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**FACULTY OF GRADUATE AND
POSTDOCTORAL STUDIES**

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**Rethinking Accountability : Making Canadian Democracy Work Toward an Interactive and Ethical
Public Space**

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**Rethinking Accountability:
Making Canadian Democracy Work Toward an Interactive
and Ethical Public Space**

by

Paul Teleki

**Thesis submitted to the Faculty of Philosophy,
Saint Paul University, in partial fulfilment of the requirements
for the degree of Master of Arts in Public Ethics**

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**RETHINKING ACCOUNTABILITY: MAKING CANADIAN DEMOCRACY WORK TOWARD
AN INTERACTIVE AND ETHICAL PUBLIC SPACE**

Abstract

Canadian Westminster democracy is representational and problematic because it maintains accountability structures at the bureaucratic and hierarchical level from the top-down. This results in the exclusion of citizens from the accountability process and a public service and government that makes decisions that may or may not represent the citizenry. Broadening the democratic context to promote inclusivity, through participatory and deliberative democratic theory, will provide the space for an ethical and active accountability to flourish. Philosophically justifying the need to transition from our current accountability regime to include Alan Gewirth's conception of *the community of rights* (1996) will make political leaders ethically obliged to effectuate citizen preferences in political processes. By establishing the moral obligation of political leaders to effectively engage citizens in political processes, there must be a discussion of the actual policies and procedures that could guide the process of effectuating citizen preferences. We suggest that information and communication technologies in conjunction with face-to-face consultations may provide a conduit for the successful integration of citizen preferences, thereby resulting in an interactive democratic context which facilitates active accountability for citizens.

In loving memory of Uncle Lazlo Teleki who dedicated his life to the political liberation of his fellow citizens.

Abstract

Canadian Westminster democracy is representational and problematic because it maintains accountability structures at the bureaucratic and hierarchical level from the top-down. This results in the exclusion of citizens from the accountability process and a public service and government that makes decisions that may or may not represent the citizenry. Broadening the democratic context to promote inclusivity, through participatory and deliberative democratic theory, will provide the space for an ethical and active accountability to flourish. Philosophically justifying the need to transition from our current accountability regime to include Alan Gewirth's conception of *the community of rights* (1996) will make political leaders ethically obliged to effectuate citizen preferences in political processes. By establishing the moral obligation of political leaders to effectively engage citizens in political processes, there must be a discussion of the actual policies and procedures that could guide the process of effectuating citizen preferences. We suggest that information and communication technologies in conjunction with face-to-face consultations may provide a conduit for the successful integration of citizen preferences, thereby resulting in an interactive democratic context which facilitates active accountability for citizens.

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Table of Contents

Dedication	ii
Abstract	iii
Acknowledgements	iv
Table of Contents	v
Abbreviations	vii
INTRODUCTION	1
Thesis Statement	2
Methodology	4
CHAPTER I - UNDERSTANDING ACCOUNTABILITY WITHIN CANADIAN DEMOCRACY	
Introduction	8
1.1 Representational Democracy in Canada.....	10
1.2 Accountability within the Canadian Democratic Context.....	18
1.3 Accountability Case Studies: The Westray Mining Disaster and Sponsorship Scandal	29
1.4 Conclusions about the Characteristics of Accountability in Canadian Democracy	37
CHAPTER II - AN INTEGRATIVE DEMOCRATIC CONTEXT: TOWARD ETHICAL ACCOUNTABILITY PRACTICES	
Introduction	39
2.1 Beyond Representation: An Integrative Democratic Context	40
2.2 Active Accountability as Preferences from Citizens.....	48
2.3 Restoring Ethics in Accountability Processes	53
2.4 Conclusions about Active and Ethical Accountability	57
CHAPTER III - ACTIVE ACCOUNTABILITY IN <i>THE COMMUNITY OF RIGHTS</i>	
Introduction	59
3.1 Integrating Human Rights into Democracy and Accountability	61
3.2 The Purposive Agent's Right to an Active Accountability Process.....	76
3.3 Enabling Public Space and Interaction.....	84
CHAPTER IV - ACCOUNTABILITY, DEMOCRACY AND INFORMATION TECHNOLOGY: TOWARD AN INTERACTIVE AND ETHICAL PUBLIC SPACE	
Introduction	88
4.1 Information Technology for an Interactive Democracy	90

4.2 Accountability Policy Implications for Canada.....	95
CONCLUSION: THE INTERACTIVE AND ETHICAL PUBLIC SPACE	99
Bibliography	101

Abbreviations

CEO – Chief Executive Officer

CPP – Canadian Pension Plan

ICT – Information and Communication Technology

PAC – Public Accounts Committee

PCO – Privy Council Office

PGC – Principle of Generic Consistency

PWGSC – Public Works and Government Services Canada

TBCS – Treasury Board of Canada Secretariat

UDHR – Universal Declaration of Human Rights

UK – United Kingdom

Introduction

Why rethink accountability in Canadian government today? There are many underlying procedural and ethical problems associated with accountability theory and practice that currently operate within Canadian representational democracy. Canadian governmental institutions and processes are made possible by the taxes which citizens provide to the state. The problem lies in the fact that citizens have comparably less freedom and choices than political leaders in effectuating change with respect to the collection and effective allocation of our taxes. Aside from election time and optionally periodic community consultations, average taxpaying citizens have little direct involvement in accountability processes, which are used to judge the effective use of public funds, in comparison to government officials. Cases which clearly exemplify the effects of the misallocation of public funds indirectly and directly affecting the lives of citizens are shown in the Westray Mining Disaster and Sponsorship Scandal among an almost endless history of unethical leadership conduct. These problems are systemic in the Canadian Westminster style of democracy whose representational characteristics maintain accountability structures at the bureaucratic level, often entirely independent from an obligation to effectuate citizen preferences in the political accountability process.

Accountability processes in Canada are confined within a particular democratic context. Current accountability theory simply tries to patch the problematic characteristics within the current representational context rather than solve the problem altogether. Accountability theory needs to be reconsidered in a broader context of

political and economic democracy theory and practice in order to facilitate the effectuation of citizen preferences in political decision-making processes.

The problem that concerns this thesis relates to the problems associated with the representational accountability regime. We seek to establish stronger civil rights to a greater inclusiveness of citizens in the accountability process, especially with respect to current taxation policy. Citizens have rights to have their opinions effectuated in the allocation of public funds, especially if and when tax-based institutional processes negatively affect their everyday lives. This thesis seeks to broaden the roles of democracy and active accountability in Canadian society.

Thesis Statement

This thesis rethinks accountability in theory and practice. We argue that “active accountability” is both active and inclusive. In such an active and inclusive context, citizens have alternative choices to effectuate their preferences. The philosophical justification of an ethical accountability theory is a pressing task in our current historical and political situation, and requires solutions to problems inherent in our representational Westminster system. Accountability theory and practice requires an integrative democratic context to broaden the notion of actively effectuating the preferences of citizens and providing citizens with more options and choices to do so. Citizens require the civil rights necessary to oblige their leaders in facilitating a more inclusive democratic accountability process by virtue of their taxation. The current democratic context does not adequately (nor actively) include citizens in accountability

processes because of its representational and bureaucratic structures. The purpose of rethinking accountability resides in the generic rights of freedom and well-being for taxpaying citizens to balance the power of political decision-making, especially when the collection and allocation of tax dollars results in negatively affecting taxpayers themselves.

In addition to the arguments for the role of respecting the generic rights to freedom and well-being in the justification and specification of active accountability, we also argue that developments in information and communication technologies can help facilitate an effective transformation from our Westminster style of democracy to a more interactive and ethical political and economic democratic process. Although political and economic accountability structures differ in terms of the possibility of maintaining the civil rights necessary to effectuate citizen preferences, the method we establish in maintaining political rights can nevertheless be utilized in economic institutions as well. However, information and communication technologies cannot alone effectuate a more flourishing understanding of the human rights and duties that are entailed by a democratic and supportive economic and political order.

The development of an active accountability framework in the thesis differs from previous work in the area because of the methodological approach and goal of establishing an ethical and interactive public space. The thesis seeks to contribute significantly to the on-going development of accountability in public service and government, generally, in both theory and practice, by means of establishing the ethical justificatory basis of accountability in an integrative democratic context.

Methodology

Chapter 1 describes and critically examines current forms of democracy in Canada. By identifying the principles that currently guide accountability processes in Canadian representational democracy, that is, “efficiency,” “secrecy” and “optional transparency,” we gain a better understanding of how accountability operates within our current system. These operative principles support a democratic system that relies on hierarchical/bureaucratic structures with “top-down” methods of decision-making, and a one-way answerability communication flow from subordinates to managers.

Accountability processes are governed and controlled at the top, and optionally include the involvement of citizens in the process. Canadian legislation, which establishes accountability processes, reinforces an elitist position of governing and enforcing accountability as illustrated by the Federal Accountability Act, Financial Administration Act and Access to Information Act of Canada. Case studies demonstrate that there is a greater need for citizen inclusiveness in political processes, especially when the public purse interacts with private sector economic processes. For example, a more inclusive review of citizens/public servants in the cases of the Westray Mine Disaster, as well as the Sponsorship Scandal, could have prompted an intervention process to reveal warnings of the problem. A more inclusive review on timely and effective decision-making has theoretical and policy implications in regards to democratic and accountability processes. Our current Canadian democratic structure demonstrates that certain political processes, such as referendums, citizen panels, town hall meetings, etc.,

do indeed contribute to political inclusiveness; however, these processes are still confined within representative structures.

Chapter 2 expands the notion of the democratic context to become more inclusive in order to move beyond the problematic representational structure that underpins the current Canadian accountability regime. Deliberative and participatory democratic theory, among other inclusive forms of democracy, will provide an integrative democratic context and the practical space necessary for the flourishing of an ethical and active accountability process. There have been considerable theoretical advances in balancing power between citizens and leaders in regards to accountability; however, the integrative democratic context will provide the lens necessary to understand the problematic representational influences on accountability theory. This integrative democratic context will also provide the space necessary for an active accountability process that provides greater effectuation of citizen preferences in political processes. These processes ought to ensure that citizens are able to better express their civil rights and justice concerns, as well as actively address the unethical conduct of leaders. By forming an inclusive accountability theory that activates citizen preferences in processes, the representative institutions in Canada would allow an ethical accountability regime by primary means of the social consensus of its citizens. Furthermore, an active accountability process ought to enable the public space necessary to voice issues of civil rights and serve to protect human agents through preventative methods of intervention, including the on-going documentation of problematic occurrences for accountability purposes.

Chapter 3 suggests a philosophical basis for the needed transition from our current accountability regime to the justification of accountability within *the supportive state*. Political leaders are ethically obliged to incorporate citizen preferences into decision-making processes in the supportive state or “community of rights.” Alan Gewirth’s moral-political philosophy provides a useful analytical framework for critically analyzing the current accountability regimes, as well as some of its important failures. It also provides a basis for critically engaging the operative principles that underpin our current accountability regime. More specifically, Gewirth’s conception of the community of rights and the role of generic rights to “freedom and well-being” (Gewirth, 1996, p.17) of Canadian citizens entail policy implications, and make ethically obligatory procedures and supports that require citizen preferences to be actively incorporated into political processes. By virtue of state taxation, citizens have the civil and political right to an active accountability process that effectuates their preferences into political processes, particularly against problematic representational structures.

Moreover, by establishing the moral obligation of political leaders to effectively engage citizens in political processes, the actual procedures of how best to actively effectuate citizen’s preferences must be raised. Taking into consideration the vast distances between our populations, we ask: Is the public space required for the active accountability structure to successfully operate actually attainable? We suggest that information and communication technologies may provide a conduit for the successful integration of citizen’s preferences, thereby resulting in an interactive democratic context.

Chapter 4 links the previous chapters with information and communication technology (ICT) theory. Here the goal is to facilitate the ethical and interactive public space that makes possible the practice of active accountability. Technology has already assisted human development in our Canadian democratic and accountability processes; however, we seek to maintain the importance of face-to-face interaction, and in a variety of mediums, in order to strengthen the effective communication of citizen preferences to their leaders. Policy changes in conjunction with an adequate usage of ICT within specific governmental departments are required in order to accommodate the inclusion of citizens in political processes; however, the creation of an ethical and interactive public space requires further examination into the possibilities of the actual institutionalization of an active accountability process in Canadian democracy.

CHAPTER I

UNDERSTANDING ACCOUNTABILITY WITHIN CANADIAN POLITICAL DEMOCRACY

Introduction

What type of democratic systems underpin Canada's current accountability regime? This chapter identifies the different types of democratic systems that characterize Canada's political system best, and demonstrates the predominate roles that efficiency, secrecy and optional transparency play in representational Westminster democracies. Economic processes entail an interaction with political operations and representatives who utilize public funds. Some private sector organizations operate entirely without support from the government, whereas other organizations operate entirely with the assistance of public funds. This interaction between the private sector and the public purse is facilitated by government representatives and can easily blur the lines as to who is making the decisions and whether it is in the public interest.

With a concept of the democratic context in Canada, we will also have a view of the framework within which the current accountability regime operates. This chapter also reviews Canadian writers who examine accountability practices, and identifies some terminology commonly associated with the idea of accountability. It will be demonstrated that the theory of accountability in Canada is confined within the Canadian representative democratic context, yet it is, nonetheless, progressive in moving towards an inclusive accountability process. In this context, emphasis is placed on understanding practices and policies surrounding accountability legislation and its

historical development. Several accountability doctrines, specifically the Federal Accountability Act, Financial Administration Act, and Access to Information Act, exemplify limitations brought about by the Canadian democratic context. These federal Acts, and the procedures they entail, often serve merely to strengthen punitive structures as well as maintain the power of officials to make decisions independent of citizen interaction.

The Treasury Board of Canada, as well as the Privy Council Office, provides clear and concise outlines of the roles and responsibilities of government officials in regards to accountability. These responsibilities, which were created and operate within the Canadian democratic context, reinforce the decision-making and accountability structures at the bureaucratic level. The overview of the Canadian accountability regime, within its democratic context, demonstrates that Canada has made significant progress; however, accountability processes are still confined within representative structures. Analysis of Canadian case studies will exemplify that secrecy, efficiency and limited forms of optional transparency are often operative and that our current context would not significantly alter the events which took place.

To exemplify further accountability shortfalls, alternative examples which demonstrate accountability failures in Canadian political, economic and judicial spheres, will provide an overview of some encompassing problems entailed by holding individuals responsible for their actions and preventing wrongdoing. A good starting point for accountability is at the level of civil servants. They have direct correspondence with the clients (citizens) of public service programs. Regardless of the frequency of

elections and the change of political power, civil servants generally maintain the public interest and have the knowledge and expertise to guide ministers and deputy ministers to accurately deliver and design public policy and programs.

Current accountability processes have made advances in delivering governmental programs and services. There are more mechanisms in place to ensure that ministers and bureaucrats regulate their decision-making behaviour. Nonetheless, accountability theory and practice needs to advance beyond the current context of representational democracy if we are to move away from its inherently problematic characteristics of secrecy, efficiency and optional transparency.

1.1 Representational Democracy in Canada

Canadian elected representatives make up the political order in federal, provincial, and municipal jurisdictions. These elected representatives are responsible for collecting and distributing tax dollars in the best interest of citizens. Recent media coverage of political activities often consists of appeals to politicians to stimulate the economy or to provide bailouts to large profit-seeking corporations at the cost of the taxpayer. It leads one to ask: Is our political system, and its elected representatives, actually distributing tax-payers' contributions according to the needs of citizens? Does our political system ethically obligate elected representatives and bureaucrats to engage citizens in order to determine where taxes should be allocated in line with citizen needs?

