

# **DEMOCRACY AND SOCIAL JUSTICE IN BRITISH COLUMBIA: CONCEPTS, CHALLENGES, AND CHOICES**

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## INTRODUCTION

Thank you for the invitation and the opportunity to be here today. I am pleased to be participating in a conference that is talking about a more just and democratic community.

There can be little argument that these are critical and urgent topics to be discussing at this time in our province. We face and are living amidst a series of fundamental challenges – poverty and low incomes for many, irregular and precarious employment for many others, inequalities in health and education opportunities, disparities in safe and fulfilling life chances and experiences, no real progress on establishing a new relationship with First Nations, and an attack on vulnerable groups, as well as the middle class, through cutbacks in essential public services. These problems are not new. They are not simply the fault of the Campbell Liberals; the causes are more fundamental and stretch back before May 2001. Having said that, there can be little doubt, I think, that many of the problems have worsened in the last few years.

I have been invited to talk about democracy and social justice as they relate to the contemporary situation in British Columbia. Even focusing on the provincial and local scene, this remains a very broad and deep topic. Inevitably I can touch on only a selection of ideas and issues. So my intention in this talk is to offer remarks about the meaning of these concepts of democracy and social justice; identify some challenges associated with each in our province; and suggest ideas on possible choices for policy goals and responses.

## LINKAGES BETWEEN DEMOCRACY AND SOCIAL JUSTICE

I shall begin by noting some important linkages between social justice and democracy. It is appropriate that these two concepts are joined together for this discussion and in policy documents. In political practice as well as in political theory, social justice and democracy are closely, though unevenly and incompletely, interrelated. In part, the connection is forged in such ideas and institutions as citizenship, community, and the welfare state.

Both democracy and social justice are multidimensional ideas tied to judgements about what constitute a good life, a free and fair society, and how to realize these. As such, they are contentious and contested concepts, even while they are highly valued. Both are ancient concepts in political philosophy and remain today hard-fought ideals. This tells us that they are never complete. They are time-defined principles and practices. With the passage of time, and with it changes in the economic, social and political context, experiences are gathered and expectations are altered as to what can and should be done in the name of justice or democracy. Both, therefore, have a history, as well as an institutional dimension and a cultural side.

Democracy and social justice are explicitly linked in the political belief system of social democratic thought. Of course, a central idea in this belief system is that the economy and society, along with the political system, ought to serve the needs of the people rather than the other way around. For the social democrat, true democracy means, among other things, equality of opportunities in economic, social, and political aspects of life. People should have the right to determine their future in all three of these domains.

In part, the connection between democracy and social justice plays out in a negative way. This is evident from the impact of government cutbacks aggravating inequalities and hindering the exercise of basic rights and freedoms. Cuts to legal aid, court services, and to a variety of community advocacy and outreach groups means a decline in the ability of people to readily and effectively exercise their legal rights and democratic freedoms to associate, express their beliefs, and promote social and political change. As stated in a BC NDP policy report, “Political equality doesn’t mean a lot if you can’t afford a roof over your head.”<sup>1</sup>

A group of feminist scholars from universities and colleges across the province called Friends of Women and Children in BC, have warned, in a series of report cards on BC government legislative and funding decisions, that “current restructuring initiatives undermine social justice” by increasing inequalities, and that “Without a change in direction, the deepening gulf between the haves and have-nots in BC threatens liberal-democracy.”<sup>2</sup> In its recent discussion of poverty and low-income, the BC NDP policy

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<sup>1</sup> BC NDP, *Who we are, Where we stand: The Policies of the B.C. NDP, 1961-2003*, p. 23. Available at: [www.bc.ndp.ca](http://www.bc.ndp.ca)

<sup>2</sup> See Report Card, Vol. 1, no. 1, April 15, 2002, p.2. Available at: [www.wmst.ubc.ca](http://www.wmst.ubc.ca)

report echoes this: “Full participation in society becomes impossible under poverty, and democracy is virtually meaningless.” Poverty undermines and denies what Jean Bethke Elshtain calls “that most important of all democratic categories – the citizen,” the idea of membership in civil society with “equality of rights, responsibilities and treatment.” Elshtain adds that without these kinds of equality, democracy “is an impossible proposition.”<sup>3</sup>

This last point suggests, I think, an approach to these matters not as fully developed as could be, namely, that the reduction and prevention of poverty ought to be viewed and discussed as much about democracy and citizenship as about decency and compassion.

