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# *The Responsibility Crisis in Canada*

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by Thomas S. Axworthy

*Over the last two years the federal government's sponsorship programme has been the subject of a study by the Auditor General, the Standing Committee on Public Accounts and most recently by a Public Inquiry headed by Justice John Gomery. Central to all these studies have been questions of accountability and responsibility. This article argues that Canada needs to re-discover the ethic of responsibility. It also puts forth specific structural reforms for parliament, the public service, and the executive.*

One of the core problems that the 2003 report of the Auditor General, the hearings of the Public Accounts Committee, and the Gomery Commission of Inquiry into the sponsorship scandal has revealed is the absence of any notion of responsibility<sup>1</sup> from those in high positions. Testimony has unveiled that senior public officials ignored several internal complaints about irregularities in awarding ad contracts. Political staff whose job it is to advise ministers involved themselves in policy implementation, the traditional preserve of the public service. The Minister in charge of Public Works, Alfonso Gagliano, denied liability because he claimed that he lacked knowledge. The Deputy Minister of Public Works equally denied liability because he too lacked information. So the question obviously arises: if the Minister and Deputy Minister were not running the department, who was?

Parliamentary scholar, C.E.S. Franks, put his finger squarely on the problem in testimony to the Public Accounts Committee in May, 2004: "Not one of the many witnesses who came before the Committee, neither ex-ministers nor public servants, ever stated: yes, managing this program was my responsibility, and I am re-

sponsible and accountable for whatever went wrong with it."<sup>2</sup>

The pattern described by Franks to the Public Accounts Committee has generally been repeated in testimony to the Gomery Commission. One exception is former Prime Minister Jean Chrétien, who told the Commission: "I regret any mistakes that might have been made in the course of this program, or any other government program. As Prime Minister, I take ultimate responsibility for everything good and everything bad that happened in the government."<sup>3</sup> Another is David Dingwall, the former Minister of Public Works, who acknowledged that he crossed the line in 1995 when he insisted to his Deputy Minister Ron Quail that Chuck Guité, the epicenter of the crisis, be promoted to direct communications activities.<sup>4</sup> Neither Minister nor their staffs should interfere in the hiring process of public servants. But from the general performance of Ottawa decision-makers on recalling their roles in sponsorship, it is evident that we have a crisis of responsibility in Canada.

Organizations or collectives do not have moral responsibilities, the individuals within them do. Understanding the primacy of responsibility is the starting point of accountability. To respond is to answer.<sup>5</sup> Therefore, to be responsible is to be answerable. Government rests on the ethic that people in positions of power take responsibility for their actions. On responsibility and accountability we have both a moral and a structural problem. Morally we have had a retreat from responsibility. Restoring this ethical base must be the first priority. A starting point

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*Thomas S. Axworthy is Chairman of the Centre for the Study of Democracy at Queen's University, Kingston, and was a contributor to the 1997 Universal Declaration of Human Responsibilities by the InterAction Council. This is a revised version of his Distinguished Visitor Lecture at the Library of Parliament on April 8, 2005.*

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will be for parliament to debate the Universal Declaration of Human Responsibilities. Structurally, we have allowed confusion to set in about the separate roles of public servants, ministers, and their personal political advisors. We need a clearly understood framework of responsibility and accountability that is endorsed both by the legislature and the executive. We do not need to wait for the report of the Gomery Commission to know that we have an immediate problem that badly needs fixing.

### **The Morality of Responsibility**

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Ethics are a system of moral standards or principles that could be accepted universally, that is, by anyone who did not know his or her personal characteristics such as social class, race, sex or nationality. According to Hans Küng, the world renowned moral philosopher, a global ethic is “nothing but the necessary minimum of common values, standards and basic attitudes.”<sup>6</sup> Among that necessary minimum is the concept of human obligation or responsibility. Since the time of the Stoics we have known that as we develop our sense of responsibility we increase our internal freedom by fortifying our moral character.