Democracy, generally defined, refers to a "method of group decision-making characterized by a kind of equality among the participants at an essential state of

collective decision making” (Christiano, 2006, p. 2). In Canadian politics, the extent of collective decision-making exists primarily in voting during election time, whereby citizens determine the political leaders in their regions to make decisions on their behalf. The equality given to citizens in the political process is based on the location of voting stations, accessibility, and the ability to learn about different political parties or representatives through a variety of media sources. We have certainly heard of issues in the past regarding inaccessibility to voting or to the biased nature of right- or left-wing media enterprises.

The most basic explanation of the type of political representation in Canadian democracy is *single member district representation* where the election process “returns single representatives of a geographically defined [area] containing roughly equal populations to the legislature” (Christiano, 2006, p. 18). We can see proportional representative practices in certain provinces as well as group representation federally (e.g., *Partie Bloc Quebecois*). However, these forms of representation have similar downfalls because the voting public undergoes the same process of placing decision-making power in the hands of elected representatives at voting time. Too often, this is the end of citizen political participation. In fact, in proportional representative governments, the voting public has very little to contribute to decisions about who will fill the extra seats in the House of Commons; political parties, not citizens per se, decide this issue.

The current democratic context has not moved far from representative democratic structures for over two centuries. A common criticism of single member

district representation is that “it encourages parties to pursue dubious electoral campaign strategies” and “can very often be best met by using ambiguous, vague and often quite irrelevant appeals to the citizens” (Christiano, 2006, p. 19). The scheme of single member district representation is often equated with tendencies towards “ignorance, superficiality and fatuousness in political campaigns and in the citizenry” (Christiano, 2006, p. 19). This type of political representation cannot be adequate in assuming appropriate standards of accountability, especially when these representatives can decide who to appoint as the deputy ministers of departments and can make decisions independent of public involvement and scrutiny, especially in majority governments. This context makes citizen involvement an optional responsibility for leaders. This may result in the exclusion of taxpayers in political and economic processes, even though the system relies mostly on citizen tax contributions. The fact that Canadian citizens still have the ability to choose their elected officials is essential to the Westminster democratic process; and yet, representative democracy constrains the accountability regime to reinforce bureaucratic supported accountability structures with “executive dominance over the legislature” (Studlar & Christensen, 2006, p. 840).

The Westminster model of democracy in Canada certainly promotes a majoritarian system of governance whereby the “presence of a plurality electoral system tends to reduce the number of legislative parties and generate single-party governments” (Studlar & Christensen., 2006, p. 840). In turn, we have under-representation of minority groups in political decision-making processes. As Studlar and Christensen (2006) note, this “linchpin of the whole Westminster system is deeply rooted in Canada”

(p. 838). The concentration of one-party cabinets can certainly hinder the inclusion of other political parties' influences in the democratic process, further tightening the grip of bureaucratic control over the accountability process.

Westminster political processes are inherently representational and exist alongside a capitalist context since the labour of citizens in the free-market driven economy generates the taxes needed for the functioning of government. Capitalist institutions have similar bureaucratic structures even though their leaders are usually appointed based on merit rather than election by the public. The characteristics of major corporations that dominate the economic landscape in Canada are similar to the Crown corporations that "have been established at arm's length" (Aucoin, 2007, p. 1). Representational democratic processes reveal "the desire on the part of political executives to have increased control" (Aucoin, 2007, p. 1) over Crown corporations. The salaries of corporate CEOs can baffle the ordinary citizen as to why a human being can be entitled to such an enormous sum of money. Yet, when things go wrong, shareholders, employees and communities feel the brunt of an organization's downfall as was shown in the 2008 global financial crisis. When the affluent are marginally affected by economic greed and power, as compared to the average citizen, one begins to wonder how a stronger form of accountability could balance the power between the economic haves and have nots.

Economic and judicial institutions also contain representative structures. As such, the decided leaders are simply relegated away from public involvement, further exemplifying the issue of excluding citizens from an involvement in public processes.

This exclusion may reduce the opportunities for citizens to hold such representatives accountable. The structure provides a condition of possibility for leaders to function independently of public involvement and, thus, allows for elements of secrecy to exist within Canadian political and economic institutions.

Secrecy plays an inherent role in representative structures. Pablo da Silveira (2003) illustrates this in his work entitled *Representation, Secrecy, and Accountability*. He examines three notions of political representation: “representation as controlled autonomy, representation as delegation, and representation as mandate” (pp. 10-11). The former two types of political representation fit the Canadian Westminster system. *Representation as controlled autonomy* is when the “representative is a free agent who is not under her constituents’ mandate . . . she can exercise her own judgment, make decisions on her own and even support solutions than those she initially promised to support” (da Silveira, 2003, pp. 10-11). *Representation as delegation* is when the represented are free to choose their representative through an election process, but “once elected, the latter gain full autonomy of decision . . . and do not need to account for their procedure” (da Silveira, 2003, p. 3). Secrecy may play an important role in these representative processes for reasons of efficiency.

While this may have validity, efficiency may also play a part in misspending or unethical behaviour involving the improper allocation of public funds. Efficiency and secrecy are inherent to the current Canadian democratic context and reinforce that political leaders have an option to include citizens in political processes. This project

seeks to oblige leaders to provide more choices for citizens to effectuate their preferences in political processes thereby resulting in less bureaucratic secrecy.

Pablo da Silveira's (2003) concept of "Representation as Mandate" (p. 11) may bring us closer to an accountability process whereby secrecy has little use other than protecting the anonymity of the will of constituents. The original will of constituents is essential to this form of representation; however, it may not be the most efficient in terms of elected representatives making quick decisions about pressing matters. Silveira (2003) argues that in representation as mandate "information about decisions and about immediate effects becomes crucial. In such a regime, political accountability is only possible if this information is available before the next election" (p. 18). Accountability, in this sense, has strict limitations because citizens have to wait until the next election to become an active part of the political accountability process. This project is attempting to integrate citizens more actively in on-going accountability processes while trying to avoid elements of secrecy in conjunction with efficiency which support the representative democratic context. Silveira's examination of accountability is contained within representational structures and demonstrates commonly problematic themes throughout accountability theory and practice.

Transparency also plays an instrumental role in the accountability process; however, the Canadian representational democratic context provides the guidelines for its own optional transparency. Transparency is a common government buzzword used to support the accountability structure whereby organizational processes are made available to the public for their personal records. Transparency can play an important

role in enabling citizens to become more involved in political and economic processes; however, simply putting information on government websites long after specific actions take place, serves very little purpose in actually empowering citizens to make a difference or become involved. What citizens can do with the information is limited in terms of holding individuals accountable due to the increasing levels of bureaucracy and hierarchy present in governmental organizations which make optional transparency complex. For example, David Berlin's (2004) article "A Love Affair with Secrecy" criticizes the rhetoric of transparency stating that it "has no grounding; ministerial directives and guidelines on record keeping and information management can be so easily circumvented that politicians and civil servants who prefer to have their names, points of view, and decisions kept off record routinely do so" (p. 2). Berlin (2004) also criticizes the Access to Information Act which was supposed to get government documents into the hands of Canadians when, instead, "it has created a state in which there are often no documents to get" (p. 1). An article by Richard J. Brennon and Bruce Champion-Smith (2009) exemplifies this issue by stating that a "secretive Conservative government shares the blame for an access-to-information system that is dogged with delays and on the brink of 'crisis,' a scathing report says" (p. 1). Information Commissioner Robert Marleau criticized the government in regards to withholding information and the major delays associated with Canadian federal departments. The Sponsorship Scandal, which we will examine in further detail, demonstrates this very issue of poor record keeping and timely public disclosure of government processes.

Secrecy, efficiency and optional transparency in the Canadian democratic context are inherently problematic, so how can we move beyond mere representational systems without suggesting an entirely new form of democratic governance? Caroline Andrews' (2008) analysis of statistical representation of elected bodies provides a gateway to a clearer understanding of what needs to be done in order to improve accountability in political and economic processes. Andrews' *Mirror, Mirror on the Wall: Are any Elected Bodies Representative at All?* lays out a comprehensive analysis of the statistics regarding how elected representatives are not reflective of the diverse constituents in Canada. She states that "there is an archetype of the Canadian elected official – male, white, middle-class and not young" (Andrews, 2008, p. 3). Her article begs the question: Will a diversity of elected representatives increase the likelihood of the inclusion of disadvantaged groups? More diversity within representative institutions may enhance the representation of specific groups' needs; however, this paper purports that it does not guarantee their inclusion solely because of the representative structure itself which inherently excludes citizens from involvement in political processes. Political institutions need to effectively enhance the involvement of citizens in governmental processes in order to avoid secrecy and optional forms of transparency which pervade our democratic context. This way, regardless of the class, age or ethnicity of a representative, citizens will have the opportunity to incorporate their preferences in governmental processes.

1.2 Accountability within the Canadian Democratic Context

Elections for political representatives provide citizens with a process of accountability, and although Canadian elections have rarely been equated with cheating and corruption, our political representatives have been associated with scandals and tragedies which have claimed the lives of the innocent and wasted millions of dollars of taxpayers' money. Voter apathy has increased and lawsuits as well as public inquiries are commonplace today as citizen trust and control over representative institutions continually diminish. It does not appear fair that the amount which federal, provincial and municipal governments' garnish from our income does not entitle us to more than an election process every certain number of years.

Henry McCandless (1994) in *the obligation of fairness* states that the "ultimate issue is public trust in our institutions of governance" (p. 39). Public trust begins to erode "when there are actual or perceived significant problems in major government programs that could have been prevented or corrected" (Office of the Auditor General of Canada, 2003, ¶ 2.1). Although public trust continually diminishes, there is very little the public can do to restore confidence in government outside of voting for political representatives. McCandless (1994) explains that there are two important concepts in governance: *fairness* and *efficiency*. Fairness issues have to do with which citizens' needs are addressed and to what extent, all of which "are decided by our elected representatives" (McCandless, 1994, p. 39), whereas efficiency in public sector organizations is primarily at the hands of public servants.

In regards to accountability, McCandless (1994) makes a clear differentiation between the concept of responsibility and accountability, where the former indicates the *obligation to act* and the latter denotes the *obligation to answer*. I will argue that accountability implies a certain level of action as well, particularly the act of engaging citizens in order to better involve them in governmental processes. McCandless (1994) states that “those in authority tend not to account for their actions voluntarily because it means sharing control” and yet the “obligation to answer for our actions is a powerful self-regulator of conduct” (p. 39). Leaders need to account for their actions not only after they make decisions and allocate public funds but especially before doing so in conjunction with the input from citizens and public servants as to whether such an allocation or decision is necessary, viable, or realistic. Taxpayers “have the right to expect that each executive government accountable to them will share its knowledge with others” (McCandless, 1994, p. 40). “Accountability comes before audit” (McCandless, 1994, p. 40) just as understanding citizens’ preferences should come before forming one’s own opinions about the citizens themselves. This conception of accountability is progressive in the sense of requiring leaders to account for their actions; however, it still demonstrates the representative nature of the Canadian accountability regime as excluding citizen involvement in the accountability process.

In regards to the effectiveness of accountability structures, minority and majority governments can drastically alter the processes of government through parliamentary scrutiny. Majority governments certainly have a different level of control over the allocation of public funds and governmental processes in contrast with minority

governments. Minority governments in federal and provincial settings have to convince the rest of the House of Commons whether their goals are worthy of remaining in power and is done so through confidence voting. Budgets are produced and presented, and the remaining members decide on behalf of Canadians whether it is worthy.

Where does the average Canadian citizen fit into this process? Canadians receive comprehensive media coverage which persuade them to favour a specific political party in case of a vote of non-confidence in parliament, resulting in another publicly funded election. Minority governments can be expensive because of the frequency of elections and majority governments can be risky. If leaders are obliged to engage citizens in budget creation and allocation of public funds, it creates more confidence in government and may prevent the frequency of elections as we have seen recently. The largest challenge lies in the difficulties of leaders to accurately engage citizens and generate meaningful information and results.

Minority governments challenge governing parties to put more emphasis on the accuracy of their decisions, especially when opposition parties can sometimes affect their proposals or defeat the party in power. McCandless (2004) provides an interesting examination of accountability theory and practice in *Public Accountability in a Minority Government* whereby he states that minority governments “provide parliamentarians with a better opportunity than majority governments to hold the executive effectively to account” (p. 31). Majority governments, at least federally, can no longer rely on their majority power to avoid answering to parliament, nor can they argue that the accountability process is too complex or time consuming and that citizens do not expect

anything more than what happens in the House of Commons. Our Westminster electoral system cannot guarantee a minority government because “political practices favor-single party majority governments when possible” (Studlar & Christensen, 2006, p. 837). It inherently promotes a *majoritarian* political system inevitably leading us away from minority government accountability structures. McCandless (2004) argues that “accountability standards are needed in three key areas of parliamentary scrutiny: management control with executive government, proposed government policy and regulations, and the passage of legislation” (p. 32). McCandless (2004) would agree that in all three areas the intentions and reasoning of government should be publicly explained “before the fact” (p. 33). This way, citizens can have a more accurate and active up-date on the ways in which their tax dollars are being allocated. In regards to government policies, responsible ministers should “adequately explain to Parliament whose needs or wants they intend to honour, and whose they do not” (McCandless, 2004, pp. 33-34). Legislation outlines the responsibilities and restrictions for specific types of people, especially those in power. The requirement for those in power to answer publicly, according to McCandless, “has been missing in the law” and the answering requirements that already exist in legislation are “usually after-the-fact financial statements or other types of report on activity” (McCandless, 2004, p. 34).

Although McCandless’ critical examination of accountability practices and regulations in Parliament is useful in advancing a stronger on-going accountability system, it errs in referring to Parliamentarians as *citizen representatives* because of the on-going exclusion of citizen preferences in political processes, especially in light of

increased voter apathy and the younger generations who are unable to vote at election time. The use of the phrase *to answer* is frequently used by McCandless as well as found throughout accountability theory and practice, but it presupposes a previous action of asking the question, where citizens and parliamentarians would need to find the correct ones. This is why we need to move beyond simply *answering* and towards the inclusion of citizens through active communication as an obligation of ministers, deputy heads and executive civil servants in order to secure accountability as an active and on-going process. Our current accountability legislation falls short of emphasizing the importance of including citizens in political and economic processes.

As we move further into understanding the accountability regime within the Canadian democratic context and towards our case studies' analysis of accountability shortfalls in government practices, let us turn to Peter Aucoin (2006) who provides a comprehensive analysis of the Federal Accountability Act in *Improving Government Accountability*. He lays out the systems of accountability in government processes as well as investigates institutional characteristics which diminish Parliament's ability to hold representatives and senior officials to account. Most importantly, Aucoin demonstrates how this is applied in the case of the Sponsorship Scandal where there was a failure of the "Deputy Minister of PWGSC to provide oversight and administrative safeguards against the misuse of public funds" and a "deliberate lack of transparency on how the Program was initiated, financed and directed" (Aucoin, 2006, p. 20).

Parliament, within the representational democratic context, is designated as the system which holds officials to account on behalf of the citizens. Frequently, we hear of

government officials as being primarily accountable to Parliament and that “Government Accountability in the parliamentary system of responsible government has to be secured by Parliament having the capacity *to hold the Government to account*” (Aucoin, 2006, p. 21). The Conservatives’ proposals forwarded this agenda to improve government accountability by strengthening the capacities of “parliamentary agents, the press, and the public” (Aucoin, 2006, p. 21).

Aucoin boasts the *effectively designed* question period and the well-funded Auditor General’s office in regards to holding government institutions to account. Question period certainly opens the stage for the public to witness the performance of our government officials. With the audience in mind, ministers can spin answers or decide their personal approach to avoiding significant details, allowing secrecy to pervade the system for means of efficiency. Question period is an inherent aspect of Canadian representational democracy; however, it merely provides evidence of discussion between representatives. It would certainly be overbearing to allow citizens or public servants to ask ministers questions, but the extent to which elected representatives truly represent citizens’ needs and concerns is debatable.