Voter apathy and more general political alienation is another illustration of how democracy and social injustice interact. Personal indifference to public affairs, the nature of the party system, and the first-past-the-post electoral process are all factors mentioned to account for non-voting by large segments of the public. The Canadian political theorist C.B. Macpherson argues that the main factor creating and sustaining apathy in government and politics is social inequality. Many people with relatively modest levels of educational attainment, working in low-skilled occupations, and struggling on inadequate incomes feel that voting and other acts of political participation in which they might engage would have little or no effect on public policy and governments. Macpherson concludes, “that low participation and social inequality are so bound up with each other that a more equitable and humane society requires a more participatory political system.”<sup>4</sup>

As ideals, social justice and democracy serve several political functions. One is to inform thinking and discussion over the nature of politics and the public good. These concepts are central to our collective civic education and any complete discourse on governing. A second function of these ideals is to provide a normative standard against which to evaluate the performance of political institutions in general, and of particular governments and decisions. Still a third function of these ideals is to inspire and mobilize people to take action as citizens in any number of ways. Calls for democracy and justice have long been rallying cries raised by social reformers, political parties, and various popular movements. As Iris Marion Young has written: “Appeals to justice still have the power to awaken a moral imagination and motivate people to look at their society critically, and ask how it can be made more liberating and enabling.”<sup>5</sup> The same capability can be said of appeals to democracy.

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<sup>3</sup> Jean Bethke Elshtain, *Democracy on Trial*, Toronto: Anansi Press, 1993, pp. 74-5.

<sup>4</sup> C.B. Macpherson, *The Life and Times of Liberal Democracy*, Oxford: Oxford University Press, 1977, p.94.

<sup>5</sup> Iris Marion Young, *Justice and the Politics of Difference*, Princeton: Princeton University Press, 1990, p. 35.

## DEMOCRACY IN BRITISH COLUMBIA

I now wish to consider the question of democracy in BC in terms of the values associated with democracy, the issue of the “democratic deficit,” and the Campbell government’s recent measures on “opening up our democratic institutions.” As well, I will discuss a wider agenda of democratization of the political system, public administration, and workplaces.

Democracy, as an ideal and a working institution, embodies numerous values. For individuals and groups, democracy promises effective voice in policy and decision making, identity and respect for minority rights, the intrinsic worth and dignity of all persons, and citizen participation in public affairs. Through the principles of popular sovereignty and political equality, democracy also expresses faith in the ability of people for self-government. For governments and the governors, democracy entails the ideas of public accountability, majority rule, competitive elections and party systems, loyal opposition, and the public legitimacy of power, among other ideas.

In every notion of democracy we might examine, are assumptions about people, the political process, and the wider social and economic structures in which the political system operates. What, for instance, is the image and role of the citizen? To advance the dialogue, we need to be aware of the beliefs about the purpose and possibilities of the democratic process. Is it primarily to be a set of institutions and procedural devices for choosing among candidates and parties and thereby authorizing governments? Or is it considered to be a vehicle for the betterment of human and social development? Or, even more grandly, is it envisaged to be a kind of society and culture? In the words of Elshstain, “an ethos, a spirit, a way of responding, a way of conducting oneself every day.”<sup>6</sup> Even these three sketches tell us there are choices to be made over the level and nature of aspirations for the political system and citizen engagement in that system.

In many long-standing liberal democracies there has been talk about a democratic deficit. Disillusionment with democracy is not new. Giovanni Sartori jogs our memory that, “All political systems at certain point in their development increasingly reveal the defects, or literally the *deficit*, the deficiencies inherent in their virtues.”<sup>7</sup> No state ever realizes to the full its promised goals. The recent origins of discontents with democracy are related, suggests Philip Resnick, to high rates of unemployment, disenchantment with governing elites, and disillusionment with old-style party politics.<sup>8</sup>

To these conditions, I would add moral anxiety among some in the mainstream of society and personal oppression among many in minorities, associated with the politics of identity; social insecurity associated with economic liberalization of free trade agreements; and, the closed nature of most intergovernmental policy and administrative

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<sup>6</sup> Elshstain, *Democracy on Trial*, p.81. See also Macpherson, *The Life and Times of Liberal Democracy*, pp.78-80.

<sup>7</sup> Giovanni Sartori, *Democratic Theory*, New York: Praeger, 1965, p.96.

<sup>8</sup> Philip Resnick, *Twenty-First Century Democracy*, Montreal and Kingston: McGill-Queen’s University Press, 1997.

relations in Canada. Some fault lies also with the welfare state as a complex amalgam of large bureaucracies, powerful professions, and intricate programs and rules.<sup>9</sup>

*“Opening Up Our Democratic Institutions”: The Campbell Government’s Approach*

The concept of the democratic deficit, as discussed by many commentators, presents a narrow conception of politics and democracy. The same may be said, by and large, of the Campbell government’s measures to open up BC’s democratic institutions.