With freedom of choice, including the choice to do right or wrong, a responsible moral character will ensure that the former will prevail. Therefore each of us develops moral codes of responsibility as lovers, spouses, parents or citizens. In Plato's *Crito*, Socrates says that conscience or the sense of responsibility “is what I seem to hear them saying just as a mystic seems to hear the strains of music, and the sound of their argument sings so loudly in my head that I cannot hear the other side.”<sup>7</sup> Socrates, the Stoics, and the prophets all recognized that with freewill human beings battle internally and incessantly with the competing forces of light versus the power of darkness. As Montaigne wrote, “so marvelous is the power of conscience! It makes us betray, accuse, and fight ourselves, and in the absence of an outside witness, it brings us forward against ourselves.”<sup>8</sup>

So, moral responsibility or conscience is vital to our development as human beings. We are only free if we are not a slave to evil. But it is equally central to our notions of political freedom. Freedom and responsibility are interdependent. Responsibility is a natural voluntary check on freedom. Just as an individual must have limits if we are to co-exist with our fellow human beings, so too, political freedom must be exercised within a framework of mutual obligation. No one has been more eloquent on this point than Edmund Burke in his 1791 letter to a member of the National Assembly of France:

Men are qualified for civil liberty in exact proportion to their disposition to put moral chains upon their own

appetites; in proportion as their love of justice is above their rapacity; in proportion as their soundness and sobriety of understanding is above their vanity and presumption; in proportion as they are more disposed to listen to the counsels of the wise and good, in preference to the flattery of knaves. Society cannot exist unless a controlling power upon will and appetite be placed somewhere, and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters.<sup>9</sup>

The philosopher Immanuel Kant paraphrased Matthew 10, Verse 16: “Politics says: ‘Be ye therefore clever as serpent,’ but morals adds as a limiting condition: ‘and innocent as doves.’” Kant believed that like the serpents and doves of Jesus, politics and ethics could co-exist. But, as Dennis F. Thompson writes, there is often a tension between them.<sup>10</sup> Politics is the realm of power, governed by utility; ethics is the realm of principle, ruled by imperatives. What joins the two is the primacy of responsibility and accountability. The first defence against the corrosive impact of power is a personal sense of morality among those in position of authority. If there is no personal ethics, then the state becomes organized kleptocracy, like Zaire under Mobutu, or anarchy, like Hobbes' war of everyone against all. If this first defence buckles then we have interlocking structures and protections, such as parliamentary accountability or the American system of the separation of powers. As Madison wrote in No. 63 of the Federalist papers, “Responsibility, in order to be reasonable, must be limited to objects within the power of the responsible party, and in order to be effectual, must relate to operations of that power.”<sup>11</sup>

***In Canada, it is my thesis that we are both deficient in the ethic of personal moral responsibility and in our structures of accountability.***

Morals must be lived, but before that they must be taught. Many institutions have this responsibility – churches, schools, universities, etc. Responsibility and rights are intertwined but in our age, as opposed to most of world history, it is rights which receive all the attention, with responsibility or obligation shuffled off to the corner. The Human Rights Movement, supported by a plethora of government and non-governmental organizations, has done a magnificent job in getting people to understand their rights. But if we have an easily defined human rights community (Amnesty International, Human Rights Watch, the Canadian Centre for Human Rights and Democracy, a slew of law school courses, the

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*Canadian Charter of Rights and Freedoms*, etc.), where is the human responsibility community? Can anyone name even a single institution that has the propagation of responsibility norms as its primary mission? Yet, the more freedom we enjoy, the greater the responsibility we bear, towards others and ourselves. The more power or authority we possess, the greater, too, our responsibility to use it wisely. Canada is an innovator in the realm of human rights, but as Gomery shows, we are a laggard in the domain of human responsibility. It is time to right that balance.