The Auditor General is a key element in assessing problematic circumstances in governmental processes; however, the information itself is gained after-the-fact, and the Auditor General does not assess public spending with the specific details of citizen preferences in mind. They make sure that everything is accounted for and that there are no conflicts of interest in the allocation of public funds. The Office of the Auditor General may be able to broaden their mandate to ensure that there is some correlation

between what citizens need and what public money is being spent on. Aucoin contends that the Federal Accountability Act will enhance the prospect of “greater openness, increased transparency, and more oversight” (Aucoin, 2006, p. 22) of government processes.

With these key words operating within the bureaucratic and representative context, it leaves us to wonder how reliable this process will be in establishing that there is a direct correlation between citizens’ needs and how public money is allocated. Aucoin (2006) establishes that the Conservatives Accountability Act “will not transform the Canadian system, at least not in significantly altering the balance of power” (p. 26). This project seeks to critically examine the accountability doctrines of Canada in hopes of transforming the process to include citizens in order to balance power into the hands of tax payers.

The Federal Accountability Act has made some progress in controlling the public purse, especially since the Sponsorship Scandal, and its praise does not come without criticism. Alan Gilmore (2006) provides an elaborate overview of the Federal Accountability Act and the role of the accounting officer. His article entitled *The Accounting Officer: What are Canadian’s Getting?* provides an excellent historical context of accountability structures and processes in Canada. He openly criticizes that the Canadian accounting officer does not compare in breadth and scope to our United Kingdom (UK) counterpart. The Revenue and Audit Act of 1878 was one of the first attempts to control the *public purse*. The Act required that executive officials in government departments provide accurate accounting of expenditures. Other civil

servants could also play a part in accounting for their financial activities of these officials. This made accounting activities central to government departments, bureaucratizing the accountability process. Through the 1931 Consolidated Revenue and Audit Act, the government chose “to centralize responsibility in a Comptroller of the Treasury responsible to the Minister of Finance” (Gilmore, 2006, p. 20), which added another political layer to the already bureaucratic structure. The 1951 Financial Administration Act replaced the Consolidated Revenue and Audit Act which “continued the centralized approach to accounting and auditing” (Gilmore, 2006, p. 20). The United Kingdom had an accountability officer concept in its parliamentary activity that the Privy Council Office of Canada started advocating against in 1977 arguing that “adopting the accounting officer concept would undermine Canada’s ‘classical’ style of Westminster democracy” (Gilmore, 2006, p. 21). The UK parliament systems accounting officers, equivalent to our deputy ministers, have a personal responsibility to oversee the proper functioning of their department. The UK model places emphasis on the accounting officer as having responsibility, rather than the Canadian version which places the emphasis on the ministers.

The Gomery Commission recommended that we should hold deputy ministers and senior officials accountable “in their own rights for their statutory and delegated responsibilities before the Public Accounts Committee” (Gilmore, 2006, p. 23). With the Federal Accountability Act, we are finally getting an improvement to clarifying accountability and responsibility in the Federal Government; however, according to Gilmore (2006), we are settling for a “markedly weaker model and one that weakens the

bedrock principle of individual ministerial accountability to Parliament” (p. 23).

Although the Canadian accounting officer “actually dilutes the principle of ministerial responsibility by transferring final accountability for departmental administration from the responsible minister to a group of ministers called the Treasury Board” (Gilmore, 2006, p. 23), the advancement of accountability practices in government demonstrates that we are in transition from a primary focus on financial accountability to a system of accountability which is decision- or knowledge-based. Unfortunately, the Canadian and UK accounting officer is still within the representative context which excludes citizens’ direct involvement in the accountability process.

The Privy Council Office (PCO) and the Public Accounts Committee (PAC) of Canada have been engaged in an on-going debate surrounding the role of accounting officers in the federal government. Alan Gilmore’s (2007) article *The Federal Accountability Act: An Unnecessary Fight over Deputy Minister Accountability* exposes the debate between these two offices. The Privy Council Office does not want the accountability officer model adopted as in the UK because it would “undermine rather than reinforce Canadian ministerial accountability to Parliament and politicize deputy ministers” (Gilmore, 2007, p. 15). In Alan Gilmore’s (2008) article *The Ethics Police Era*, he mentions that the PCO has the position that the Federal Accountability Act “simply enshrined existing practice, that nothing has changed, and certainly Accounting Officers are not accountable to the PAC” (p. 26). Meanwhile, the PAC advocates that “the Accounting Officer is accountable to the Committee” (Gilmore, 2008, p. 26) and that accounting officers (deputy ministers) are to be more accountable to parliamentary

committees and not solely to their ministers. The Federal Accountability Act seems to have sided more with the PAC preferred designation of the key responsibility of accounting officers to be *accountable before* parliamentary committees and ministers are *accountable to* Parliament. The preposition *before* denotes that deputy ministers would only “be answering questions on behalf of ministers” (Gilmore, 2007, p. 16) and not on their own behalf. This could affect the information which Accounting Officers bring toward Parliamentary Committees in the sense that it could be controlled under the direction of ministers. Regardless of the accountability officer’s role, the representational context confines the accountability process within the political interests and control of parliament, excluding citizens and taxpayers from the process.

Political control of accountability processes is further exemplified through The Treasury Board of Canada Secretariat’s (TBCS) comprehensive review of the responsibilities and accountabilities of government Ministers and Senior Officials. In the opening introductory paragraph of the document, it states that the document provides “an overview of the role that Parliament plays in the accountability regime, specifically in relation to financial management” (TBCS, 2005, Introduction section, ¶ 1). There is a certain emphasis upon the actors involved in the accountability process. The report continues by stating that accountability “is a shared relationship between Parliament and ministers, is fundamentally political, [and] depends on the neutrality of the Public Service for its efficacy” (TBCS, 2005, Introduction section, ¶ 1). There is little emphasis on the involvement of citizens other than the role of public servants. The meaning of neutrality in this principle of accountability could be ambiguous as to

whether public servants are neutral in holding ministers accountable or neutral in the delivery of government programs under the direction of ministers and deputy heads. Further into the document, they clarify that the role of the public service is to “advance loyally and efficiently the agenda of the government of the day without compromising the non-partisan status that is needed to provide continuity and service to successive governments with differing political stripes” (TBCS, 2005, Section 2.1, ¶ 17). Considering the public servants serve throughout a variety of differing governing parties, their neutrality may weaken the process of maintaining consistent service. The accountability procedure continues to function at the level of parliament, even with little involvement of civil servants.

The PCO, which consists of appointed deputy ministers by the Prime Minister, released a complimentary document regarding the roles and responsibilities of accounting officers. It states the provisions of the *Financial Administration Act (FAA)* as designating “deputy ministers and deputy heads of designated government agencies” (PCO, 2007, Summary section, ¶ 1) as the accounting officers and that they are obliged legally to “appear before committees of the Senate and the House of Commons” (PCO, 2007, Summary section, ¶ 1). The Senate and House of Commons are good avenues to support accountability in governmental programs; however, they make the inclusion of citizens in the accountability process highly optional and bureaucratic. If the Senate and House of Commons clearly represented the views of citizens, beyond a system of electing representatives, the accountability process would be one step further to becoming integrative and, in turn, ethical.

1.3 Accountability Case Studies: The Westray Mining Disaster and Sponsorship Scandal

With the representational democratic structures of Canadian government in mind and the economic regimes which operate parallel to the government, this project will utilize two Canadian case studies to exemplify the problems of accountability processes lacking citizen involvement and the role of secrecy, efficiency and optional transparency in their failures. The Westray Mining Disaster was chosen to commemorate the tragedy resulting in the death of miners due to the representative context and highly bureaucratic organizational practices. The Sponsorship Scandal demonstrates a similarity of problems seen in the Westray Mining Disaster. Practices of secrecy, efficiency and optional transparency have not drastically changed. The more recent Sponsorship Scandal is a reminder that the problem is far from being fixed although some changes have been made to government processes and judicial measures.

Other more recent examples of on-going accountability issues in government continue to demonstrate that representational and bureaucratic structures still underpin the Canadian accountability regime and may lead us to further problems in the future. Citizens are continuously excluded from the accountability process and, through the examination of these cases, we should have an understanding of what is missing in the accountability structure so we can move towards a more advanced form of accountability: one which actively involves citizens by incorporating their preferences in order to ensure that government services correspond with the needs and concerns of citizens.

The Westray Example

The Westray Mine in Pictou County exploded at 5:20 a.m. on May 9, 1992 and claimed the lives of 26 miners, none of whom were executive officials of the mining company, public servants, deputy ministers, or elected officials. The price that the hardworking miners had to pay for the uninformed decisions of the government and private sector, in this case, resulted in death. Management and political leaders did not receive consequences for their negligence through the Canadian justice system, but were named responsible through Justice Peter Richard's *Report of the Westray Mine Public Inquiry* (November 1997) and were given specific recommendations to avoid such future catastrophes.

The Westray project was controversial from the start, especially because of Allan Mine, located just north of the Westray Mine, which had 8 explosions over 40 years of operation. The area was prone to explosions, especially when negligence was involved. Curragh Resources was incorporated as Westray Coal in November 1987 and 16 months later began underground development under the direction of CEO Clifford Frame. In September 1988, Westray signed an agreement with Nova Scotia Power Corporation (Crown Corporation) and that same day Westray Coal received a letter which committed the province to a mining lease, a loan of \$12 million. The agreement was called a *take-or-pay* agreement for 275,000 tons of coal per year for 15 years. This established that even if Nova Scotia did not utilize 275,000 tons of coal, the amount owing would still stay the same. The take-or-pay agreement was not approved by the cabinet until two years later, making these contracts and decisions on the part of Donald Cameron, the

provincial Minister of Industry, Trade and Technology at the time, secretive within a representational context. Westray received a lot of public funding which, at times, did not even involve the other members of the governing party, and especially not the approval of other members of the house, particularly because it was a majority government at the time. According to the inquiry, the underground development already started taking place before all the financing was in place. It leaves us to wonder what was being communicated behind closed doors by Westray management and government officials in order to have the confidence to start this process without the public financing in place. The efficient commencement of operations was clearly prioritized, resulting in secretive payments and decision-making.

This case study demonstrates the pervasive stronghold the private sector has on political operations and decision-making, especially in regards to the allocation of financing. As we continue this examination, the different governmental departments demonstrate very little power and control over the corporation despite being the main stakeholder. The Department of Environment, Department of Labour and Department of Natural Resources were all engaged in negotiations with Westray Coal in regards to issues of environmental effects on the area, delays in training, certification and a workplace safety committee, and the fact that the main tunnel intersected with major geological faults. Since the funding was not finalized, Westray Coal exercised its brawn by suspending development in July 1989, but resumed again in 1990 when the Federal government, under the Conservative Party majority leadership of Brian Mulroney, guaranteed financing for the project. The payment clearly demonstrates an emphasis on

resuming operations; however, there was little public involvement in the process in regards to public safety and other concerns.

Consistent roof conditions were reported as problematic in the mine by the inquiry, and it was noted that Westray took over from the Canadian Mining Development crown corporation earlier than originally planned. Inexperienced miners were promoted to supervisory roles without adequate safety training and miners' realistic accounts revealed increasing danger, while Mine Manager Gerald Phillips minimized their concerns. Production demands were seriously conflicting with safety principles; however, it was reported that Westray continually deferred support and *stonedusting* plans to provincial mine inspectors. When management trivialized the miners' concerns, some quit and there was a drive to unionize workers on October 2, 1991, but this was defeated in January 1992. In the spring of 1992, the United Steelworkers of America succeeded; however, certification was granted after the May 9 explosion. Union leaders alluded to safety conditions being attributable to possible deaths in the future.

On May 9, 1992 the mine exploded and Westray Coal was ill-prepared with rescue equipment and personnel for the explosion. Shortly before, on April 29, the Department of Labour's mine inspectorate (Albert McLean) gave oral orders to improve safety conditions and provide evidence of stonedusting plans *to render the coal dust inert*. Westray failed to do so and on May 6, 1992, Albert McLean failed to *follow up on his orders* to receive the stonedusting and sampling plans when he visited the mine. The responsibility and decision of political representatives to enforce such rules was ignored

and contributed to the death of the miners demonstrating a failure to hold either the government official or the company accountable for their actions.

The aftermath of the explosion proved futile in holding individuals responsible and attributing consequences to the political and economic leaders who were secretive in the handling of public funds and negligent of safety conditions at the mine. The inquiry by Justice Peter Richard of the Nova Scotia Supreme Court did not have weight in Criminal Court as evidence. The mine manager Gerald Philips and underground manager were charged by the RCMP on April 30, 1993; however, on June 30, 1998, the Nova Scotia Public Prosecution “stayed criminal charges against Philips and Parry having concluded that there was not enough evidence to proceed to trial” (Westray Families Group, n.d.). The families involved were not compensated because in Sept. 20, 1993, Curragh Inc. slipped into receivership and creditors lost more than \$200 million. This loss included public money provided by provincial and federal governments through signed contracts since the coal was not delivered in full.

Regardless of the fact that no one was found guilty through the court of law, there were changes made to the Criminal Liability of Organizations through Bill C-45, which outlines a new regime and framework of corporate liability in Canada. It provides a punishment scheme to allow the court to not simply fine corporations, but to put them on probation to ensure that the offences were not repeated. It modernized the law with respect to criminal liability of corporations and the sentencing of corporations; however, it still does not make individuals responsible. These changes may enhance the punitive measures taken by the Court system, and it slightly enhances the preventative notion of

hope for deterring the repetition of crimes. The system needs a process of intervening in order to prevent wrongdoing in the first place. Deterrence by means of punishment does not guarantee the prevention of wrongdoing. If citizens were more involved in the political and economic process as a guide for representatives to take action against safety conditions, the Westray Mine Disaster could have been prevented. Practices of secrecy and an emphasis on efficiency greatly contributed to the disaster, whereas a process of intervention through citizen involvement could have had a different effect.

The Sponsorship Scandal Follow-up

Around the time in which Ottawa and Nova Scotia wrote-off \$83 million owed to Curragh Inc. because of the Westray tragedy, the Sponsorship Program, under the advertising section of the department of Public Works and Government Services Canada (PWGSC), started its \$2 million investment into “special programs” in April 1994. The following year, they increased their advertising rights to \$22 million to promote national unity at major events and in federal departments and agencies.

The Sponsorship Scandal occurred during another majority Westminster style of government under the leadership of Prime Minister Chrétien, and clearly demonstrates secretive behaviour and an emphasis on efficiency with little public transparency. The internal auditing did not have any effect on tighter controls of contracts with private sector agencies throughout April 1994 to March 2003. During this period, the amount of public money the Government of Canada spent on “special programs and sponsorships totaled \$332 million, of which 44.4 percent, or \$147 million, was spent on fees and

commissions paid to communication and advertising agencies” (Gomery, 2005, p. 14). Of the total \$1.1 billion spent by the Federal Government on *advertising contracts* during this period, almost “50% of these contracts went to three agencies, Vickers & Benson, BCP and Groupaction” (Gomery, 2005, p. 14).

The expenditures of the special programs and sponsorships to promote national unity could be defended during a time of Quebec separatism. However, the public had very little input into the allocation, which should have been guaranteed through the fair opportunity for other organizations to provide services for advertising initiatives. This misuse of public funds was reported early on by Allan Cutler, who played an integral role as a whistleblower in exposing the administrative and financial irregularities of the Sponsorship Program. The process of whistleblowing was more hazardous and not encouraged as public servants are supposed to simply implement programs approved by government.

How can we assure the anonymity of announcing irregularities in order to prevent further wrongdoing? If there had been a system of accountability, one which includes protecting confidential and anonymous input from civil servants, then public servants would have been better equipped and integrated to prevent the scandal.