The topic of democracy was one of the themes in the February 11, 2003 Speech from the Throne of the provincial government. The Throne Speech presents a version of the democratic deficit and the government’s response, stating that, “across the country Canadians have lost some of their confidence in their public institutions. They are sceptical about government’s ability to meet their needs and meet the challenges of our rapidly changing world. Your government is acting to change that. It has worked to open up our public institutions to the people of the province through a number of reforms that are in some cases without precedent in Canada or the Commonwealth.”<sup>10</sup>

The Campbell government’s reforms for restoring public confidence in democratic institutions include:

- More free votes in the legislature by MLAs;
- Active use of legislative committees in examining key policy issues;
- New Government Caucus Committees;
- Televised open Cabinet meetings;
- A set date for provincial general elections (the next is set for May 17, 2005);
- Three-year rolling service plans, with performance targets that Ministers must meet to earn their full pay;
- The formation of a Progress Board, comprised of experts and business leaders, to report on how the province is performing in relation to a number of economic and social indicators;
- Provincial Dialogues on Health, Education and Crime “to bring citizens together in search of new ideas for constructive change;”
- A Seniors and Youth Congress to be held “to examine the challenges facing our province from the perspective of both the younger generation and seniors;” and,
- A Citizens’ Assembly to examine and make recommendations on reform of the provincial electoral system.

Of this list of 10 reforms, three are without precedent. One concerns the televised regular open Cabinet meetings, a reform, in my view, more of democratic form than substance. The second is the set date for future provincial general elections, a reform of real constitutional significance because it removes a prerogative power enjoyed by first

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<sup>9</sup> For further discussion on this, see James J. Rice and Michael J. Prince, *Changing Politics of Canadian Social Policy*, Toronto: University of Toronto Press, 2000, pp. 251-55.

<sup>10</sup> *Speech from the Throne*, the Honourable Iona Campagnolo, Lieutenant Governor, at the Opening of the Fourth Session, Thirty-Seventh Parliament of the Province of British Columbia, February 11, 2003, p.6.

ministers under our parliamentary system of government of deciding when, within a five year time period, to call an election. The third is the proposed citizens' assembly to discuss models for reforming the electoral system. Details of this process are still to be finalized, but the Assembly of randomly selected citizens will review "all models for electing their MLAs, consistent with our system of responsible government. And if the Assembly ultimately determines that there is a better model than the current system, that model will be put directly to the people in a referendum to amend our provincial constitution on May 17, 2005."<sup>11</sup>

The reforms on dialogues and congresses are not unknown techniques for public consultation. We should acknowledge their potential value as opportunities for a degree of citizen engagement on important topics of public policy. At the same time, though, the way they are depicted in the Throne Speech raises concerns, in my mind at least, over the scope for genuine input and bottom-up participation. In the Throne Speech the government says, "We can open up new worlds of possibility if we have access to information and facts needed to make informed decisions." So far, so good; this could be read as recognition of the knowledge and experience that resides in local communities and organizations throughout the province. However, the next few sentences in the Speech declare: "New efforts will be made to ensure that British Columbians do have the information they need to understand the challenges their government faces and to assess the decisions it is making on their behalf. Additional resources will be committed to foster informed public debate of the facts and choices at hand, and understanding of the opportunities and solutions the government is pursuing in the public interest."<sup>12</sup>

The image of citizens here is of people who lack information on the issues and the choices, and lack sufficient understanding of the government's choices and solutions made on their behalf. Through dialogues and other consultative process however, the public is capable of learning this information and, presumably, becoming more supportive of the government's policy agenda. How much then, are these dialogues to be a conversation rather than a conversion to a given perspective?

Most of the rest of the Campbell reforms for democratic reform are limited changes with modest potential for addressing the democratic deficit. Some are really more managerial reforms that strengthen the role of the Premier (for example, the service plans and the Progress Board).<sup>13</sup> The changes for MLAs are essentially incremental changes within the existing system of cabinet dominant government. And, given the badly skewed composition of the present legislature, the reforms of more free votes and active committees are of very limited significance. For example, on the debate in the legislature concerning passage of the new Forestry Revitalization Act, political columnist Les Leyne wrote that, "it would be refreshing to see more Liberal MLAs get up and conduct some

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<sup>11</sup> Ibid. p.8.

<sup>12</sup> Ibid. p.7.

<sup>13</sup> The Progress Board, I would suggest, is a form of elitist democracy rather than representative democracy. Direct participation in advising the Premier and provincial government is reserved for a small group of individuals deemed to be of superior education, talent and achievement. The Board is largely insulated from most groups of people in the province, by and large to ensure it is not politicized and become unduly critical of the government's performance.

critical analysis in public. They have a lot more leeway than previous governments to thrash these things out in closed caucus meetings. But that's no substitute for a rigorous public examination of the legislation. The more these ideas are tested in debate, the less fixing has to be done in policies after they become law."<sup>14</sup>

### *A Broader Vision of Democratization*

If as a province we were to make a commitment to a much richer and deeper form of democracy, what might that look like? What would it entail in terms of strategies and solutions?

