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# *Fixed Election Dates and Cultural or Religious Holidays: The Ontario Experience*

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by John Hollins

*Ontario is one of three provinces to have adopted legislation providing for fixed election dates. British Columbia and Newfoundland and Labrador are the others. But, what happens if the date provided in the legislation coincides with a date of religious or cultural significance for a particular segment of the population? This article explains how Ontario handled such a situation when the date defined in the legislation, October 4, 2007, coincided with a religious observance.*

The fixed date for Ontario elections was first introduced as a commitment during the 2003 election campaign. The government moved forward with the legislation and it was then my responsibility to administer it.

Section 9.1(6) of the *Election Act* reads as follows:

If the Chief Election Officer is of the opinion that a Thursday that would otherwise be polling day is not suitable for that purpose because it is a day of cultural or religious significance, the Chief Election Officer shall choose another day in accordance with subsection (7) and recommend to the Lieutenant Governor in Council that polling day should be that other day, and the Lieutenant Governor in Council may make an order to that effect.

Section 9.1(7) reads:

The alternate day shall be one of the seven days following the Thursday that would otherwise be polling day.

This was the target, or, as we would later define it, the flexibility we were provided.

Section 9.1(8) states:

In the case of a general election under subsection 9(2), an order under subsection (6) shall not be made after August 1 in the year in which the general election is to be held.

I will go back to the three words that I found very important: “cultural,” “religious” and “significant.” It was important for us to understand and define them.

With regard to culture, in the absence of a definition by the *Election Act* or any found in provincial legislation or ministry sites, we used “culture” as it is defined by the United Nations Educational, Scientific and Cultural Organization (UNESCO). “Cultures embrace literature and the arts as well as ways of life, value systems, traditions and beliefs.” In deriving cultural groups, we have deferred primarily to the latter part of this definition and looked at ethnicity and country of origin.

Religion is not defined under the *Election Act*. Under the province’s *Religious Organizations’ Lands Act*, “religious organization” means an association of persons which, among other things, is “organized for the advancement of religion and for the conduct of religious worship, services or rites,” and is “permanently established both as to the continuity of its existence and as to its religious beliefs, rituals and practices.” It “includes an

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*John Hollins is the Chief Election Officer for Ontario. This article is a slightly revised version of his presentation on February 14, 2007, to the Standing Senate Committee on Legal and Constitutional Affairs, which was examining legislation for a proposed fixed election date for federal elections.*

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association of persons that is charitable according to the law of Ontario and that is organized for the advancement of and for the conduct of worship, services or rites of the Buddhist, Christian, Hindu, Islamic, Jewish, Baha'i, Longhouse Indian, Sikh, Unitarian or Zoroastrian faith, or a subdivision or denomination thereof."

In its classic definition, "A religion is a unified system of beliefs and practices relative to sacred things, that is to say, things set apart and forbidden – beliefs and practices which unite in one single moral community called a Church, all those who adhere to them."<sup>1</sup>

In the absence of a definition by the *Election Act*, we interpreted "significance" to be such that a single elector could not attend a poll to cast his or her ballot due to the preclusion of the cultural or religious day and, as an extension, that they could not participate in the electoral process as we know it. By extension, this would also include being a candidate for office or working as an election worker as the rest of the community could enjoy.

With regard to process, Elections Ontario surveyed organizations representing cultural and religious interests across Ontario during the period of October 24 to December 15, 2006. We also considered correspondence sent to us independently from individuals and we posted and encouraged people to participate on our website.

We directed our survey to 278 organizations. Our contacts comprised 56 cultural communities in the 10 major religious communities. It was necessary to develop a database of organizations in a manner representative of Ontario's cultural and religious demographics, and we were guided by authoritative resources in doing so. Chief among them were Statistics Canada and Citizenship and Immigration Canada.

We applied parameters in developing the database that, we believe, ensured a scope that was sufficiently broad without being excessive in a way that places this work outside the mandate and domain of the Office of the Chief Election Officer. We referred to a range of authoritative resources. The crossover between cultural and religious communities provided additional assurance of coverage.

We received 89 responses from a wide range of organizations spanning 21 different communities. Many were from the Christian, Muslim and Jewish communities as these communities will observe dates of significance during the period we were examining. We also considered correspondence sent to us independently from individuals.

We distributed a mail survey and posted it on our website. We asked people to respond to two questions.

Question 1: During the period spanning October 4 to October 11, 2007, are there any dates of cultural or religious significance for your organization and the community it serves?

The respondents were asked to reply either yes or no, and in the case of yes, to specify.

Question 2: The Election Act requires 11 consecutive hours for voting. Normally this is between 9 a.m. and 8 p.m. on polling day. Is the nature of these days significant such that your members would not be able to attend their poll to cast their ballot during these voting hours?

Again, we requested a response of yes or no, and in the case of a yes, to specify.

Once we completed the report, it became interesting. I always thought that Ontario would vote on a Thursday; if October 4 did not work, we could just move it to October 11. As the administrator, you tend to go in with the preconception of what could apply as your fallback. You catch yourself looking for administrative ease and it just does not always work that way.

You have to wipe the board clean and really work this out. I needed to communicate with the people who might have an issue.

The "yes" answers with specifications were only the beginning. Once we had those, it was important to contact some of these respondents to get a better feel for exactly what they were saying and to try to understand and weigh in its significance.

Then we took a further step. With the "yes" answers, we were getting an opinion. We respected that, but we felt it was important to look further within these communities of interest to verify. Consequently, we contacted academics in the various fields and said, "This is what we are hearing. Here is how it is playing out in the calendar. What is your expert opinion?"

Suddenly I was not thinking in terms of will it be this date or that date. I had no date. The question became what works best for everyone. I was quite surprised. The last date I thought of was the date I actually recommended, and I was led to that date by all the information that we had collected.

We made the recommendation to the Lieutenant-Governor-in-Council and, on February 7, they made an order and adopted Wednesday, October 10, 2007 as the date for our next election date.

I am sure you want me to make a comment on fixed-date elections. Although I have never run a

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fixed-date election at the provincial level, I have run countless at the municipal level. How will it apply in Ontario? At the provincial level, I believe that it is different. I think your first inclination is to say that it has to be cheaper, it will be much easier and you will get a better turnout.

However, I do not believe any of those things to be true. I believe there are opportunities and I think that the opportunities, if used correctly, will improve the process. You can make it more accessible; your list will be better; you will have more polling places because you will have time to plan it better; and you will deliver it better.

Will more people turn out? I do not believe that any more or any fewer will show because it is a fixed date. I say that because, historically, Ontario municipalities with their fixed date are not getting very high turnouts. The United States, with fixed dates, has probably one the weakest turnouts on the globe. I cannot say that a fixed date is the cure to voter turnout.

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1. Emile Durkheim, *The Elementary Forms of Religious Life*, New York, *The Free Press*, 1954, p. 47.

**Editor's Note:** The legislation establishing a fixed date for federal elections received Royal Assent on May 3, 2007.