Both the Westray Mine Disaster and Sponsorship Scandal demonstrate serious exclusions of citizen involvement in government decision-making, especially when public money is being allocated to the private sector. Secrecy, little or no transparency, and an emphasis on efficiency are rampant contributors to misconduct throughout both

cases. Civil servants themselves have to deal with the hierarchical aspects of accountability chains. Direction comes from the top-down in representational and capitalist regime and hinders the upward flow of information towards the bureaucrats and representatives themselves. The consequences of the Westray situation directly affected the lives of citizens in the surrounding communities, whereas the Sponsorship Scandal indirectly affected citizens of Canada as a whole. The money wasted in the Sponsorship Scandal could have been allocated into social programs or reduced the rate of taxation nationwide.

The shortfalls of effectively addressing citizens is illustrated in an article entitled “Public consultations better in private, McGuinty says” (Leslie, 2008, Article title). Ontario Premier Dalton McGuinty was defending private consultations regarding issues of poverty and stated that “closed-door, invite-only ‘public consultations’ are the best way for the Ontario government to come up with a plan to tackle the growing problem of poverty” (Leslie, 2008, ¶ 1). Citizens and a New Democratic member of Ontario legislature were ejected or prevented from attending the consultations. The New Democrats stated that “the government should at least let the public into the consultations so people can hear the ideas being put forward and see which ones the committee seems to like” (Leslie, 2008, ¶ 12).

Effectively including Canadian citizens in the political accountability process can seem overbearing, at first; however, the public service is comprised of citizens who are readily available to be more included in political accountability processes. H.T. Wilson’s (2001) *Bureaucratic Representation: Civil Servants and the Future of*

Capitalist Democracies will guide us towards an understanding of the importance of bureaucratic systems within representative and capitalist democracies. Wilson (2001) argues that “representative democracy and the rule of law, to be sure, remain no less indispensable to the proper functioning of our political system than they were before” (p. 5). He would agree that electoral systems have difficulties in representing the views and needs of its citizenry. Bureaucratic systems which operate within government structures have far more representative function of the citizenry because they are primarily made up of *organizational/managerial and technical specialists* in public service and private sector organizations. Government institutions have a requirement to provide alternative means of accountability processes, particularly from citizens and civil servants toward bureaucrats and elected officials. Dissolving secrecy, enhancing thorough transparency while maintaining, and not prioritizing, efficiency will maintain an upward flow of information through the chain of command. This upward flow would promote a notion of accountability which actively includes citizens and their preferences into political and economic processes.

1.4 Conclusions about the Characteristics of Accountability in Canadian Democracy

Politics in Canada are representational and Westminster-based. Democratic practices of collective decision-making can be attributed to both political and economic operations of society. Secrecy plays an integral part in both forms of democracy. In order to enhance efficiency, secrecy facilitates the mismanagement of leadership, which manifests its judgments independently of citizen involvement. Instead of efficiency,

government representatives should focus on *effectively* implementing programs and services. Since the notion of transparency and secrecy are interrelated, they should be transformed into providing *clarity* in promoting stronger inclusivity by actively informing citizens of political processes and decisions.

Canadian institutions of accountability are enhancing their ability for government representatives and bureaucrats to hold each other to account; however, citizens are still excluded from the ability to incorporate their views and opinions in decision-making processes. Government consultations prove to be futile without a strategy whereby political and economic leaders effectively incorporate citizen preferences in decision-making processes.

The two case studies above demonstrate that accountability policy and practice have institutionally problematic characteristics; elected, appointed and Crown corporation officials are free of an obligation to incorporate citizen and civil servant opinions and preferences into processes. The after-the-fact structure of accountability makes the accountability process more punitive than preventative. It lacks an active process of effectuating citizen preferences. Since our democratic context is inherently problematic, the next chapter will begin by establishing a broadened democratic context to make room for an accountability process that actively includes citizens' preferences in political and economic processes.

CHAPTER II

AN INTEGRATIVE DEMOCRATIC CONTEXT: TOWARD ETHICAL ACCOUNTABILITY

PRACTICES

Introduction

The first chapter's objectives were to provide this project with an overall view of the Canadian democratic context within which accountability structures operate. We concluded that representative institutions in Canada focus too heavily on secrecy, maintaining efficiency and making transparency optional, and, in turn, reducing the chances of citizen involvement in, and their understandings of, political accountability processes.

Canadian accountability legislation, procedures, theory, and practice rely heavily on regulating practices at the bureaucratic level where ministers and deputy ministers report towards parliament and not directly to citizens. This makes it difficult for citizens to become engaged in the processes that affect their everyday lives and are funded by their taxes. Civil servants are in a place to implement the programs of the governing party; thus, the inclusion of their preferences in political processes is a good place to start in order to promote an accountability process that actively engages citizens. The current democratic context of representation is not enough.

This chapter's objectives are to explore democratic structures that promote citizen inclusion in political processes and integrate them into our current democratic context. The purpose of doing this is to create a theoretical democratic context where

inclusive accountability processes, which effectuate citizen preferences, can become established. The notion of accountability *to someone* and *for something* will also include accountability *from someone* in order to ensure citizens' preferences are effectuated in political processes. Making accountability ethical is of utmost importance in order to justify an accountability process that is effective. Civil rights play an inherent role in the notion of accountability by including citizens more actively in the process, especially when political and economic processes negatively affect their lives. The final objectives of this chapter, in justifying an ethical process of accountability, will provide a bridge to grounding an accountability process within a civil rights framework.

2.1 Beyond Representation: An Integrative Democratic Context

In the Westminster representational context, there is a struggle for equality of involvement in the accountability structure between citizens and government officials. Democracy has been parallel to human development since before ancient Greece. The type of democracy which we have seen for the past two centuries has been “representative government within a nation state” (Broadbent, 2001, p. 3). Edward Broadbent (2001) in his book, *Democratic Equality: What Went Wrong?*, argues that democratic equality is the central concern in modern day democracy. Equality is the central concept which distinguishes different forms of democracy. Broadbent states that the “principle barriers to further equality in income and power are political and institutional, not economic” (p. 11). In accountability, equality plays an important role

in maintaining the balance of power to keep representatives and bureaucrats under ethical surveillance.

Citizens and civil servants need a certain level of equality just as leaders do in order to maintain that everyone's interests are met and his/her well-being is not being infringed upon. Excluding individuals from the power process creates an inequality of power between the leaders and the led. Dietrich Rueschenmeyer (2001) advocates for democratic citizenship in *Welfare States and Democratic Citizenship*: "autonomous and active membership in the political community – is inherently a matter of equality, of equality in the political realm" (p. 79). The type of accountability needed in political and economic democracy should be in the context of democratic citizenship. It is important to define *autonomous and active membership* as originating from the tax contributions citizens make to the social system and which should result in the right to have their preferences effectuated. Political and economic leaders need to provide the opportunities and forums to allow this active participation to occur in order to facilitate more equality in governmental processes. Rueschenmeyer (2001) states that "democratic participation presupposes the expectation that one can make a difference" (p. 81). In his view, further forms of participation, other than elections, are needed to promote a stronger type of democracy.

Voting at election time is the primary mode of equal participation citizens have in the political accountability process. In order to advance an active and integrative accountability structure, the democratic context requires an expansion to allow for the development of *active accountability* structures. The first type of democratic theory we

will encounter in terms of advancing a more inclusive form of accountability is the concept of participatory democracy. As we investigate other forms of democratic theories, the objective is to intertwine inclusive characteristics and expand the democratic context in order to allow a broader notion of accountability to flourish.

The inclusion of citizens in decision-making is essential in order to advance an improved accountability process which is currently controlled by bureaucrats. Roussopoulos and Benello (2005) in their book, *Participatory Democracy: Prospects for Democratizing Democracy*, argue that the nature of participatory democracy “should be a collective one” (p. 3) and that the decision-making process is where individuals “propose, discuss, decide, plan and implement those decisions that affect their lives” (p. 6). For example, had the workers who worked underground at the Westray Mine been able to implement their decisions into governmental processes, there may have been safer working conditions. Civil servants, during the Sponsorship Program, had noticed mismanagement of government funds as well as inadequacies in management practices. Their input into actively holding their superiors accountable could have provoked an earlier intervention into the program’s development.

Participatory democracy assumes “that in a good society people participate fully and that a society cannot be good unless that happens” (Roussopoulos & Benello, 2005, p. 6). Participating fully does not necessarily mean having mandatory voting for citizens, but perhaps to have more choices to participate more effectively in the democratic process. To ensure equality in the democratic process, participatory institutions must be expanded within economic, political, social and judicial spheres. As

they note, “as they develop, [they] will claim legitimacy and recognition as being genuinely democratic and accountable to their constituencies” (Roussopoulos & Benello, 2005, p. 6).

Canadian democratic institutions are not void of participatory structures. We see political and economic leaders discover avenues for facilitating spaces of enhanced participation. And yet, in Canada, facilitating the space for participation is not obligatory, nor is it a part of Canadian accountability doctrines. Transparency may enhance the participatory process, but transparency alone, as we have seen, provides very little use in the accountability process if citizens can do very little with the information they get. By receiving information, citizens should be empowered in the accountability process, not powerless. Integrating participatory principles into representational structures expands the democratic context to promote better equality of participation in political accountability processes.

Deliberative forms of democracy can expand the democratic context and add legitimacy to accountability processes whereby leaders involve citizens in decision-making. Just as any form of democracy does not go without criticism or faults, deliberative democratic structures can add something valuable to the democratization of accountability processes. Deliberation is valuable in order to come to consensus about a particular issue. Citizen participation is inherent to deliberation, unless deliberation happens at the top between representatives and bureaucrats. Our representational system is not without deliberative structures; unfortunately, these deliberations mostly happen between political representatives and bureaucrats behind closed doors demonstrating the

problem of secrecy. We need to move beyond mere deliberation among elites and move the concept of deliberation to include citizens in the accountability process, especially when there are disagreements among citizens as to what decisions should be made in governmental processes and how it affects their lives.

Tim Heysse (2006) in his *Consensus and Power in Deliberative Democracy* examines deliberative techniques as to their effectiveness and whether we can actually reach a consensus, especially with large demographic populations at hand. Heysse (2006) emphasizes that “we must acknowledge that what is shared in the public sphere of a democratic society is not primarily the product of deliberation, that is to say, a shared conclusion” because concrete conclusions should not be an expectation to be met (p. 278). We have seen political representatives and bureaucrats come to conclusions from their own perspective of what the public believes. What is shared in the process of deliberation is “the very existence of the public sphere” (Heysse, 2006, p. 278). In order to move towards effectuating citizen preferences into Canadian accountability processes, the public space must be created and facilitated in order to allow deliberation and participation to occur. An integration of deliberative and participatory theory into the Canadian democratic context will facilitate this public space as a starting point for an active accountability process.

Democratic forms of deliberation have undergone significant criticisms as to whether they actually accomplish the desired effect: consensus. With current demographics of citizen spatial locations and population density, how can we know

whether deliberation is an effective means of enhancing democratic and accountability regimes to be more inclusive?

John Parkinson's (2006) examination of the problems associated with deliberation within representational contexts, in *Deliberating in the Real World: Problems of Legitimacy in Deliberative Democracy*, demonstrates that the concept of deliberation can assist in the expansion of the democratic context and advancing active accountability mechanisms. Deliberation needs careful consideration. The process can be problematic depending on the scope of those included in the process and the quality of information possessed by those involved. This could affect the outcome of the deliberative process. It is clear to Parkinson (2006) that deliberative techniques wish to engage "all those affected, although precisely how political actors determine who is affected and who is not is left as an open question" (p. 68). Determining who is affected by political decisions is an integral part of advancing an inclusive accountability process because it seeks to involve citizens in decision-making. Taxpayers fit into a key group because we are all affected by the collection, allocation and distribution of taxes.

Canada's representative democratic context demonstrates problematic characteristics which dislocate the connection between citizens and political decision-making. The representational democratic context functioning alone encourages leaders to act as *free agents*, while controlling levels of secrecy with top-down structures of accountability. *Representation as mandate* would include deliberation as a means to reproduce the constituents' original will; however, deliberation within a representational context can advance the mirage of fulfilling a moral obligation by engaging and

involving citizens without the promise of actually effectuating their preferences. The representational context undermines the deliberative process and renders it secretive, thereby allowing unethical situations to arise, to go unnoticed, and to result in the violation of certain rights.

Ethics and rights play an important role in advancing democratic theory and practice. In order to advocate for an expansion of the democratic context to include citizens in democratic processes, we will seek to justify ethical principles of accountability by grounding it in a human rights context. Koh and Slye (1999) in “Deliberative Democracy and Human Rights: an Introduction” advocate that “majority decision-making preceded by a process of deliberation constitutes a more effective method of ascertaining the moral good than any one person’s individual reflection” (p. 5). They would agree that voting for representatives in elections alone does not fulfill the capacity of majority decision-making, whereas the practice of deliberative democracy would “create a citizenry educated and engaged in politics of governance” (Koh & Slye, 1999, p. 13). This would empower citizens and, according to Koh and Slye (1999), “deliberative democracy will lead us to a stronger and more stable society that would better protect human rights” (p. 13). When human rights are concerned, deliberation promotes the bringing of an issue into public space for discussion, so we need to assure that the deliberation is a constructive process with effective results.

John Shattuck’s (1999) *Human Rights and Democracy in Practice: The Challenge of Accountability* demonstrates some challenges of accountability in a human rights and democratic context. Shattuck (1999) claims that accountability moves in two

directions: “vertically, as ruling elites are to be held accountable to the people whose lives they rule, and horizontally, toward the broader international community” (p. 303). He equates accountability as central to reconciliation, a concept which may denote the practice of after-the-fact assessments which is central to representative contexts. Rather, we require more accountability mechanisms which maintain participation and deliberation as an on-going method of involving citizens in political processes.

Accountability procedures in regards to the private sector fit within judicial forms of reporting whereby citizens require the money and time to effectuate their preferences in the accountability process. The private sector can benefit from political institutions providing handouts in support of certain products or services. This can have tragic effects as was demonstrated in our case study analysis of the Westray Mining Disaster and the Sponsorship Scandal. Corporations can also lobby the government for changes in legislation and policies, and become engaged in private discussions with political representatives behind closed doors. Corporate behaviour is not directly accountable to Parliament, as government ministers are, so they are accountable through the judicial system and optionally to the employees of the corporation or business. Advances in political accountability processes to effectuate citizen preferences have further implications in economic contexts.

Representational characteristics of secrecy, prioritizing efficiency and optional transparency are also inherent in economic democracy. It seems increasingly difficult for citizens to become involved in economic processes because organizations are not legally required to involve citizens or employees in institutional processes. In George G.

Brenkert's (1992) *Freedom, Participation and Corporations: The Issue of Corporate (Economic) Democracy*, he contends "that the legitimate exercise of corporate authority requires its accountability to a relevant group" (p. 251) and that this relevant group consists of the employees. Brenkert (1992) advances the notion that accountability should take the form of "recognizing the right of employees to participate in corporate decisions and actions" (p. 251). Brenkert focuses primarily on respecting the rights of employees to participate in order to legitimize power, which is a good start. The notion of organizations engaging clients as well as individuals who are affected in their community needs more emphasis. Citizens would perhaps be able to utilize public institutions to protect their rights from violations made by private sector organizations. Political involvement in ensuring the effectuation of citizen preferences with respect to the actions of private sector organizations may draw serious criticism. Nevertheless, taxpayers should be protected by the state in regards to economic activity which violates their civil rights and Brenkert's notion of employee rights to participation can be applied to public sector processes.

2.2 Active Accountability as Preferences from Citizens

Accountability theory differs from its practice. Theory is frequently ahead in creating a concept of accountability that might remedy existing problems, but is still bound within the paradigm of representational regimes. The beginning of this chapter demonstrated alternative forms of democratic structures in order to synthesize a new democratic context that advances an inclusive accountability structure within it. Accountability literature is saturated with articles relevant primarily to accounting for

finances and being accountable to someone and for something. Still, the accountability processes are regulated primarily at the bureaucratic level and not *from* the public's preferences.