A broader vision of democracy in BC needs to look at our system of government obviously, but also to our system of public administration as well as to our workplaces.

In *Who we are, Where we stand*, the BC NDP call for making elections fairer. The Green Party and other groups and activists have made similar calls in recent years.

Unquestionably, the issue of reforming the electoral system is of central importance and, as we know, is presently on the province's agenda. Various models exist around the world and with considerable experience from which we can draw lessons and ideas. An opportunity exists to challenge the status quo of the first-past-the-post system. An opportunity exists to adopt a new and better way for representing all British Columbians within their legislative assembly, a way that strengthens our democratic values and expectations. As well, further reflection is required on what role, if any, should referenda and or recalls play in provincial politics and policy development?

A closely related issue for making elections fairer, and making politics cleaner and more transparent, concerns reforming the way political parties and candidates are financed in the province. The federal government is undertaking some reform on this front but so too, and in slightly different ways, has governments in Quebec and Manitoba.

On reforming municipal politics useful reform ideas include conflict of interest laws, election spending limits and, an old chestnut, the introduction of a ward-based system of representation in cities with 100,000 or more. Vancouver is Canada's only major city that does not have a ward-based electoral system. This is not some matter of just minor interest. It has real consequences for social justice and democracy. A leading text on urban governance in Canada notes that, "an electoral system may serve to privilege certain groups or classes over others. A municipal electoral system based on wards tends to increase representation of geographically concentrated communities, such as poor or ethnic communities, while at-large elections favour the middle class."<sup>15</sup>

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<sup>14</sup> Les Leyne, "Forest changes deserve public debate: MLAs insist they had an open discussion – behind closed doors," *Times Colonist*, April 2, 2003, p. A10.

<sup>15</sup> Katherine A. Graham, Susan D. Phillips with Allan M. Maslove, *Urban Governance in Canada: Representation, Resources, And Restructuring*, Toronto" Harcourt Canada, 1998, p.97.

Not that long ago, a political analyst observed that, “the process of democratization has not even begun to scratch the surface of the two great blocks of descending and hierarchical power in every complex society, big business and public administration.”<sup>16</sup>

A longstanding belief in social democratic thought is the application of democratic principles to the administration of public affairs. Let me offer some brief comments for your consideration:

- What might the further application of democratic principles involve in the health care system? Is it lobbying the federal government to add the principle of accountability to the *Canada Health Act* and to ensure public representation and a voice on the planned Health Council to monitor Medicare? What of the governance of community health clinics or child care centres?
- In bringing these and other public services closer to the people, and affording a genuine input by the public, what might community control look like? What lessons can be drawn from non-profit housing and co-operative housing with respect to consumer-based organizations?
- How might the Workers’ Compensation Board and system be reformed to enhance accountability to governments and give working people a voice in policy making? A menu of potential reforms exists, including changes to composition and size of governance structures.<sup>17</sup>
- With the amalgamation of numerous school districts over the last decade, resulting in fewer and larger systems, how can we ensure and enhance open, responsive and effective decision making by school boards? What might be the future role of First Nations in managing and operating school districts? What role should Parent Advisory Committees and the new School Planning Councils take on in schools in the province? Should statutory powers be given to these kinds of bodies to empower parents in the governance of schools?

As well, there are challenges and choices with respect to economic or workplace democracy. This is an area of traditional interests by political parties on the left, but one wonders how much for other parties and the general public. The idea of economic democracy, as one writer expresses it, is that, “the people should have the right to decide the priorities and policies within the economy, and have a major say in matters of immediate concern at work and in the community. Economic democracy is an attractive and persuasive idea, but it receives little attention.”<sup>18</sup> For how many British Columbians do these issues of economic power inform their understanding of democracy? How many

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<sup>16</sup> Norberto Bobbio, *The Future of Democracy*, Cambridge: Polity Press, 1987, p.57.

<sup>17</sup> See Therese Jennissen, Michael J. Prince and Saul Schwartz, “Workers’ compensation in Canada: a case for greater public accountability,” *Canadian Public Administration*, Vol. 43, no. 1, Spring 2000, pp.23-45.

<sup>18</sup> Geoff Hodgson, *The Democratic Economy: A new look at planning, markets and power*, Harmondsworth, Penguin, 1984, p.7.

see democracy more narrowly, as representative government with perhaps the need for a little more accountability and some transparency throw in?

In BC, NDP policy resolutions highlight the rights of workers to organize and to form unions and to bargain collectively in good faith; rights to impartial ways of settling disputes over contracts; rights to successorship, with agreements continuing in effect if the ownership of a workplace changes; and rights to sectoral bargaining, that is, negotiation at the sector level rather at the level of individual firms.