In 1996, while still in possession of all his intellectual and physical powers, Pierre Trudeau invited me to join him and several former prime ministers and presidents in a meeting sponsored by the InterAction Council to consider the interrelationship between rights and responsibilities. This modern-day father of the *Charter of Rights and Freedoms* had become convinced that the world's religions needed to come together to develop a common ethical base that would serve to prevent Samuel Huntington's *Clash of Civilizations*. All this intellectual bridge-building, of course, occurred before September 11th. It is even more critical today. A group of religious leaders and philosophers like Hans Küng, worked with the former political leaders to produce in 1997, "A Universal Declaration of Human Responsibilities." It was a creative interplay of truth challenging power.

The hope of Trudeau and the other members of the InterAction Council was that national legislatures would debate the universal declaration, and that states would then bring it forward to the United Nations as a companion declaration to the Universal Declaration of Human Rights. The draft declaration outlaws inhumane behaviour, it makes clear that no person, group or organization stands above good or evil. Everyone endowed with reason and conscience must accept responsibility. What you don't want to be done to yourself, don't do to others. Each of us must behave with integrity, honesty and fairness. There is a responsibility to speak truthfully, to show respect for all other people. In this regard the Declaration especially mentions the media. In the context of today's ethical problems in Canada, the greatest responsibility is placed on those in positions of power and authority. Article 13 states that such people are not "exempt from general ethical standards."

The *Universal Declaration of Human Rights*, passed by the United Nations in 1948, was a landmark in the history of human rights. While not possessing the force of law itself (international covenants and treaties later gave effect to the principles of the Declaration), it served as a normative breakthrough that has been educating the world ever since about the importance of rights. The world

needs – Canada needs – a similar normative breakthrough in the realm of responsibility. We should know our duties as spouses, parents, and citizens as well as we know our rights. Parliament should debate the *Universal Declaration of Human Responsibilities* and apply its ethical norms to the issues raised by Gomery. If parliament agrees with the Declaration then the government should be encouraged to introduce the Declaration to the General Assembly so that the world can finally begin to focus on our obligations as well as our rights. By restoring responsibility to its primacy as the arch of our moral code we will be providing an antidote to the seven social sins as preached by Mahatma Gandhi:

1. Politics without principles
2. Commerce without morality
3. Wealth without work
4. Education without character
5. Science without humanity
6. Pleasure without conscience
7. Worship without sacrifice

### Accountability Structures

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The *Universal Declaration of Human Responsibilities* is aimed at the highest possible level of governance, the United Nations. But most governments, corporations, professional societies, etc, already have values declarations or codes of conduct. The late John Tait, for example, a colleague from the Privy Council in my time as Principal Secretary, and later the Deputy Minister of Justice, headed a task force on public sector values in the mid 1990s, which produced an excellent report entitled: *A Strong Foundation*. Tait's work led to the 2003 publication of the *Values and Ethics Code for the Public Service*, a first-class piece of work. Yet, just about the time Tait was starting up his task force, so too, was the sponsorship program launched, and by the time the new values framework was published in 2003, the near total absence of accountability values evident in the work of Mr. Guité was becoming widely known. In short, personal morality is essential, but it is only the first line of defence.

Accountability answers the question "who reports to whom for what?" It means politically, that those who have been delegated the power to make decisions by the electorate, the prime minister, the ministers, the deputy minister, director-general, etc, must answer for how they have discharged the duties that they have been delegated. Accountability is about responsibility, the re-

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sponsibility to answer for your actions. In our traditional Westminster system, the electorate confers the formal power to act or be authoritative to members of parliament from whose ranks the governor general calls on one of the leaders to be prime minister, who in turn is accountable to parliament, and the accountability chain continues with ministers and deputy ministers being accountable to the prime minister, senior officials being accountable to the minister of the department, director-generals being accountable to the deputy minister, and so it goes down the line.