Current concepts of accountability processes are largely hierarchical. This means that individuals in organizations report upwards to their superiors in the hierarchical chain. Obligating superiors to report to their inferiors on job performance and duties is not a part of the representational and bureaucratic context in Canada. For example, Thomas Schilleman's (2007) *Accountability in the Shadow of Hierarchy* makes a clear distinction between two types of accountability: *vertical* and *horizontal* accountability. Vertical forms of accountability are generally accepted as the requirement of inferiors to report to their superiors. Horizontal accountability includes "demonstrating responsiveness to clients, independent overseers or professional standards" (Schilleman, 2007, p. 4). The concept of horizontal accountability identifies external agents as important for responsiveness. The concept of horizontal accountability generally addresses other "stakeholders and demands besides those of the hierarchical principle" (Schilleman, 2007, p. 4).

Schilleman's idea of accountability is still contained within the idea of representative and bureaucratic institutions. Although the idea of horizontal accountability advances a broader spectrum of people involved in the accountability process, the process is still based on hierarchical structures implied in *responsiveness*. The accountability process as discussed by Schilleman would still result in an after-the-

fact assessment of behavior as a response and not actively involve citizens in regulating the behavior of leaders.

The critical examination of key pieces of accountability literature plays an important part in advancing an accountability process which is preventative and obliges leaders to incorporate the preferences of citizens in governing processes to ensure their needs are met. *Reinventing Accountability, Making Democracy Work for Human Development*, by Anne Marie Goetz and Rob Jenkins (2005), provides a synopsis of current examples of accountability practices in representational democracy. They acknowledge that institutions found in representative democracies “are seen to have become less reliable as instruments for articulating an aggregating voice or for enforcing sanctions against improper public-sector actions” (Goetz & Jenkins, 2005, p. 25). They support the notion that “accountability describes a relationship where A is accountable to B if A is obliged to explain and justify his actions to B, or if A may suffer sanctions if his conduct, or explanation for it, is found wanting by B” (Goetz & Jenkins, 2005, p. 8). The section *If A is obliged to* makes the obligation conditional and leads us to question *when* A is actually obliged, and to *whom* A is obliged. Also, this definition does not necessarily incorporate citizen preferences; it only obliges an explanation or justification of actions. Further, their definition encompasses issues of optional transparency and may foster secrecy for efficiency purposes since leaders may get to decide if and when they want to be held accountable. They argue that “voting at election time is no longer enough, if it ever was” (Goetz & Jenkins, 2005, p. 14). This demonstrates an understanding of the problems of representation in regards to accountability regimes.

Goetz and Jenkins see the problems arising in relying on elections as a primary form of holding political representatives accountable. The new accountability agenda “is expanding the range of legitimate accountability seekers” (Goetz & Jenkins, 2005, p. 15). Taxpaying citizens are legitimate in demanding stronger measures for the incorporation of their preferences in organizational processes, especially when public money is distributed according to the perception of leaders and may, in turn, have negative consequences on citizens and their communities.

Political leaders need better guidance on how to collect and distribute taxpayer money according to citizen preferences. The objective of expanding the democratic context results in accountability theory becoming more pliable and dynamic in advancing an inclusive accountability process of effectuating citizen preferences. As Leif Lewin (2007) rightly notes, in *Democratic Accountability: Why Choice in Politics is Both Possible and Necessary*, “politicians are not adrift, carried by currents they cannot resist” (p. 3). They have opportunities to make real choices and that “these choices can be understood and evaluated by the citizens. That voters have alternatives is a core element of democratic theory” (Lewin, 2007, p. 3). He reiterates the notion of increasing opportunities for citizens to become involved in the accountability process through better and more numerous avenues of actually holding political leaders accountable. Choices for taxpayers and better options for citizens to incorporate their preferences in political and economic processes improve democracy and accountability theory. His analysis of accountability rests on two arguments: “first: that politicians do have a choice” and that the choices made by leaders could be made more “visible to a

broader public and could be understood and evaluated by them” (Lewin, 2007, p. 185).

This concept of democratic accountability will enhance the process of democratic institutions by increasing the participation of citizens in the decision-making process. Citizen participation allows for more choices in the accountability process; however, the concept of choice still needs more emphasis to further explore an expanded democratic context.

Another way to advance an active accountability process lies in the relationship between citizens and their leaders. Mollie Painter-Morland (2006) stresses the importance of the “relational context within which responsibilities and duties develop” (p. 93) in maintaining thorough accountability measures. Just as in the representational context, deliberative techniques play a crucial role in organizational behaviour. Commonly, the notion of being accountable *for something* in the business environment is usually associated with a “set of defined, concrete assets” (Painter-Morland, 2006, p. 93). However, she argues that this notion of accountability is not sufficient enough in the context of an “open network of interactive relationships where perceptions and other intangible dynamics play such a crucial role” (Painter-Morland, 2007, p. 93). Relational responsiveness implies modes of deliberation in order to promote stronger measures of accountability within bureaucratic institutions. By building stronger relationships between leaders and citizens in the integrative democratic context, accountability theory becomes an active process through the inclusion and effectuation of citizen preferences in political processes. This is done in order to protect civil rights and prevent ethical misconduct.

Utilizing beneficial characteristics from deliberative and participatory forms of democracy and integrating them within representational contexts will enhance the accountability system by ensuring on-going public documentation of events in the event of an infringement and *violation* of civil rights. This integrated form of democracy is an interactive relationship between citizens and their leaders.

Although accountability theory now renders itself as an “after-the-fact” process *to someone* and *for something*, we see above a current momentum for the advancement of active accountability in theory and in practice. More choices for citizens and stronger relationships are necessary for the thorough effectuation of citizen preferences in the accountability structure. The many problems associated with current accountability theory and practice has ethical implications on human beings and their environments. In order to move towards inclusive accountability processes in political institutions, the behaviour of leaders needs to be ethical in order to build relationships and provide the choices necessary to increase participatory and deliberative processes. The examination of ethical theory surrounding accountability theory and practice creates a stronger case for the importance of ethics in accountability processes.

2.3 Restoring Ethics in Accountability Processes

Accountability processes and case studies have demonstrated that the ethical conduct of political leaders is lacking due to consistent cases of misspending and poor decision-making, often resulting in tragedies. In Chapter 3, we will attempt to ground the idea of *active accountability* within the context of Alan Gewirth’s ethical theory of

human rights. Here, it is imperative to establish the necessity of moral behaviour in political processes; there are important links that need to be made between ethical and accountability practices. We turn now to the idea of *restoring ethics in accountability*. In this context, we establish that public service and private sector organizational ethics are vital to grounding an accountability structure, and one which will guide us towards effectuating citizen preferences in political and economic processes.

Accountability imposes a self-regulating influence on leadership “to help control organizational misconduct” especially when they adhere to a “strong ethical social consensus” (Beu & Buckley, 2004, p. 67). A strong ethical social consensus “of a moral issue is defined as the degree of social agreement that a proposed act is evil (or good), and appears to influence the ethical decision-making processes” (Beu et al., 2004, p. 78). Getting an ethical social consensus would be possible through an expanded democratic context as a means to increase choices for citizens to be more involved in political and economic processes. Relying on transparency alone and secrecy for a system of accountability limits the ability to achieve an ethical social consensus. The opportunity for public consensus is limited to the opportunities, optionally provided by our leaders, to facilitate open dialogue in order to achieve social consensus. Explaining decisions and actions to stakeholders followed through with a consultative process may increase the opportunity to achieve an ethical social consensus because “those in authority tend not to account for their actions voluntarily because it means sharing control” (McCandless, 1994, p. 39). It has been demonstrated that open accountability “will lead to more ethical behavior” (Beu et al., 2004, p. 74); therefore it is imperative that

leadership cultures include strong self-regulating accountability measures in their ethics programs in order to foster a strong ethical climate.

An effective ethics program would make employees more accountable by including active accountability measures as one aspect of an ethical organizational culture. Ethics programs that “define organizational values and encourage employee commitment to ethical aspirations will create a culture of self-governance based on the desire for social approval from known audiences” (Beu & Buckley, 2004, p. 73).

The Values and Ethics Code for the Public Service (2003) demonstrates aspects of what may consist in an ethical organizational culture, including *Democratic Values, Professional Values, Ethical Values, and Personal Values*. The code is a great step towards regulating ethical behaviour; however, it applies primarily to public servants. The problem of ethics arises because “the administration is there to serve not to govern” (Gow, 2005, p. 3). The code applies exclusively to public servants and has little relevance to the ethical culture of leadership responsibilities since “public servants have to uphold the democratic state, while bending to the policies of the legitimate government” (Gow, 2005, p. 27). This demonstrates that public servants may need to compromise personal ethics in order to fulfill their “constitutional stewardship” (Morgan & Kass, 1991, p. 286). This compromise originates from the priorities set by leadership, who effectively determine the degree of ethics consciousness in organizational culture.

An ethical organizational culture originates from the willful direction of senior officers in the public service. *The Values and Ethics Code for the Public Service* does

not provide a framework for senior officers. This can make the code irrelevant when the direction of senior officers alters the values and ethics of an organization. An unethical organizational culture, in most cases, will disseminate from the top-down, and our current codes of values and ethics will not prevent top-down influences of accountability processes. Unethical organizational cultures, which lead to misconduct, start at the top. The Westray Mine Disaster and Sponsorship Scandal demonstrate that unethical behaviour originated at the bureaucratic/executive level and manifested itself throughout the organizational culture, which also utilized secrecy and optional transparency as norms.

The prevention of unethical behaviour which leads to wrongdoing can be accomplished by enhancing choices for participation and the inclusion of preferences from citizens in processes in order to reach an ethical social consensus. Eva Erman (2006) contributes greatly to this dialogue by examining liberal democratic theory in relation to democratic accountability. Erman (2006) argues that “there is no ostensible link through representative institutions between political actions and preferences of citizens’ as the liberal idea of accountability suggests” (p. 250). When human rights are being violated, there should be a clear link between political action and effectuating citizen preferences.

The focus on accountability in a human rights context may not find universality in applicability. Erman (2006) states that “it is true that many people are citizens in democratic constitutional states that protect their basic rights and interests, unfortunately, not all people live in such states” (p. 250). Her concern is primarily not to

whom we are accountable, but rather, *for what*, and with a view to the global context of accountability from a human rights perspective. We need to shift away from a complex global application of accountability and narrow our focus down to the civil rights where, within a community perspective, we can establish the means to incorporate preferences from citizens into political processes. Accountability needs to be effectuated from citizen preferences and not merely from the preferences of leaders, bureaucrats and elites.

2.4 Conclusions about Active and Ethical Accountability

Shifting accountability structures to include an integration of representational, participatory and deliberative democratic structures creates a theoretical context to better include citizens in governmental accountability processes. It is important to select the beneficial characteristic from each to facilitate the involvement of citizens and the effectuation of their preferences in political processes as a form of active accountability.

The accountability theories reviewed above have shown accountability to be confined within representational democracy; however, we see movement toward the establishment of a more inclusive accountability agenda within Canada. Current accountability practice is still conditional upon answering to a select group if they decide or have the ability to ask. We are moving from an agenda of being accountable *for something* and *to someone* in our current democratic context, towards an active accountability process that seeks to effectuate citizen preferences within an integrative democratic context. Accountability theory and practice needs to be active and

preventative. It needs to turn away from passive and punitive processes in order to improve the ethical accountability climate in organizational practices.

Ethics plays an integral part in accountability, and vice versa, so understanding the importance of ethics in public and private institutions will guide us to implementing active accountability measures in adherence to maintaining an ethical social consensus. Accountability has strong links to human rights, particularly because of the lack of incorporating citizens in the process when civil rights are violated. Elections alone do not allow citizens to have active membership in the accountability relationship. Envisioning an active accountability process which obligates leaders to engage citizens and effectuate their preferences in order to ensure accurate allocation of public funds, will balance the power struggle between citizens and their elites.

CHAPTER III

ACTIVE ACCOUNTABILITY IN *THE COMMUNITY OF RIGHTS*

Introduction

Accountability theory and practice is greatly influenced by the representative and capitalist institutions that underpin Canadian democracy. Accountability practices, as we saw in the last two chapters, are tied to the principles of efficiency, secrecy and optional transparency. Case studies have demonstrated that the limitations brought about by representative and capitalist institutions have an effect on how well citizens can hold to account those who possess political and economic power. Current accountability practices satisfy punitive measures in the hope of deterring misconduct in government. In many, if not most cases, such practices fail to actually deter poor decision-making.

Lacking in our system of accountability are preventative measures that will not only reduce the chances of problems occurring in the first place but also actively assist our punitive system with a stronger means of documenting problematic situations and applying effective sanctions with real teeth. Our current democratic systems of representation, elitist deliberation and bureaucracy alone cannot provide an expanded notion of accountability unless we filter out the problematic elements of these systems, while understanding how their positive attributes are interrelated and contribute to the advancement of an ethical and more active accountability and democracy in government.

Ethically grounding a notion of *active accountability* is a major objective of this thesis. An appropriation of Alan Gewirth's ethical rationalism and theory of human rights is essential to ensuring the human rights of citizens to have their preferences incorporated by virtue of their taxation and labour. Moral justification of an active accountability theory entails the moral and legal obligation of the state to assist citizens in obtaining the objects of their citizenship rights, that is, social, economic and political rights. The *object* of the human rights are linked, for Gewirth, first and foremost to what he calls the "generic" rights to freedom and well-being, and the consensual and democratic processes that effectuate citizens' preferences to alter political processes according to their fundamental freedoms (e.g., civil rights) and basic human needs.

This chapter strengthens the theory and practice of *active accountability* by advancing the view that all citizens hold certain human rights, both economic and political democratic rights, in what Alan Gewirth (1996) calls the "community of rights" or the supportive state. In this chapter, we will first integrate human rights theory into a view of democracy and active accountability. In turn, we argue that citizens, as moral and purposive agents, hold both negative and positive rights against the state that entail active accountability processes. We conclude by establishing that in order to ensure the human rights of citizens in a true community of rights, the public space required will need to be expansive, interactive and ethical.

3.1 Integrating Human Rights into Democracy and Accountability

Canada's democratic structure and adherence to human rights principles demonstrates a country which is dynamic and malleable enough to encompass an accountability regime that morally and, incidentally, legally obligates leaders to actively seek the effectuation of citizen preferences. Our democratic institutions have the capacity through public funds, and an already developed infrastructure, to enact this process. Underlying the Canadian political and economic accountability regime, laws uphold the order necessary for a sufficiently working society. In order for these laws to have purpose, there is an accountability procedure which accompanies them, and is implemented as well as altered according to the perception of society's leaders. Citizens, as compared to elected representatives and government officials, play a small part in the establishment of laws, policies and procedures in public institutions, so an ethically grounded active accountability theory will bridge the gap between legal obligation and ethical action.

Grounding the notion of active accountability in an ethical theory of human rights will provide a thicker philosophical justification for better connecting citizens to the accountability process. This process must provide better procedural and substantive choices for citizens to be involved in the restoration and maintenance of justice in Canadian society. As we have seen earlier, current accountability theory and practice *confines* the ability for citizens to become involved in the political and economic process even when wrongdoing, or the violation of human rights, directly or indirectly affects citizens.