These rights are all located within the institutional framework of union-management relations. What of economic democracy for other workers in the BC economy, those who are not in a union? This includes many artists, writers, and other cultural workers, part-time workers, farmers, most small and family businesses, and many service sector workers. What is the potential for further unionization of workers in the province over the next decade? Besides unionization, what other vehicles might be pursued to advance aspects of workplace democracy? Of course, there are other economic rights, such as for vacation time and family leave, which apply to most people in the labour force through general employment standard laws. Is helping to ensure the voice of small business being heard in government a part of this democracy agenda?

A challenge for progressives is how to promote a better deal for all working people without being seen as discouraging or discounting unionization? Is this a trade-off between desirable goals that, at some point, are incompatible? Or are we overlooking or suppressing the possibility of a third option that transcends the apparent trade-off?<sup>19</sup> And, finally, how can the terms of public discourse be changed to embrace, more than at present, this broader vision of democracy?

## SOCIAL JUSTICE IN BRITISH COLUMBIA

Progressives reject the view expressed by some, like Hayek, that social justice as a central value of modern societies is “entirely empty and meaningless.”<sup>20</sup> There is a strong element of idealism to social justice, to be sure, but the promise of social justice is grounded, however imperfectly, in public policies of considerable substance with important consequences for individuals, families, and communities.

Today in BC, social justice is understood by many of us to include the following sorts of goals, rights and values: freedom from the threat of violence, the right to acceptance if not respect and equality of consideration, the fundamental dignity of every person,

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<sup>19</sup> Macpherson, *The Rise and Fall of Economic Justice*, pp.45-6. There, Macpherson writes: “That a possible third option has not been conceived may be because it has simply been overlooked, or because it has been kept out of sight by those who have an interest in doing so. And of two contending parties it is of course the stronger which is able to cover up, and the weaker which simply overlooks third possibilities.”

<sup>20</sup> F. A. Hayek, *Law, Legislation and Liberty, Vol. 2, The Mirage of Social Justice*, London: Routledge and Kegan Paul, 1976, p.xi.

freedom from sexual exploitation, equal opportunity and fair treatment, and self-determination.

As an aid to our discussions today, I shall look at social justice, identifying three types to organize my comments. These three types are: distributive justice, commutative justice, and structural justice.

*Distributive Justice: Fair Shares of Benefits and Burdens*

This formulation of social justice is probably the most familiar. It is expressed through the full range of health and social services in the modern welfare state. The focus is on the distribution and consumption of goods and services, benefits and burdens. Distributive justice concerns the relation of the political community as a whole, however that community is defined, to individuals and groups within the community. It deals with realizing a fairer distribution of society's whole product than would otherwise be the case. What is just or fair is understood to mean there are basic shares of income and other material resources for all in a community of the core necessities of life. This principle holds that the allocation of income, wealth, and life chances be assessed in light of its impact on the persons whose basic needs are unmet or are inadequately met. John Rawls, the political philosopher, revived the profile of this principle in the 1970s, stressing that justice rested heavily on equity, promoting the well being of "the least advantaged" in society, the poor, the vulnerable, the oppressed and marginalized.<sup>21</sup>

Taxation on basis of the ability to pay is an important example of distributive justice in public policy and government budgeting. Tax fairness in this instance can apply to what is called vertical equity – those with a greater capacity to pay tax should bear relatively more of the total tax burden – and horizontal equity – individuals or families with similar abilities to pay should in fact pay similar amounts of tax. The challenge of course is to decide how to assess and define tax-paying ability, issues that are technical matters but also quintessentially political.<sup>22</sup> Nonetheless, distributive justice or fair shares is a powerful idea in tax policy as well as in the design of many transfer payments in social policy.

*Commutative Justice: Fair Exchanges, Agreements, and Relationships*

This type of social justice deals with mutual exchanges, contracts, promises, treaties and other forms of transactions. The focus tends to be on relations of production and commerce: of people as workers, producers, owners or exchangers of valuable goods and services.<sup>23</sup> Commutative justice deals with relations between individuals, between individuals and groups, or between groups. In principle, what is just or fair in this context is that one receives something of equal value to that one gives or has taken. Notions of

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<sup>21</sup> John Rawls, *A Theory of Justice*, Cambridge, Mass.: Harvard University Press, 1971.

<sup>22</sup> For more, see Allan M. Maslove (ed.), *Fairness in Taxation: Exploring the Principles*, Toronto: University of Toronto Press, 1993; Geoffrey Hale, *The Politics of taxation in Canada*, Peterborough: Broadview Press, 2002; and Phil Hansen, *Taxing Illusions: Taxation, Democracy and Embedded Political Theory*, Halifax: Fernwood Publishing, 2002.

<sup>23</sup> C.B. Macpherson, *The Rise and Fall of Economic Justice and Other Essays*, Oxford: Oxford University Press, 1985, p.2.

reciprocity, mutual respect, compensation and remuneration, therefore, underpin this concept of social justice.