***When individuals falter, and they always do, you need a structure of checks and balances to preserve the public interest.***

Accountability is, therefore, the requirement to account for the authority delegated by the legitimate source of authority. Answerability requires that an account is tendered to those to whom an account is due. There are three distinct kinds of accountability in our political system and confusion is common about the distinctions between them. First, there is democratic accountability and this priority involves the ability of citizens to hold decision-makers accountable for the power that has been delegated to them. Second, there is ministerial accountability, the convention which forms the cornerstone of our parliamentary system. Parliament holds ministers to account for the policies they promote and for the administrative actions of their departments. Ministers are responsible for some things and answerable for all things. Third, managerial accountability is the province of the senior public service. Officials have the responsibility to ensure that public resources are being used in accordance with the policy goals of the government and deployed in the most efficient and effective manner. Public servants also have the responsibility in carrying out their duties to ensure that laws, policies and guidelines are respected. Democratic accountability enhances the legitimacy of the government, ministerial accountability to parliament polices abuse, corruption and hubris, and managerial accountability identifies where responsibility lies for success or failure leading to improved performance and better outcomes.

To be fair, as a result of the sponsorship scandal the government has already made several structural reforms to improve accountability. The Ethics Commissioner has been made independent of the Prime Minister and Mr. Shapiro has brought down a new conflict of interest code for members of parliament. The *Public Servants Disclo-*

*sure Protection Act*, or the “whistle blowers act,” mandates internal disclosure mechanisms in every department and public servants can now also appeal to the President of the Public Service Commission. The recently announced Crown Corporation Review extends the *Access to Information Act* to ten formally exempt Crown corporations and the Auditor General will now be the sole or joint auditor of all Crown corporations. The Treasury Board also has underway two reviews, which will eventually be tabled in parliament on financial administration and accountability. The Gomery Inquiry, while getting to the bottom of individual malfeasance, will undoubtedly add its voice to that of the Auditor General in recommending additional reforms.

I have two structural suggestions that do not have to wait for Gomery. It is clear that there is confusion between the forms of accountability listed above. Ministers define their responsibility for actions very narrowly, while the opposition calls for resignations at every opportunity. There is little doubt that ministers have to answer for everything, but are they responsible for the thousands of decisions made everyday by every department or agency? Where does the responsibility of the minister end and the responsibility of the deputy minister begin? And what about the role of exempt staff or the personal assistants to ministers? The sponsorship scandal shows that personal assistants had roles that went well beyond their traditional task of advising ministers. Personnel and implementation decisions were influenced, if not actually directed, by exempt staff. But if public servants are guided by the *Values and Ethics Code for the Public Service*, and if ministers and members of parliament, respond to the Ethics Commissioner and ultimately the judgment of the voters, what standards are expected of personal political advisors? The Treasury Board has “Guidelines for Minister's Offices,” but the exact role and responsibility of the personal political office is the black hole of Canadian public administration.

Yet, if the personal political office is essentially unanalyzed as regards accountability, the same is not true for the public service. The *Value and Ethics Code*, for example, lists well the principles of public servants promoting democratic values such as “public servants shall give honest and impartial advice,” or “public servants should loyally implement ministerial decisions, lawfully taken.”<sup>12</sup>

But, David Good in his study of the 2000 debate over the audit of grants and contributions of Human Resources Development Canada, writes, “ironically the ‘Canadian Model’ of new public management, operating under the paradigm of the professional public service has not made accountability and performance a primary

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element.”<sup>13</sup> Donald Savoie, now working on a review of accountability for the Treasury Board, concurs in *Breaking the Bargain*:

The broad outline of Canada's accountability regime has remained pretty well intact over the years. But everything else has changed. Precious few issues now fit neatly into departmental moulds. As a result, the machinery of government no longer provides clear space to policy actions and to individual public servants to assure policy and program responsibilities. And responsibility is the crux of the problem that needs to be addressed.<sup>14</sup>

One immediate step would be to adopt the British approach of formally designating deputy ministers as “accountability officers.” As described by C.E.S. Franks, British permanent secretaries “have full and personal responsibility for the transactions in the accounts, including matters of prudence, probity, legality, and value for money, unless they have been explicitly overruled in writing by their minister.”<sup>15</sup> A June, 2004 round table organized by the Public Policy Forum reported that such an idea received “mixed support” because the Clerk of the Privy Council in Canada traditionally intervenes in the case of serious difficulties between minister and deputies.<sup>16</sup> But, I believe that making the Deputy Minister legally responsible for accountability performance would have strengthened the resolve of the Deputy Minister of Public Works to withstand dubious suggestions.

