999. *Canada Tax Cases – judgements of the Supreme Court of Canada, Federal Court of Canada, Tax Court of Canada and provincial courts on taxation matters reported by Canada Tax Cases.* Volume 2, cited [1999] 2 C.T.C. Scarborough: Carswell Thomson Professional Publishing.

Putnam, R. 2000. *Bowling Alone: The Collapse and Revival of American Community.* New York: Simon and Schuster.

Richardson, J. 2000. "Government, Interest Groups and Policy Change" in *Political Studies.* Volume 48. pp. 1006-1025.

Richers Canadian Tax Reports. CCH Canadian Limited. 1545-10-01. Computation of Individual Tax. S. 122.64(5) 17,681-13.

Sossin, L. 2002. "Democratic Administration" in *Handbook of Public Administration in Canada.* Toronto: Oxford. pp. 77-99.

---. 2000. *Law and Intimacy in the Bureaucrat-Citizenship Relationship.* Ottawa: Law Commission of Canada.

---. 2000. *Human Development, Law & Democratic Administration.* Rome: United Nations Office for Project Services (UNOPS).

---. 1993. "The politics of discretion: toward a critical theory of public administration." *Canadian Public Administration.* 36(3).

Stark, A. 2002. "What is the new public management?" (Book Review Essay) in *Journal of Public Administration Research and Theory.* 12(1).

Vibart, Hugh. 1926. *Family Allowances in Practice - an examination of the development of the Family Wage System.* London: P.S. King & Son.

World Bank. 2001. "Making State Institutions More Responsive to Poor People" in *World Davelopment Report 2000/2001: Attacking Poverty.* Chapter 6. World Bank. <http://www.worldbank.org/poverty/wdrpoverty/report/ch6.pdf>

Personal Interviews:

Interview #1. John Smith, Ontario. August 23, 2002 and October 26, 2002.

Interview #4. Senior Officials (names withheld) Problem Resolution Program, Canada Customs and Revenue Agency. Toronto, Ontario. May 15, 2003.

Interview #5. Telephone Interview, Problem Resolution Program. June 9, 2003.

Interview #6. John Smith, Ontario. July 31, 2003.

Letters:

Letter to the Minister of Finance from John Smith, dated January 22, 2003.

Letter to John Smith from the Deputy Assistant Commissioner, Assessment and Collection Branch, CCRA, dated March 21, 2003.