Commutative justice occurs in the everyday when, for instance, a car loan is repaid in accordance with the pre-agreed monthly payments and timelines; or when a worker performs services as specified and is paid a fair wage to do the work within safe and healthy conditions; or when a person receives recompense for goods stolen or damaged which are covered under an insurance policy. Pay equity, equal pay for work of equal value, minimum wage laws, northern allowances for working in remote areas, consumer protection laws, labour codes and employment standards all embody the idea of “fair exchanges” in economic relationships. Land claims and modern treaty negotiations with First Nations are still another example of commutative justice in our province.<sup>24</sup>

In tax policy, the concept of commutative justice appears in what is called the benefit principle of taxation. That is, people should pay taxes according to the benefit they receive from one particular service or a whole bundle of public services. Thus, “voters [may] feel unjustly treated if they do not perceive an adequate return flow of public services for their tax dollars.”<sup>25</sup> This too may be a part of the democratic deficit or discontent with governments in recent years. The idea of tax fairness or justice here then is “fair exchange” between income and outgo.

A widespread example across governments is the levying of user charges for certain public services. The rationale, as one economist has put it is that, “Many public services have significant “privateness” dimensions and provide specific benefits to identifiable groups, or even to specific individuals. In such cases, a strong emphasis on the “user pay” principle is clearly appropriate.”<sup>26</sup> However, as another economist points out, normally user fees are “equal dollar charges for all consumers using a public service.” This means that user fees, on the whole, are not income-tested, thereby ignoring vertical equity and downplaying the principle of the ability to pay. Furthermore, “the fairness of the criterion of “fair exchange” as a general rule depends upon the fairness of the original distribution of income and wealth.”<sup>27</sup>

### *Structural Justice: Fair Institutions, Policy Processes, and Cultural Practices*

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<sup>24</sup> Not everyone, of course, would agree with this characterization of the treaty process. For a variety of views on current practices and preferred visions, see as examples Dan Russell, *A People's Dream: Aboriginal Self-Government in Canada*, Vancouver: University of British Columbia Press, 200; Christopher McKee, *Treaty Talks in British Columbia: Negotiating a Mutually Beneficial Future*, 2<sup>nd</sup> ed., Vancouver: University of British Columbia Press, 2000; and James Tully, “Reconsidering the BC Treaty Process,” in *Speaking Truth to Power: A Treaty Forum*, Law Commission of Canada and British Columbia Treaty Commission, Ottawa: 2001, available at <http://www.lcc.gc.ca>. The BC NDP, in *Who we are, Where we stand*, p.29, declare that only after reaching balanced, honourable and lasting settlements “can we turn the page on the mistakes of the past, and launch a new relationship of mutual respect and justice.”

<sup>25</sup> John G. Head, “Tax-Fairness Principles: A Conceptual, Historical, and Practical Review,” in Maslove, *Fairness in Taxation*, p.8.

<sup>26</sup> *Ibid.* p.8.

<sup>27</sup> Lars Osberg, “What’s Fair? The Problem of Equity in Taxation,” in Maslove, *Fairness in Taxation*, p. 74.

Discussions of social justice often take for granted the existing structures and dominant cultural practices of society along with the policy processes of governments. “Issues of the just organization of government institutions, and just methods of political decision making,” Iris Marion Young notes, “rarely get raised.”<sup>28</sup> Yet, as Young and others have convincingly argued in recent years, these issues are central to both the conditions for, and the content of economic and social justice. In the words of Macpherson, the priority is given to values that emphasize “the quality of the social and economic institutions which would be seen as determining (and hampering) the chances of the full use and development of human capacities.”<sup>29</sup> Beyond political theory, public policy analysts have come to more fully appreciate the importance of examining and understanding the impact of institutions. As one Canadian political scientist puts it: “If institutions have a vital influence on our capacity to solve problems of collective action, we cannot be indifferent to alternative institutional designs. Institutions are means of imposing some modicum of control over our own destiny. They shape us, be we can also shape them.”<sup>30</sup>

Young takes the meaning of structural justice one-step further: “When people claim that a particular rule, practice, or cultural meaning is wrong and should be changed, they are often making a claim about social injustice.” Making such a claim is a call for “institutions that promote reproduction of and respect for group differences without oppression.”<sup>31</sup> This is a useful reminder that “institutions are human creations. But they are not the product of polite negotiation. Institutions are created and changed by those who wield power within society and within the state.”<sup>32</sup>

The focus here is on decision processes and organizational forms of more democratic governance, and the respectful recognition of the multiple identities in our pluralistic society. Greater equality in the ability to participate in public affairs and greater equality in cultural diversity, are touchstone values in this view of justice.