Alan Gewirth's ethical theory of human rights exists in a period of human history where the necessity and possibility of justifying a supreme and objective moral principle, namely what he labels the "principle of generic consistency" (PGC), is immensely needed in order to restore justice, democracy and accountability in communities around the world. Alan Gewirth's political and ethical theory seeks a supreme moral principle, grounded in human rationality and agency needs, that has been supported by a large number of scholars. Even after a critique from an eminent scholar like Alasdair MacIntyre, who specializes in virtue ethics as a justificatory basis of moral theory, Gewirth's response to MacIntyre "has successfully reestablished the primacy of moral rules about rights and duties in relation to the content of the virtues" by means of his dialectically necessary method (Walters, 2003, p. 18). Gewirth "has replied, almost immediately" to other philosophers who criticize his deductive argument to the PGC (Singer, 2000, p. 177). In short, there is a large consensus about the strength of his arguments and his ethical rationalism as a universal ethical theory of human rights even if the conflict of interpretation of his theory inevitably remains at the level of epistemology and epistemological foundations.¹

Our interest in this chapter is not so much with Gewirth's deductive argument to the Principle of Generic Consistency (PGC), nor with the epistemologies and philosophies of human rights per se. Even the *Universal Declaration of Human Rights*

¹ Derek Beyleveld's *The Dialectical Necessity of Morality* (1991) elaborately addresses concerns of Gewirth's moral philosophy, defending his 'dialectically necessary method' and discusses a vast number of criticisms, many of them ones that Gewirth has replied to, as well as "some Gewirth somehow missed" (Singer, 2000, p. 177). Edward Regis Jr.'s edited volume entitled, *Gewirth's Ethical Rationalism* (1984), provides a comprehensive overview of the criticism from various authors. Gewirth appears to thoroughly answer his critics at the end of Regis's volume.

is without an epistemological philosophical ground in absolute truth. Our concern is, rather, with the substantive norms that he derives from the generic rights to freedom and well-being with respect to the democratic welfare state, or what he calls the *supportive state*, and especially the right to economic democracy and the right to political democracy. Moreover, it is the need for “mutuality” on the part of citizens that constitutes the moral structure of the community of rights. Mutuality is vital to the role of active accountability that we have advocated in this thesis.

Gewirth’s theory of human rights is actually an interpretation of the *Universal Declaration of Human Rights* (UDHR). He gives a philosophical justification and ethical specification to some of the main economic and social rights set forth in the UDHR. In this respect, this chapter is focused primarily on the issue of ethical specification of the economic and social rights of the UDHR, and their relation to active accountability, rather than an epistemological defense of his argument to the principle of generic consistency (PGC). Gewirth’s principle of generic consistency is gaining momentum in political, economic and social theory and practice. This project is going to add to this momentum by ethically justifying an active accountability theory within Gewirth’s notion of rights in *the supportive state*.

Readers should be advised to approach Gewirth’s philosophy chronologically in order to gain a thorough understanding of his concepts. He has an intense logical order and complex historical structure to his writing that make his philosophical ideas flow, and on a constructive basis, from chapter to chapter, and from book to book. For example, his article, “Moral Foundations of Civil Rights Law,” (1987) utilizes elements

of his moral justification of human rights from his earlier work *Reason and Morality* (1978) and establishes that moral precepts will guide law to become inherently rational. Both texts help illuminate the *moral foundations of law* in establishing the role of the democratic state or supportive state in his last major published book *The Community of Rights* (1996).

Civil and Human Rights in Active Accountability

Gewirth (1987) argues that “law needs moral foundations, civil rights are related to the human rights which are the central concern of morality” (p. 235). Civil rights are granted to citizens of a particular state, by virtue of their taxation, and Gewirth (1996) mentions that in the United Nations declaration, “civil rights, as well as political, social, and economic rights, are all subsumed under human rights” (p. 69). If the civil rights of citizens are secured, the broader human rights are also secured. The purpose of looking at human rights in a broader sense as including civil rights “can be traced back at least as far as Aristotle’s insistence that to be fully human is to be a member of a *polis*, a *civitas*, a political community, and thus to be a citizen, a *civis*” (Gewirth, 1996, p. 69). Active accountability processes should aspire to secure human rights through the civil rights made possible by taxation. Citizens have to sacrifice their right to have full entitlement of their earnings and for the state to function and protect these rights. Political leaders ought to sacrifice certain freedoms because citizens provide the means to their vocation. Morals are foundational to the extent that citizens and leaders participate in political accountability processes.

Alan Gewirth's "Moral Foundations in Civil Rights Laws" (1987) establishes that moral precepts should determine law and not vice versa. He argues that "legal rights, to be ultimately valid, must be derivative from or at least consistent with, the human rights which are the primary contents of morality" (Gewirth, 1987, p. 239). Current understandings of accountability have established a legal process of holding people or institutions to account; however, it has been shown by the case studies to be faulty because of civil rights violations and, at times, lack of accountability. Gewirth (1987) states that "because such and such modes of interpersonal action are inherently right, they ought to be performed or engaged in" (p. 240). The process of effectuating preferences from citizens ought to be engaged in, in order to make active accountability processes legal and ethical.

Accountability theory and practice needs to be grounded at the level of morality so that it is inherently rational, and not merely instrumentally rational, as in the case of precedent law and the current Canadian accountability regime. A substantive theory of active accountability will assign moral, and not merely legal, obligations to and for our political leaders if they are to engage in an active accountability process that benefits all citizens in the community of rights. The accountability process should be treated as an end in itself, ensuring that it will be ethical and not serve some other purpose as is shown through optional transparency. This would make possible the freedom, opportunity, and well-being for all Canadian citizens to incorporate preferences in political, economic and judicial processes, and, thus, ensuring the well-being of citizens of the state and organizations. Information and communication technologies alongside

an effective method of interpersonal public engagement may provide a means to the end of effectuating preferences in order to facilitate the well-being and freedom of citizens.

Successful Agency and the Principle of Generic Consistency

Human rights are central to the project of making sure human agents have opportunities for successful action and that the state respects everyone's possibility of successful action. The dialectically necessary method builds on the idea of a *prospective purposive agent* whereby "all persons have rights to the necessary goods of action" (Gewirth, 1996, p. 108) and that those who cannot obtain these *necessary goods* "entail correlative duties" (Gewirth, 1996, p. 108) of the state to provide the moral and legal right to have successful action. Gewirth emphasizes the *non-optional* of the state in providing the required assistance for agents to have the welfare provisions as one of the *objects* necessary for successful action. Productive agents claim freedom and well-being as necessary for action and agency since the agent claims a right to them, makes them good, and, therefore, the generic rights of productive agency.

These generic rights must be accepted by every agent because they are necessary goods to productive agency. The PGC states that one should "act in accord with the generic rights of your recipients as well as yourself" (Gewirth, 1996, p. 3). At first glance, one would equate the logical format of the PGC to the *Golden Rule*: do unto others as you would have them do unto you. They are different in the sense that the PGC does not relocate an assumption from first person into the second person because the golden rule may apply to "emotivist and subjectivist accounts of morality that

MacIntyre finds so prevalent today” (Walters, 2003, p. 183). The PGC is an ethical theory which reduces harm from agent to agent as well as assists agents to secure their necessary goods of successful action when assistance is needed. This will ensure that moral action will take place by making universal the necessary goods of freedom and well-being. In the case of accountability, the generic rights to freedom and well-being play an integral role in connecting citizens’ taxation with the right to have their preferences actively effectuated in political processes. The right to incorporate preferences from citizens is a necessary, even if insufficient, condition for the successful action of agents. The government is obliged to serve and secure these rights, which will support the productive agency of individuals.

The generic rights to freedom and well-being are central to the idea of agents having the necessary goods for productive agency. The Principle of Generic Consistency (PGC), which underlies Gewirth’s moral justification of human rights, is applied to justify the community of rights “whose effectuation would help to rectify the problems of severe deprivation in modern societies” (Gewirth, 1996, p. xiv). The PGC is a universalized judgment that sets a *prescriptive requirement* that the actions of individual agents are to be such that the agent acts “in accord with the generic rights of your recipients as well as yourself” (Gewirth, 1996, p. 19). This effectuates the individual agent to respect the rights of all other humans, and, furthermore, the generic rights become human rights.

Gewirth (1996) argues that the PGC dialectically establishes that “human rights have as their objects the necessary conditions of action and successful action in general

and that all humans equally have these rights” (p. 19). In order for the successful action of agents to be moral, it should fulfill their own productive agency as well as their recipients. Political institutions also have the moral obligation to fulfill these generic rights so long as the freedom and well-being to productive agency of individuals is secured.

Now the integrative democratic context established in Chapter 2 allows the idea of human rights to flourish because of the need and ability for citizens to address issues of freedom and well-being, especially the idea of having these two generic rights and their application to specific political rights. These generic rights to freedom and well-being ought to entail more choices for citizens to be involved in political processes.

Emphasis on an active accountability process relates significantly to Gewirth’s discussion of action as the basis of human rights. Gewirth (1996) writes that “it is with actions that all moralities or moral precepts deal, directly or indirectly. All moral precepts tell human beings how they ought to act, especially toward one another” (p. 13). The *dialectically necessary method*, which Gewirth uses to argue for the existence of human rights, establishes that the generic features of purposive action results in agents having to *accept* the argument for human rights. The *dialectical* aspect of the method facilitates the “transition from ‘is’ to ‘ought’” (Gewirth, 1996, p. 16). *Ought* implies a particular obligation, particularly on the part of those who have the ability to act. The *necessary* aspect pertains to the “normative necessity and categoricalness” (Gewirth, 1996, p. 16) required for the actual grounding of rights. Human action as the basis of human rights pertains to the notion of making accountability and democratic

processes active and not passive. Maintaining the freedom and well-being of productive agents to have inclusiveness in the democratic process and effectuate their preferences in the accountability process corresponds directly to the *dialectically necessary method*.

Freedom and Well-being in Positive and Negative Rights

Alan Gewirth's analysis of the generic right to *freedom* as being the "procedural generic feature of action" (Gewirth, 1996, p. 241) signifies the ability for a society to freely associate with organizations and provide its *voluntary* consent in political and economic processes. Participating in elections demonstrates a procedure which makes possible the freedom to choose by a *method of consent*; however, the process of voting between elections and effectuating those preferences will facilitate the active accountability process.

Well-being understood as the "substantive generic feature of action" (Gewirth, 1996, p. 241) involves citizens being ensured their generic rights through the justice system and laws. When an act succeeds in achieving the goods necessary for "fulfilling one's purpose" (Gewirth, 1996, p. 13) and everyone else's purpose, it maintains the well-being of agents. In order to have general success, agents require specific types of well-being. *Basic well-being* consists in the basic necessities of having success in achieving one's actions such as "life, physical integrity, [and] mental equilibrium" (Gewirth, 1996, p. 14). *Non-subtractive well-being* relates to having the abilities to maintain "undiminished one's general level of purpose fulfillment" (Gewirth, 1996, p. 14). In order to increase one's purposive agency in maintaining the generic rights to

successful action, *additive well-being* promotes the development of agency through “education, self-esteem, and opportunities for acquiring wealth and income” (Gewirth, 1996, p. 14).

Both positive and negative rights come to the forefront in regards to maintaining the generic rights of freedom and well-being to productive agency. Negative rights entails the non-interference with the components of freedom and well-being and positive rights ensures the freedom and well-being of agents, especially when there is interference in attaining the objects necessary for successful action. Linking negative and positive rights as well as freedom and well-being to the active accountability process will be further examined in the following section when we establish the purposive agent’s right to such a process.

In ensuring the necessary goods of freedom and well-being for productive agents, Gewirth mentions three morally justified states, namely: the minimal, democratic, and supportive state. The voluntary consent of agents into voluntary associations entails the functioning of each of these states. These morally justified states establish the human rights framework in maintaining the generic rights of productive agents through instrumental and procedural justifications, as well as material and substantive norms and rights.

The *optional procedural justification of voluntary associations* entitles citizens the freedom to associate themselves with any organization where some organizations

may actually contribute to securing rights. Active accountability organizations should be voluntarily accessible to citizens in enabling the accountability process itself.

The *static instrumental justification* of the *minimal state* upholds the well-being of citizens and their rights through the creation of rules and laws to protect the generic rights to productive agency. Accountability procedures in our justice system exemplify the minimal states ability to uphold the right to well-being; however, we have seen instances in the Westray Mining Disaster which fail to uphold this right because of all the miners who died.

The *necessary procedural justification* of the *democratic state* relies on the freedom of rights holders to make changes to laws and procedures through the *method of consent*. The right entails equality in a “political expression of the equal right to freedom for all persons” (Gewirth, 1996, p. 314) and allows citizens to have equal participation in the process as well. It is not only to elect leaders but also to share the mutual obligations of governing the distribution of their taxes and, in turn, “effectuate the economic rights” (Gewirth, 1996, p.314) to gradually relieve deprivation. Active accountability relies significantly on the freedom component of the democratic state in order to provide access to citizens in effectuating their preferences between elections for political leaders.

The *dynamic instrumental justification* of the *supportive state* incorporates the freedom and well-being component in order to actively assist those in maintaining their basic- and claim-rights. An accountability process which incorporates the preferences of

citizens will understand more accurately the needs of its citizenry, and be able to actively assist in maintaining the right to freedom and well-being.

The minimal state upholds the basic components of well-being through the criminal law, the democratic state ensures the freedom to determine laws and officials by the *method of consent* and the supportive state provides basic components of well-being so that people can be productive agents in society. Enhancing the freedom component in the democratic state to incorporate preferences from citizens, in order to strengthen the minimal state's ability to hold criminals to account and the supportive state's ability to increase the level of well-being in a community, provides the foundations in advancing an ethical accountability theory within the "supportive state" or *The Community of Rights* (1996).

In order for the supportive state to enhance democratic and accountability processes to include individual preferences from citizens, a conception of community and mutuality must exist in the participation, deliberation and cooperation between citizens and leaders. The notion of mutuality and community will support the positive rights of citizens through the accountability process, especially when their negative rights are being violated. The notion of mutuality and community are central to Gewirth's explanation about the role of the *supportive state* in providing and maintaining the positive rights necessary for productive agency, especially when the negative rights of citizens are being violated.

Mutuality and Community for Political and Economic Democracy

It is the need for mutuality on the part of all members of society that constitutes the moral structure of the community of rights, and mutuality is a theme that works to overcome what Gewirth calls the “adversarial conception” of the relation between rights and community (Gewirth, 1996, p. 2). According to Gewirth (1996), “mutuality and community are symmetrical relations” (p. 75) where mutuality is *dynamic* and *interactive* in maintaining rights. The equality of such rights may be confined to “static, noninteractive relations between persons” (Gewirth, 1996, p. 75) as productive agents have equal amounts of some right without interacting with one another. In a mutual relation, “A gives some valued X to B and B gives some other kind of valued X to A” (Gewirth, 1996, p. 75) where A and B are equal in participating in the mutual relationship and the amount of X received is also equal.

Reciprocity operates in opposition to Gewirth’s concept of mutuality and community as he explains that reciprocity is “if A does good for B, then B does good for A” (Gewirth, 1996, p. 76). Reciprocity involves a temporally prior benefit which makes reciprocity *reactive* or *responsive*, unlike mutuality which bases the relationship between rights holders on *simultaneity*.

Canadian democratic and accountability processes currently promote reciprocal relationships which have reactive responses to wrongdoing after-the-fact, whereas an active accountability structure will facilitate a *mutualist* relationship. The concepts of

mutuality and reciprocity will be discussed and applied more thoroughly in the following section establishing the rights to an active accountability process.

The supportive state has an obligation of facilitating this mutual relationship concerning the generic rights of productive agents as having against one another such rights as not being lied to by political and economic leaders, or becoming physically injured through negligence so that “A has rights against B and B has rights against A” (Gewirth, 1996, p. 76). An understanding of the difference between mutuality and reciprocity is vital in altering the accountability regime to provide productive agents, entitled to the right of active inclusion in economic and political accountability processes, with choices to include their preferences in an inclusive democratic context.