Therefore, we need an accountability code that commands the support of parliament, the executive, and the public service. In the cock pit of parliament it is very difficult to achieve this: a natural impulse of the opposition is to demand resignation, a natural impulse of a minister is to off-load. With noted experts like Professor Donald Savoie, I am sure that the Treasury Board review of accountability will be a quality piece of work. But in the post-Gomery world it will not be enough to pass through the portals of government. The opposition has a great deal to say about accountability and there is much work to do to conciliate the competing demands and needs of the opposition, the executive and the public service. The forthcoming Treasury Board report requires a public face. The government should appoint a three person task force of notable public figures headed, for example, by a former leader of the opposition like Preston Manning, aided by an experienced former Minister like Monique Begin or Jane Stewart, and a retired civil servant whose name is a byword for integrity like Arthur Kroeger or Gordon Robertson. This task force should take advantage of all the internal work that has already been accomplished by the Treasury Board review, but it should then consult widely with outside experts and every party in parliament. The stature of such a task force should be

great enough to elevate the accountability issue beyond the usual partisan give and take of parliament. Parliament, the executive, and the public service all have an equal stake in correctly answering the accountability dilemma. Each interest must be fully involved in the decision-making. A non-partisan task force is the best way to achieve this. Our system of responsible government depends upon it.

If involving parliament in deciding upon an accountability framework makes sense, so too, should this logic apply to all other policy issues. Granting supply while keeping governments accountable was the original function of parliament and it is still the primary function. But to do this parliament needs sources of expertise and research equal to the executive. The Privy Council Office and the Department of Finance, for example, with no program of responsibility have between them 1500-2000 policy experts whose only job is to advise ministers. The 300 members of parliament have only 80 researchers in the Library of Parliament. Each of the major committees of parliament should have a research staff that can develop expertise, percentage, and memory over time. The chairpersons of committees should be paid the same as ministers so that a person of ambition could see a parliamentary chairmanship being as prestigious and influential as becoming a minister. The key to restoring parliament's role in accountability is to have long serving members with expertise and resources.

If parliament could create independent research entities reporting to the House rather than the government, parliament could also contribute to reducing the accountability deficit of citizens. The Congressional Budget Office in the United States, for example, is a bi-partisan entity whose budget forecasts and economic analyses are much more reliable than the president's. Governments are so addicted to spin that many citizens no longer believe what their political leaders tell them. The Economic Council, the Science Council, and the Canadian Institute for International Peace and Security, all provided an alternate source of policy expertise and public information capability before they were cancelled by the Mulroney government. Parliament should create similar bodies but have them report to and be run by parliament rather than the executive. On financial accountability, for example, Canadians have gotten used to governments rarely meeting financial forecasts. It is now commonplace that governments campaign on rosy budget assumptions, only to have oppositions discover once they take office, that the deficit is two or three times larger than anyone assumed. Or, in the opposite case, surplus projections are understated to later make a government look good. Such political sanctioned dissem-

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bling only increases cynicism and voter apathy: an independent prestigious economic forecasting body that could review government budgets and offer impartial views about the assumptions and figures would both serve to educate the public and act as a deterrent to the spin masters.

Canada needs to re-discover the ethic of responsibility. Canada also needs structural reforms in parliament, the public service, and the executive to make accountability an operating principle, rather than a throwaway line. As democracy was being invented in the classical age, young Athenians at the age of 17 took an oath of loyalty to their city which should still guide us today. For ancient Athens, responsibility or duty was central. The young Athenians pledged:

We will never bring disgrace on this our city by an act of dishonesty or cowardice. We will fight for the ideals and sacred things of the city both alone and with others.