#### *Some Observations on Social Justice, Party Platform, and Public Policy*

These three models of social justice are but brief summations of a rich, diverse and contested history of ideas, theories, and practices. Even so, the summaries do serve to indicate something of the spectrum of challenges and choices at stake. Each model warrants specific attention in any discussion of the future of social justice in this province, in Canada, and beyond our borders. Each is given expression by certain groups in society and found in certain laws, programs, and agencies in the state. All of us engaged with public affairs need to ask and reflect on: What is the extent and nature of interest by British Columbians today with these types of social justice? What specific aspects of social justice are prominent in the public’s concerns and hopes? Those who are political activists and party strategists need to further ask: Should one of these types of

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<sup>28</sup> Young, *The Politics of Difference*, p.22.

<sup>29</sup> Macpherson, *The Rise and Fall of Economic Justice*, p.17.

<sup>30</sup> Michael M. Atkinson (ed.), *Governing Canada: Institutions and Public Policy*, Toronto: Harcourt Brace Jovanovich, 1993, “Introduction,” p.5.

<sup>31</sup> Young, *The Politics of Difference*, pp.34 and 47.

<sup>32</sup> Atkinson, “Introduction,”p.4.

social justice figure as the centrepiece of a platform for the next provincial election? If so, which one and why?

Where does the BC NDP stand in relation to these models of social justice? Within the party's core policy document, *Who we are, where we stand*, one can find statements and convention resolutions made over the years that speak to each of the three kinds of social justice. In terms of distributive justice, the document addresses education and training, health care, job creation and employment opportunities, child care services, support for the arts and culture, fair shares of taxes, and fairness for every region in the province especially with respect to economic opportunities and public services. Interestingly, most of these issues are contained in chapters dealing with "opportunities to succeed" and "quality of life."

In a chapter on "democracy and social justice" the issues of poverty and income support are highlighted. Topics covered there include social assistance, earnings exemptions, minimum wage, federal transfer payments, student aid, and low-cost housing. A section called "Breaking the Poverty Cycle" is the longest in the chapter, raising the challenges of low-income, homelessness, social or economic isolation and despair. The image of cycle is the metaphor used here to discuss poverty, dependence, and the grinding daily routine of subsistence. It is unclear as to whether the metaphor is intended to suggest a culture of poverty and its intergenerational transmission. I would think that is not the intention, but it raises the question of whether the metaphor of a cycle of poverty is the best way of describing poverty in BC so that there is public support for policy action.<sup>33</sup>

Discussion of tax matters by the NDP is clearly based on distributive justice - the ability to pay principle and progressive income taxation. Essential products such as food and drugs are to be tax exempt, and Medical Service Plan (MSP) premiums are to be eliminated, with funding for public health care to come from general revenues. In addition, "anyone living under the poverty line" should be exempt under Pharmacare from paying the cost of "over-the-counter medications and medical supplies."<sup>34</sup>

The document gives considerable attention to the notion of "fair exchanges." In terms of commutative justice, recommendations include: "a balanced labour code that protects the rights of working people to organize so that they can bargain as equal partners with their employers;" a shorter work week to 30 hours with no appreciable loss in pay, more vacation time and less use of overtime in order to create a fairer distribution of work; fair basic wages and benefits, including for part-time workers, and safe working conditions; regular increases to the minimum wage; pay equity protection; employment equity legislation; and enhanced parental leave provisions. Furthermore, in the area of housing, the NDP pledge support for "a strong Residential tenancy Act with a fair appeal process,

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<sup>33</sup> There are both conceptual and empirical aspects to the appropriateness of this or any other metaphor to describe this issue or another. For example, what images and responses are triggered for the general public when using the term "cycle" to describe poverty? On the empirical side, what is the evidence on how long the cycle lasts and for how many people? How static or dynamic is the low income population in British Columbia over, say, a one, two or three year period?

<sup>34</sup> On the tax proposals, see *Who we are, Where we stand*, pp.19-20, 59 and 61.

without tenant-paid fees and where the responsibility of appeal lies with the landlord.” As well, an impartial body would be established to oversee a security deposit fund to “end abuse and avoid tenant-landlord conflict” concerning damage deposits.<sup>35</sup> On tax policy, the notion of user fees is regarded critically and unfavourably; in principle (which is distinct from practice as the government from 1991 to 2001) there seems to be little if any role for commutative justice in tax matters.

It is worth mentioning that, *Who we are, Where we stand*, devotes significant attention to the structural dimensions of social justice, as discussed by Macpherson, Young and other thinkers. Numerous illustrations of discrimination, exploitation, oppression and other kinds of injustice are identified in the report in relation to women, members of cultural and ethnic minorities, members of sexual minorities (gays, lesbians, bisexuals and transgendered persons), persons with disabilities and First Nation communities and peoples. There are references to various government actions: the lands-claim treaty process and the transfer of services and policy powers to First Nations; equal treatment for same-sex couples under provincial family and pension laws and programs; services for assaulted and battered women; and, measures against racism, bigotry, homophobia and hate crimes. As well certain organizational innovations in democratic governance, when the NDP was in power, are noted, such as the creation of the position of Northern Commissioner, consultative land-use planning processes, a Minister responsible for Youth, and the Ministry of Women’s Equality as “an advocate within cabinet for a fairer deal for BC women.”