An inclusive democratic context is central to Gewirth’s “community of rights” where he examines economic and political democracy as they both pertain to the supportive state. Gewirth (1996) states that in North America and Western Europe, “elements of the tax-supported welfare state have existed side by side with capitalist market economies” (p. 257). He refers to this embodiment as *social democracy* and the market systems of individual organizations and the whole of society as economic democracy “insofar as they provide for worker control of the productive process” (Gewirth, 1996, p. 260).

Economic democracy is a system where products are created and sold competitively and the “workers themselves control the productive organization and process” (Gewirth, 1996, p. 260). This also includes there being ownership by the

workers themselves or by the state. The duty to establish economic democracy belongs to the political agents involved in constitution and legislation making, resulting in the designation of workers' control to be "an operative requirement within the whole economy" (Gewirth, 1996, 263). Gewirth argues that the right to an economic democracy should at least be a negative claim-right so that if the electorate decides workers' control as fundamental to their economy, the state has an obligation to at least not put obstacles in the way to allow it to happen. This can be done through the positive right of increasing choices to effectuate citizen preferences in political and economic processes.

Political democracy's "object is an institutional procedure for determining the possession and exercise of political authority" (Gewirth, 1996, p. 314). Political democracy is justified by ensuring the equal right to freedom for all persons. This equal right stems from the ability of citizens to participate equally in political action. The state has a mutual obligation to ensure that citizens have the means to have political expression and involvement. The supportive state establishes that economic democracy is effectuated through a political democratic process in order to facilitate the consensual procedures of the citizenry whereby the supportive state gradually relieves deprivation of society's most vulnerable groups, and assists those who need protection when their basic human rights to food, shelter, clothing, etc. are deprived. An integrative democratic context will allow the active accountability process to ensure the effectuation of consensual procedures which ensure the incorporation of citizen preferences into economic and political processes.

3.2 The Purposive Agent's Right to an Active Accountability Process

Given Gewirth's ethical justification of human rights in an integrative democratic context, as summarily noted above, let us now turn to an application of Gewirth's theory of political democracy to active accountability mechanisms within Canada as an ideal community of rights. Our particular emphasis will focus on the connection of citizen rights and taxation, as well as labour and the direct correlation to citizen needs and preferences. Gewirth's human rights framework enables citizens to have their preferences actively incorporated in political and economic processes on the basis of the principle of generic consistency. According to Gewirth (2006), "when rights are properly understood, they entail a communitarian conception of human relations, relations of mutual assistance, social solidarity, and important kinds of equality" (p. 6). How does a theory of active accountability fit with Gewirth's moral paradigm?

Moral agents have human rights by virtue of their adherence to and respect from the state itself and other agents in the community of rights. The rights which are to be considered are "primarily claim-rights, that is, rights that entail correlative duties at least to refrain from interfering with persons' having the objects of their rights and, in certain circumstances, to help persons have these objects" (Gewirth, 1996, p. 8). The accountability theory here enables persons to have these claim-rights by incorporating their preferences into political and economic processes.

Gewirth identifies the general structure of a claim right as: "A has a right to X against B by virtue of Y" (Gewirth, 1996, p. 8). A *claim-right* differs from a *human*

right in the sense that in a human right “both the subjects and respondents comprise all human beings equally” (Gewirth, 1996, p. 9) and an active accountability structure is a claim right since it refers primarily to the context of the tax-supported welfare state. In order to understand the connection of active accountability as a claim right, it is important to unpack the *five elements* which make up a claim-right.

The *subject* “A” is the right holder of a particular “right, what being a right consists in”. In the case of accountability, the right holder is the taxpayer or citizen. “X” refers to the *object* of that right which refers to the active accountability process of effectuating citizen preferences into political processes. The fourth component of a claim-right deals with the *respondent* “B” as the person or group which has the duty to facilitate the effectuation of citizen preferences. The fifth is the justifying basis of the right “Y” which enables citizens through their taxes and contributions to the supportive state to obligate leaders to effectuate their preferences (Gewirth, 1996, pp. 8-9). The active accountability process would ensure that citizens have a right to effectuate their preferences against exclusive democratic contexts by virtue of taxation in political processes and labour in economic processes.

The taxation of citizens impacts the ability for political institutions to operate. When taxation rates interfere with productive agency by limiting freedom and well-being, the generic feature of action, according to Gewirth, requires that the rights to freedom and well-being of prospective purposive agents be maintained insofar as there is primarily the non-interference to these rights. If these negative rights are interfered with, it is the positive duty of the respondent (*the supportive state*) to ensure citizens the

positive right to the freedom and well-being necessary for productive agency. The active accountability theory we advance will entail the positive duty of the state to actively incorporate citizen preferences into judicial, political and economic processes. This entails that the negative rights of citizens are not being violated, but also that the positive rights of moral agents as citizens in the supportive state are secured.

Gewirth's discussion on positive and negative rights involves the components of freedom and well-being where negative rights are to refrain from interfering in freedom and well-being, and positive rights are the active assistance in an agent's freedom and well being to productive agency and successful action in general. The violation of a negative right entails the active assistance and positive duty to make sure an individual can be a prospective purposive agent. The positive right in the supportive state would prescribe the duty of incorporating preferences from citizens and not merely engaging citizens. In substantive (material) justice, the well-being of agents would be secured through the on-going effectuation of citizen preferences in order to maintain a documentation of events and allow intervention for preventative purposes. Once the documentation of citizens' concerns commence through the effectuation of their preferences, the signal to intervene and provide precautions acts as a preventative measure or active deterrence. In procedural forms of justice, the freedom component will allow the "unforced choice" (Gewirth, 1987, p. 241) of providing preferences to political and economic leaders through the *method of consent* in order to address and satisfy any issues pertaining to well-being.

Taxation directly affects citizens in having the possibility of productive agency and, ultimately, ethical action when the government unequally garnishes the wages of citizens. In Canada, upper-class citizens may be marginally affected by taxation compared to the middle- and lower-class whose taxed income may adversely affect their non-subtractive and additive well-being to productive agency. Political representatives and officials have the ability to determine taxation rates independently of citizen involvement. In the process, it seems that political and economic leaders hold far more freedom in decision-making processes than citizens and workers themselves. When taxation policies undermine the productive agency of citizens by preventing successful action, taxation policy is itself unethical and violates the civil rights to well-being. Incorporating preferences from citizens in regards to how taxation policies negatively impact their ability to be productive agents would be a good start in an inclusive democratic context. However, we must look further into expanding the scope of ways to incorporate preferences and affect change, as well as regulate unethical conduct found in representative democracy.

When two rights are in conflict, the right with more importance takes precedence as is exemplified with the “criterion of needfulness for action” (Gewirth, 1996, p. 45). Gewirth uses the example to support the idea that the *affluent* be required to give a portion of their income to support the *destitute* as a right which takes more precedence. For example, care for mental health patients or foster children takes precedence over the right of the affluent to keep all of their earnings, therefore justifying the taxation of the affluent. However, irregularities between the affluent and destitute vary greatly, where

those perceived as middle class may be negatively affected by paying a more significant portion of their income to the government, resulting in the possibility of violating their rights to productive agency. The taxpayers' right to be taxed accordingly, so long as they maintain their negative right to well-being, takes precedence over the political institution's right to determine the percentage of taxes insofar as the state maintains citizens' negative and positive rights to well-being.

Taxation occurs in many different forms; in fact, taxation policy may well interfere with even the negative right to protection of the generic right to non-subtractive and additive well-being. In this case, the right to incorporate the agents' preferences may improve their well-being so long as the respondents of these rights are able to provide the positive rights to make use of their preferences. The federal and provincial tax on income, as well as municipal property tax alone, can easily impede on an agent's possibility to *successful action and successful action in general*. Extending citizen preferences into different systems and levels of taxation will correlate the generic rights of productive agents to effect change on the institutions which rely on their collective financial contributions in order to establish the effective allocation of public funds.

The relationship between citizens and the allocation of their tax dollars is fragmented because of their exclusion from political processes. Gewirth would agree that mutuality is essential in sustaining the relationship between citizens and political/economic leaders. Our current system functions by maintaining *reciprocal* relationships, at best, between citizens and their leaders. Reciprocity allows the subject to determine his or her action independent of the recipient, as exemplified in "if A does

good for B, then B does good for A” (Gewirth, 1996, p. 76). In the case of representational contexts, citizens provide taxes to the political system, and political leaders then reciprocally decide, independently of citizen involvement, what to provide through public service programs, crown corporations, private sector contributions and the justice system.

Here, we may see the importance of Gewirth’s concept of mutuality within the community of rights. In a mutualist relationship, “A gives some valued X to B, and B gives some other valued X to A” (Gewirth, 1996, p. 75). That which is valued should be determined by the recipient. Citizens provide their valued taxes and labour to political and economic agents and processes; in turn, these processes should return corresponding requirements from the aggregated preferences of citizens and effectuate a system of taxation which reflects citizens’ negative and positive rights to freedom and well-being. This will be made possible by establishing that citizens have these rights by virtue of their contributions, and that leaders have a moral obligation to correspond citizen preferences to political and economic processes. Note in this context that the public service structure can maintain an on-going system of collecting citizen preferences to establish the right to intervene on organizations involved in wrongdoing. Accountability would also incorporate citizen preferences through the minimal state in order to maintain their freedom and well-being to productive agency.

Gewirth’s discussion of economic democracy argues for worker control over the productive process. The labour and taxation, which public service and private sector workers contribute to organizations and communities, entitles workers to a right to be

included in the productive process, especially decisions which can affect the future of the organization itself, or the communities that require the promotion and protection of the generic rights to freedom and well-being. In Gewirth's (1996) notion of economic democracy, workers are not labourers working merely for their wages; "instead, they are joint members and partners in their firm, who finance their cooperatives by contributions and entry fees set with their approval" (p. 260). The success of the organization will be reflective of the input workers provide to the processes and the organization's profits are "shared by the members in proportion to hours worked and pay level" (Gewirth, 1996, p. 260).

Communities consist of productive workers, who also provide tax money to governments, so the correlation of workers' preferences to economic and political processes is also vital in establishing an active accountability process which reflects the preferences of its citizens. Gewirth (1996) reminds us that in order to establish an economic democracy, it should be the result of a "democratic process of discussion, deliberation, and negotiation in which arguments pro and con are carefully considered by the electorate of political democracy" (p. 263). We argue that those who work for a specific organization should have their preferences incorporated in private sector decision-making. In addition, those agents who are externally affected by the actions of that organization should also have their preferences effectuated insofar as procedural decisions may unjustly violate the individual's generic rights to freedom and well-being.

Political democracy in the supportive state will effectuate the establishment of economic democracy. Gewirth (1996) states that "political democracy is justified

because it is a political expression of the equal right to freedom for all persons” (p. 313). This equal right “entails a system of mutual obligations whereby citizens are enabled to participate equally in political action” (Gewirth, 1996, p. 313). Political action in a representational democratic context allows citizens to vote at election time and perhaps run a political campaign; however, these options limit citizen involvement. Through the citizen’s right to freedom and well-being, the citizen’s option to participate should be expanded to the freedom to incorporate citizen preferences in order to enable equal participation and the positive right to well-being. Voting on issues in the community should happen periodically between elections for political leaders, in order to strengthen the link between citizen preferences and their effectuation in political processes.

Gewirth (1996) argues that we “must now move from the competitive to the cooperative conception of the democratic process, with its emphasis on deliberative rationality and mutuality” (p. 343). Political leaders should not govern independently of citizen preferences outside of voting at election time since it is the citizen’s claim-right to have their preferences effectuated by virtue of taxation and productive purposive agency. The community of rights is a “political democracy in which officeholders are subject to effective evaluation by the electorate” (Gewirth, 1996, p. 350), which will provide the necessary goods to the generic rights of productive agents. The political effectiveness of the civil liberties is distributed largely in accordance with the existing distribution of economic resources. Gewirth (1996) writes:

. . . the passive relation of civil liberties to government should also be positive, in that government should affirmatively intervene to remove not only occurrent but also dispositional or institutional obstacles to poor

persons' exercising their civil liberties in the democratic process with an effectiveness equal to that of the affluent. Thereby government will positively assist the poor to make effective use of their civil liberties, so that the civil liberties are positive rights. (p. 341)

The democratic process becomes focused on cooperation, and not only competition, in actively assisting citizens to obtain their positive rights. The passive accountability we are trying to overcome with the idea of “active accountability” requires that civil liberties become understood as positive rights. Without this understanding, it is difficult to see how we can move beyond the existing principles of efficiency, secrecy, and optional transparency. In a truly mutualist community of rights, these principles would entail rational inconsistencies on the part of individuals and institutions.

Gewirth's application of the Principle of Generic Consistency to an active accountability structure will enable citizens the right to incorporate their preferences into judicial, political and economic processes, against representative and capitalist democratic structures by virtue of taxation, as well as a mutualist respect for human dignity and the generic rights to freedom and well-being to productive agency. This process is vital in establishing two essential notions of accountability for this project, namely: active and preventative accountability.

3.3 Enabling Public Space and Interaction

The philosophical and moral justification that links civil, political and economic rights to democratic processes exists in the Gewirthian supportive state. In such a state, active accountability processes require a pro-active freedom on the part of the state, as a positive right and not merely a negative right, to provide choices and spaces for the

successful collection and effectuation of preferences. In turn, the generic rights to freedom and well-being of citizens will be ensured and wrongdoing prevented through an on-going method of documentation, procedural and consensual political methods of support, as well as the state's concern for the most deprived members of society whose human right to productive agency and economic well-being is protected. Political and economic procedural rationality will also provide validity and ability for the supportive state to intervene in wrongdoing; the minimalist state will need to find the right criminals, as well as provide guidance to economic and political elites in regards to policy changes and allocation of public funds that benefit the most deprived members of the state. The documentation of violations on well-being and freedom can also provide evidential strength in determining sanctions and applying consequences, but the community of rights goes beyond the mere power structures of the minimalist state in order to incorporate a mutualist and vibrant human rights cultural ethos. This ethos is founded upon the correlative nature of rights and duties, as well as a rational understanding of the role of mutuality in the promotion and protection of citizen political, economic and social human rights.

The integrative democratic context established in Chapter 2 will allow these types of procedures to flourish and activate accountability processes starting with the preferences of citizens. Prioritizing efficiency, secrecy and optional transparency in the representational and capitalist context needs to be overridden by a democratic system which obliges political and economic leaders to interact with citizens in order to acquire their preferences and promote a sense of effectiveness, openness, and clarity.

Active accountability processes in Canadian democracy have policy implications in establishing a civil right for taxpaying and laboring citizens to have their preferences actively incorporated in political and economic processes. Essential to the thesis of establishing civil rights to a process of engaging citizen preferences by virtue of taxation and labour, the generic features of human action will actively assist citizens to have these rights and to prevent the infringement of these rights. The successful action of productive agents and organizations will be facilitated through an active accountability theory in the supportive state.

Rights in a community of democratically organized agents must be established within certain boundaries and determined by correlative taxes and labour. It is essential to have attainable goals, which the notion of community allows, rather than a global perspective of human rights that may well blur the lines of who is accountable to whom, especially across borders. As long as political and economic leaders are preventing violations of human rights as well as actively assisting citizens in having the necessary goods for productive agency, the supportive state and active accountability process simultaneously compliment each other within a localized framework.

Our current representational democratic context does not provide the necessary elements of civil, political and economic rights. Leaders are not obliged to engage average citizens and effectuate their preferences in political and economic processes. The Canadian democratic system is pliable enough to introduce the notion of *active accountability* in democratic processes. Political and economic leaders have the freedom to choose the amount of public input required in democratic processes.

An interactive political and economic democratic context will need to be established in order to allow an active accountability process in the supportive state to flourish because of the emphasis on citizen participation, deliberation and involvement into political and economic practices. By making a direct correlation from taxation and labour to the civil rights of democratic involvement, the supportive state has a mutual obligation to ensure the positive rights of freedom and well-being to productive agency. The well-being of citizens must be protected from rights violations and the state must actively assist citizens to achieve successful action.