We will revere and obey the city's laws, and will do our best to incite a like reverence and respect in those above us who are prone to annul them or set them at naught.

We will strive increasingly to quicken the public's sense of civic duty.

Thus, in all those ways we will transmit this city, not only, not less, but greater and more beautiful than it was transmitted to us.<sup>17</sup>

The ethic of Athens in the 5th century is desperately needed in the Canada of the 21st century.

## Notes

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1. My analysis of responsibility and much of the language of the sections devoted to this topic is drawn from the work of the InterAction Council on the *Universal Declaration of Human Responsibilities*. ([www.interactioncouncil.org](http://www.interactioncouncil.org)) A working group of experts met in Vienna in 1996 to discuss the topic, greatly stimulated both by a paper submitted by Oscar Arias, the Nobel Prize winning former President of Costa Rica, and by the active participation of Hans Küng, a world-renowned expert in ethics. Chaired by Helmut Schmidt, the former Chancellor of West Germany, the work of the expert group led to the InterAction Council proposing a *Universal Declaration of Human Responsibilities* on September 1, 1997. My contributions largely consisted of preparing drafts of the Declaration for the

consideration of the Council. Malcolm Fraser, the former Prime Minister of Australia and current Chairman of the Council, returned to the subject of the Council's Declaration in an address to the Symposium on Rights and Human Responsibilities in the Age of Terrorism at Santa Clara University, California, April 1 and 2, 2005.

2. C.E.S. Franks, "Putting Accountability and Responsibility Back into the System of Government," *Policy Options*, October 2004, p 64.
3. The complete text of Mr. Chrétien's February 8, 2005, opening statement to the Gomery Commission can be found at: [www.cbc.ca/news/background/groupaction/chretien-statement.html](http://www.cbc.ca/news/background/groupaction/chretien-statement.html)
4. See "In Depth: Sponsorship Scandal, Gomery Inquiry 2005: Testimony so far" at: [www.cbc.ca/news/background/groupaction/publicinquiry.html](http://www.cbc.ca/news/background/groupaction/publicinquiry.html)
5. William J. Bennett, *Book of Virtues*, New York: Simon & Schuster, 1993, p 185. The chapter on responsibility pp 123-266, has a good collection of sources on the topic.
6. Hans Küng, *Global Ethics and Human Responsibilities*, paper submitted to the High-Level Expert Group Meeting on "Human Rights and Human Responsibilities in the Age of Terrorism," April 1-2, 2005, Santa Clara University, California, U.S.A.
7. Plato, *Crito in the Collected Dialogues*, edited by Edith Hamilton and Huntington Cairns, Princeton, NJ: Princeton University Press, 1963, p 39.
8. Michel de Montaigne, *The Complete Works, Everyman's Library*, New York: Alfred A. Knopf, Inc., 2003, p 320.
9. Edmund Burke, *Reflections on the Revolution in France*, London: J.M. Dent & Sons Ltd, 1971, pp 281-282.
10. Dennis F. Thompson nicely paraphrases Kant and compares politics and morals in *Political Ethics and Public Office*, Cambridge: Harvard University Press, 1987, pp 1-7.
11. Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*, New American Library: New York, 1960, p 383
12. Canada, *Values and Ethics Code for the Public Service*, 2003, p 7.
13. David Good, *The Politics of Public Management*, Toronto: University of Toronto Press, 2000, p 168.
14. Donald Savoie, *Breaking the Bargain*, Toronto: University of Toronto Press, 2003, p 206.
15. C.E.S. Franks, *op cit*, p 66.
16. Public Policy Forum, *Ministerial Accountability: Suggestions for Reform*, June 2004, p 4.
17. Quoted in Bennett, *op cit*, p 217.