### *The Struggle for Social Justice Today*

Social justice and democracy are often viewed as an unfinished journey, a work constantly in progress. This does not mean, however, that progress is constantly being made. Indeed, we live at time when social justice is under attack. Recently, in a speech marking International Women’s Day, the Honourable Iona Campagnolo, BC’s Lieutenant Governor, conveyed this sense of struggle and the historical dimension to social justice. She said: “It is the work of each new generation of women and the good men who support us to re-secure the beachheads of equality and access and to forge ahead toward those goals that are yet to be won. None of us, man or woman, can afford to take the precious gains that have been made for women for granted. Equality rights must be constantly reinforced especially by those women who have most benefited from them.”<sup>36</sup>

Many of the gains the Lieutenant Governor is referring to, are being officially challenged, chipped away through program cuts, or outright cancelled by this provincial government as well as by other governments in Canada.

Changes by the Campbell government to BC’s human rights protection system means the loss of a mechanism for bringing forward cases of systemic discrimination, a retreat from attending to institutional forms of discrimination and a return to the micro level of

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<sup>35</sup> *Who we are, Where we stand*, p.65.

<sup>36</sup> Lieutenant Governor Iona Campagnolo, “It is our work to ‘re-secure the beachheads of equality,’” *Times Colonist*, March 8, 2003, p. A13.

individual cases.<sup>37</sup> The withdraw from social fairness is evident also in areas of distributive justice and commutative justice: the unilateral change of contracts covering more than 150,000 public sector workers, a move found to be in violation of the United Nations convention on freedom of association; the cancellation of employment equity and the loss of pay equity protection; large budget cuts to legal aid and to shelters for battered women; the granting of authority to regional health authorities to contract work such as cleaning, laundry and food preparation to private firms at lower wages and likely lower benefits such as pensions. These and many other restraint actions graphically underscore the absolute imperative of the need to re-secure these beachheads of equality and access.<sup>38</sup>

Instead of a general approach to issues of social justice, the preferred strategy of this provincial government is one of “helping those most in need.” This can often be a problematic way of making and implementing social policy. As Dennis Guest, professor emeritus of social work at UBC explains, “a policy of “helping those in greatest need,” the hallmark of the residual approach, may become a method of severely rationing help, rather than extending assistance to meet genuine need.”<sup>39</sup> Such targeted programs have a history of imbuing services and benefits with the stigma of personal failure, thus diminishing self-respect and dignity. The citizen is transformed from a claimant to a supplicant. “Moreover,” Guest points out that, “programmes with a strong residual cast commonly involve a degree of official intrusion into the lives of individuals and families by the administration of the means and needs tests, [and] their periodic review.”<sup>40</sup>

This increased intervention into, and discipline over people’s lives by government ministry officials seems a paradox given the Campbell government’s agenda of state deregulation. Perhaps the inconsistency is not really there as there are few regulations and lower taxes for businesses and people with higher incomes, while there are more controls and increased tax burdens for people of low and modest incomes in BC.

## CONCLUSION

I appreciate this opportunity and your attention, and I wish you well in continued discussions about social justice and democracy on the road to 2005 and beyond. There is much to consider in ideas, issues and possible solutions. Thank you.

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<sup>37</sup> Jeff Rudd, “Government defends revamp of human rights protection,” *Times Colonist*, April 2, 2003, p. A6.

<sup>38</sup> The International Labour Organization has found the Campbell government in violation of the United Nations convention on freedom of association. The ILO has called for the BC government to amend or repeal six pieces of labour legislation. It is extremely unlikely that the government will do anything of the sort. See Canadian Press, “UN tells BC its labour laws violate rights,” *Times Colonist*, March 28, 2003, p. A7. A recent report from the United Nations Committee on the Elimination of Discrimination against Women made more than 20 recommendations in a several areas where the Committee concluded that Canada is not meeting its obligations under the UN Convention on the Elimination of All Forms of Discrimination against Women. See Canadian Press, “UN report raps Canada on equity,” March 7, 2003. Also see, Canadian Press, “Privatization in health care raises pay fears for women,” March 7, 2003.

<sup>39</sup> Dennis Guest, *The Emergence of Social Security in Canada*, 2<sup>nd</sup> ed., Vancouver: University of British Columbia Press, 1985, p.146.

<sup>40</sup> *Ibid.* p.147.