Enabling the collective process of active accountability in the supportive state will require a diversity of mediums in facilitating an ethical and interactive public space. Information and communication technologies (ICT) accompanied with an emphasis on face-to-face interactions may facilitate a purposeful and accessible public space.

It is known that an absolute reliance on ICTs may burden the effectiveness of the active accountability process by isolating citizens from each other, rather than building a sense of community in public places. The public space required for effective interaction can take many different forms. Let us now turn to the possibilities and practical applications of an active accountability structure in Canadian democracy with a view to the facilitation of an ethical, mutualist and interactive public space in the Canadian community of rights.

CHAPTER IV

ACCOUNTABILITY, DEMOCRACY, AND INFORMATION TECHNOLOGY: TOWARD AN INTERACTIVE AND ETHICAL PUBLIC SPACE

Introduction

Accountability theory and practice is greatly influenced by the representative and capitalist institutions which underpin Canadian democracy. Several cases (Sponsorship Scandal, Westray Mine Disaster, etc.) demonstrate that the limitations brought about by representative and bureaucratic institutions have an adverse effect on how well citizens can hold those in political and economic power actively accountable for decisions which may affect their freedom and well-being to productive agency. Accountability practices today mostly satisfy punitive measures, with the hope of deterrence, and in some cases even fail to do that. Lacking in our system of accountability are preventative measures which can not only reduce the chances of problems occurring in the first place but also assist our punitive system with a stronger means of documenting problematic situations in case of tragedy. Our current democratic systems of representation, deliberation and bureaucracy alone cannot provide an expanded notion of accountability unless we filter out the problematic elements of these systems while understanding how their positive attributes are interrelated, and can contribute to the advancement of a stronger and more viable accountability and democracy.

The ethical theory of active accountability I wish to advance hinges on two main concepts. The first is the importance of active accountability measures in the justice and

political system to ensure citizens' well-being through better access to reporting and on-going documentation of problematic occurrences. The second is the political and economic component of freedom by ensuring the active incorporation of citizen and worker preferences in decision-making processes. This would strengthen the link between monetary allocation and policies to the actual needs of individuals who support the system with their taxes and labour. As demonstrated in numerous case studies, the unethical behaviour at leadership levels exemplifies the need for a moral guide describing how leaders can engage citizens and workers in hopes of creating cooperative relationships and a sense of mutuality in decision-making.

This concluding chapter will utilize the conclusions from throughout this project and correlate them to methods available to implement an ethically grounded active accountability theory. The assistance of information and communication technology will result in an interactive and ethical public space. The inherently problematic representational democratic context, which Canadian accountability structures operate within, promotes notions of secrecy, efficiency, and optional transparency resulting in the exclusion of citizens in political and economic processes. We need an accountability structure which facilitates effectiveness, openness and clarity.

In an integrative democratic context, accountability theory has the ability to expand in its application to include citizen preferences by means of information and communication technologies, bringing rights issues into an interactive and ethical public space. This public space can provide the opportunity for citizens and leaders, when both are present, to bridge the gap between decision-making and citizen preferences,

thereby fulfilling the civil rights to an active accountability process. Information and communication technology provides assistance in collecting and compiling public input and recommendations on policy, resulting in the interactive and ethical public space required to balance the power between citizens and their leaders.

4.1 Information Technology for an Interactive Democracy

An interactive democracy does not come without challenges. Technology has developed, in part, due to the competitive nature of the capitalist free-market. The additions made to political institutions with information and communication technology (ICT) are clearly demonstrated through their websites, customer support and service centres. This section of chapter 4 briefly explores some of the roles ICT will serve to make accountability within the supportive state possible. The size and demographics of populations certainly hinder the ability for political and economic leaders to actively engage citizens face-to-face in order to incorporate their preferences. The information age should better utilize ICTs to overcome this challenge of collecting preferences from citizens. Though ICT offers an excellent means to cross spatial restrictions for effective communication, interaction with the public should use a variety of communication mediums in order to provide greater opportunities for citizen engagement.

Before embarking upon an integration of ICT into a theory of accountability within the supportive state, it is vital to recognize that ICT has been shown to hinder the advancement of democracy and accountability just as well as it can support it (Chambers, 2005; Dean, 2002; van den Hoven, 2005). Furthermore, this section of the

concluding chapter will integrate the notion of an effective use of ICT by applying it to the ideas laid out in this project's methodological approach. There is limited literature linking ICT to accountability theory and practice; however, there is plenty of literature linking democratic theory to ICT. ICT's success in altering the democratic context to provide the citizenry with more opportunities and spaces to access information demonstrates that it could also transform an accountability process to become an interactive and ethical public space.

An essential gateway which currently advances public space and interpersonal communication between human beings is provided through the internet. Manuel Castells (2000) in *The Rise of the Network Society (Volume 1)* elaborates on the earliest advancements of internet development which happened in "1960-4, [and] was to design a communications system invulnerable to nuclear attack" (p. 45). The purpose of the communication technology was to allow message *units* along a network where the unit can be decoded at any point along the way. The technology was designed primarily for the purpose of enhancing the secrecy and efficiency of communication between highly bureaucratic and hierarchical institutions, and was not necessarily intended to advance the democratic interaction of citizens with their leaders. This behaviour reinforced the problematic representational democratic context to rely on secrecy as a mode of successful decision-making in governance.

In light of the problems associated with information and communication technologies in democracy, it leaves us to wonder if we should place more emphasis on democratizing technology or making democracy technological. The issue of whether

technology will govern democracy or a “democracy which governs technology” (Kochan, 2004, p. 411) is discussed in Jeff Kochan’s (2004) essay review of Andrew Barry’s (2001) *Political machines: governing a technological society*. Kochan (2004) argues that a “democratic society will endeavour to produce democratic technologies” (p. 411) as a form of legitimacy in political and economic processes. Had there been emphasis on advancing an interactive democratic process through active accountability, the government may have better developed technology which promotes democratic participation and deliberation.

Although ICT has its negatives, this project seeks to utilize the beneficial characteristics of information and communication technologies in promoting an interactive democracy which facilitates an active accountability process. We have the technological abilities to implement the facilitation of a public space whereby the preferences from citizens become incorporated in political and economic processes. ICTs are “no longer a privilege of the elite, information is available to anyone with a computer” (Dean, 2002, p. 2). The prospects for technological methods to assist in furthering democracy to become interactive are becoming limitless; however, the way in which democratic societies utilize ICTs can have serious implications.

The concept of *e-democracy* has received criticism from a number of scholars. On the contrary, it is also argued that ICTs can be used to further democratic institutions. John Morison (2004) expresses that in order to increase participation in delivering government services as well as “give real expression to those processes of endogenous decision-making that are supposed to characterize integrative, bottom-up democracy”

we need an “element of legitimacy against a background of voter disengagement” (p.29). The effective utilization of ICT as a facilitator of an integrative democratic process will provide an open venue for the inclusion of citizen preferences, and will be the element of legitimacy Morison is discussing. However, the use of ICTs in a democratic context has been challenged. Jeroen van den Hoven (2005) expresses concern for developments in the recent past “regarding internet supported democratic experiments” such as e-voting as well as “inequities with respect to access to information and to government services” (p. 51). Individuals who are disconnected from technological forms of governance, for whatever reason, have a serious disadvantage in being a part of the technological democratic system. In Hoven’s (2005) examination of the role technology plays in democratic processes, he would agree that technology was used as an end in itself, thus limiting participation and legitimacy. Gregory J. Walters (2001) in *Human Rights in an Information Age*, expresses that “democratic, participatory societies *may* increase their openness, achieve greater representation, and further distribute political power by means of the new, powerful information technologies; but we do not seem to be headed in this direction” (p. 9). Technology provides the capability of information collection, aggregation and distribution and is, therefore, capable of facilitating a component of an interactive and ethical public space.

Society has reached a point in the digital age where individuals are prone to complete daily activities and responsibilities through ICT devices without the need to interact with other humans face-to-face. The importance of in-person interpersonal

communication should not be neglected in the digital age. If we rely too much on communication technologies as our primary mode of communication for economic and political processes, we may encounter the problem of exclusivity between those who have access to ICT and those who do not. ICT can play a role in engagement as well; however, leaders should not lose sight of the importance of engaging citizens in-person. Additionally, Samuel A. Chambers (2005) mentions that the internet is said to discourage the “very face-to-face interactions that would build trust and reciprocity, thereby eroding social capital so critical to effective democracy” (p. 125). Although Chambers’ terminology of *reciprocity* may be contrasted with Gewirth’s concept of mutuality, Chambers, nevertheless, would agree that information and communication technologies should not be used independently in facilitating a stronger accountability and democracy.

The integrative democratic context discussed in Chapter 2 will include citizens in the democratic process, especially in regards to deliberative and participatory forms of democracy. According to Jodi Dean (2002) in *Publicity’s Secret: How Technoculture Capitalizes on Democracy*, the “advances in computer-mediated interaction provide even-greater numbers of people with access to information” (p. 2). *Communicative capitalism*, as argued by Jodi Dean (2002), should have led us to “more equitable distributions of wealth and influence, instead of enabling the emergence of a richer variety in modes of living and practices of freedom” (p. 3). The exclusion of citizens, characterized in representational and capitalist democratic contexts, is further reinforced through communicative capitalism as it seems that ICT is designed primarily to assist

the government in maintaining modes of secrecy, efficiency, and optional transparency. The “deluge of screens and spectacles undermines political opportunity and efficacy for most of the world’s peoples” (Dean, 2002, p. 3) and has yet to be demonstrated as effective in facilitating an active accountability process.

Regardless of the challenges surrounding ICT and democracy, enabling an ethical and interactive public space will require the use of a variety of mediums, especially in regards to the establishment of citizen rights to have their preferences effectuated in political and economic processes. Empowering citizens to have choice and opportunity to actively participate in democratic processes will enhance the active accountability process, and the application of ICT requires further examination. Balancing the ways in which we utilize ICT to advance an active accountability structure through interpersonal communication is essential to an interactive democratic context; however, “if we consider this technological condition for the possibility for any modern public sphere, we must relax the requirements of the public sphere as a forum for face-to-face communication” (Bohman, 2004, p.133). Only a diverse forum of citizens, which is itself effectuated by the participants, will satisfy the needs of a diverse citizenry.

4.2 Accountability Policy Implications for Canada

The practical application of accountability structures, procedures and the means to a public space, which incorporates citizen preferences into political and economic processes, will require further investigation and development. The cultural implications

of a radical shift from our current accountability regime to align its policies with an active accountability process will require time to effectively facilitate the transformation. Canadian democratic systems do not make it obligatory for leaders to actively include citizen preferences in major decision-making and policy development processes; however, it is not restrictive to do so either. This makes Canadian democracy an excellent opportunity for the practice of active accountability to flourish as an optional method for leaders to advance an ethical system of accountability. Eventually, the institutionalization of an active accountability process will shift our representational and capitalist democratic structures to become interactive and ethical. Municipal, provincial and federal department representatives and bureaucrats could facilitate the active accountability process through already established and well-funded government institutions.

Participation, deliberation and representation will connect citizen preferences to government decisions by virtue of their taxes. The interactive public space will include assistance from ICT in the collection, deliberation, aggregation, and effectuation of preferences in order to make political and economic processes directly serve citizen's needs. In addition, physical interactive spaces are just as important to increase accessibility and opportunity in effectively collecting the preferences of citizens. This should also include youth not yet permitted to vote during representative elections yet able to contribute to the political and economic system through taxes and labour. Some groups, such as youth, contribute to the taxation system and are affected by political processes, yet voting is age restrictive and they are unable to effectively make their

preferences known. For example, the engagement process of the Ontario Liberals starting September 2004 regarding the ending of mandatory retirement, provides very little indication that opinions were incorporated in regards to how such legislation will affect younger generations. In a document from the Ontario Ministry of Labour in August 2004, Christopher Bentley states that “following the public consultations, the McGuinty Government intends to introduce legislation to end mandatory retirement.” The decision to end mandatory retirement was decided before the consultations actually began. The passage of legislation in December 2005 enacted a major change in public policy and the impact on youth has not been investigated enough. Decisions made on behalf of the citizenry need to reflect the needs of those affected and demonstrate a diverse sample group. These consultations should inform government representatives in policy making and approval of legislation and not serve as a mirage of legitimacy.

The Federal Accountability Act, Access to Information Act and Financial Administration Act currently provide the means for citizens, through government officials, to hold government accountable. These acts should facilitate an active accountability process to connect citizen preferences to policy changes and the allocation of public funds. The current structure in place for the management of public funds could already support the active accountability process. In the case of the Federal government, an Accountability Commission could be formed to facilitate the active accountability process. Statistics Canada and Elections Canada could ensure the active collection of citizen preferences, whereby the Auditor General will ensure that governmental departments have correlative programs to meet the needs from the

preferences collected. On a large scale, this process could seem overwhelming for governmental human and physical resources, which is why the engagement process should begin at the municipal level, allowing better possibility of interpersonal communication with the immediate population. The aggregated information could then be filtered through to provincial and federal institutions as the preference database grows. Focusing municipally will also promote a stronger sense of community, essential in allowing the supportive state to assist citizens directly with their freedom and well-being to productive agency.

Public leaders can utilize the information collected through each municipality to guide their actions in effectuating citizen preferences and the recorded preferences can also serve as evidence for judicial processes in the case of wrongdoing. The purpose of the active accountability theory as constructed in this project is to make our democratic institutions interactive and, therefore, ethical. The key feature of an interactive democracy is the active accountability process which will engage citizens for the purpose of maintaining and supporting their freedom and well-being to productive agency.

CONCLUSION: THE INTERACTIVE AND ETHICAL PUBLIC SPACE

This project began by establishing that the current Canadian democratic context excludes citizens in political and economic processes due to an emphasis on secrecy, efficiency, and optional transparency. The representational and capitalist democratic structures which underpin current accountability theory and practice are restrictive and require better choices and opportunities for citizens to become incorporated in accountability processes. The right to effectuate their preferences makes the process ethically grounded. Currently, when unethical behaviour at leadership levels goes unchecked, citizens have very little strength in effectuating their preferences into processes to maintain or restore justice. A correlation has not been made to establish that citizens have the right to such an involvement in political and economic processes. A system to provide that right is through the active accountability theory developed in this thesis.

The ethical justification of an active accountability theory within the supportive state provides the necessary goods to successful action by linking the taxation and labour of citizens to the right to have their preferences incorporated in political and economic processes. Enabling the public space necessary for this type of interaction may be a challenge, taking into account the distances and size of populations. However, the developments made in ICTs will provide a gateway to advance an interactive public space by emphasizing a multiple of mediums of communication, focusing on the importance of face-to-face interpersonal communication in maintaining active accountability.

The practical methods required to enact an interactive and ethical public space for the purposes of an active accountability structure will need further development in order to effectuate the incorporation of citizen preferences into an interactive democratic context. The morally and legally obligatory nature of the active accountability process in the supportive state will provide citizens with the necessary goods to the freedom and well-being of productive agency and result in balancing the control that leaders and citizen have in the accountability process.

This project fulfilled its goal in theoretically establishing the active accountability agenda as ethical and inclusive, which is fundamental to a system of interactive democracy. The democratic context will be one of inclusivity in fostering the relationship of rights between citizens and economic and political processes. The public space must itself be ethical in order to effectively maintain an active accountability structure in the community. An over-abundant use of technology in the public space can fracture the significance of interpersonal relationships in legitimizing effective communication. With a considerate utilization of communication mediums, an active accountability framework can provide the means of effectively connecting citizens to political and economic processes taking into consideration their spatial distances. This public space will provide a venue to collect the information required for leaders to enact decision-making policies and procedures that effectuate the will and preferences of the citizens. In turn, citizens can use these processes to hold leaders actively accountable on issues affecting their everyday lives.

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