

## In case of crisis ...

### **There needn't be so much confusion about how government is formed - Canadians need a clear set of rules, writes David Mitchell**

April 11, 2011 9:17 AM

By David Mitchell, Ottawa Citizen



How governments are formed in Canada is shockingly simple. And yet, for a variety of reasons, it's been misunderstood and misinterpreted in recent years in Canada.

Here's how it works: the leader and party able to command the confidence of the House of Commons forms the government. This principle is the basis of our parliamentary democracy. And like all other Westminster-style governments, the conventions that have long shaped our system of governance are derived from the practicalities that flow from this single principle.

In large part, the misunderstanding might be due to the fact that we're now entering our seventh consecutive year of minority parliaments in Ottawa. In turn, this has given rise to questions about who, in fact, has the right to form a government.

However, that doesn't explain the confusion. After all, Canada isn't alone in our experience with minority parliaments. In fact, not a single major Commonwealth nation currently boasts a majority parliament. Minorities are actually a surprisingly common experience. Nevertheless, the rancour and misrepresentation of facts and principles Canadians have witnessed is almost unique among parliamentary democracies. A major British research report last year referred to "Canada's dysfunctional minority Parliament." And that might be putting it kindly.

Following the prorogation of our parliament in 2008 -an event surrounded by competing interpretations of constitutional conventions -many Canadians realized that there's a lack of consensus on some of the fundamental principles of government formation in our country. Confusion about the respective roles of the governor general and prime minister and the application of convention persist. And yet, it's really not all that complicated and doesn't need to be shrouded in secrecy.

Curiously, we don't have a set of publicly available guidelines for government formation clearly articulating the principles and rules that apply during periods of uncertainty. I say curiously because other countries can easily produce such written rules. New Zealand, Australia and, more recently, the United Kingdom have established

guidelines explaining the constitutional principles and practices that define the process of how governments are formed. In Britain, these are part of a draft cabinet manual that is a model of clear and simple language and which has now received broad discussion.

Even more curious, written guidelines actually do exist concerning government transition and formation in Canada. However, unlike other major Westminster-style governments, in our country these documents have been kept secret, and are known only to a few senior officials.

In an age of transparency and open government, these guidelines should be reviewed, consolidated and made public. Their codification and release would help ensure that consistent practices are applied across governments, irrespective of the party in power. This would actually be beneficial to governments, the public service, political parties, the media and the public. Obviously, all stakeholders should share a common understanding and have clear expectations of the procedures during periods of government transition and formation.

It sounds simple, and yet, here we are, one of the oldest democracies on the face of the Earth, hiding from public view the principles and practicalities of how our governments are actually formed.

As a result, we engage in unnecessarily divisive debates about issues such as the proper role of the governor general, the functioning of our Parliament and the meaning of confidence votes in the House of Commons. We also preoccupy ourselves with nonsensical questions about the legitimacy of coalitions or whether or not only the party winning the largest number of seats in an election should be entitled to form a government.

The absence of publicly available guidelines also prompts us to speculate on whether the source of our dysfunction might be explained by other factors. For instance, it has commonly been asserted that the existence of the Bloc Québécois in our Parliament is at the heart of our governance challenges. It's certainly true that the Bloc has made it more difficult for any other party to win a majority of seats in a national election. But as repugnant as the Bloc is to most Canadians outside Quebec, it doesn't by itself explain the unhappy state of parliamentary democracy in Canada. And, as noted earlier, we are living in an age of minority parliaments.

Even if we could wave a magic wand and rid ourselves of the Bloc tomorrow, the dysfunction of our Parliament would persist. Even if we could somehow mathematically conjure a majority government, the basic rules of government formation in Canada still need to be clearly spelled out.

For these reasons, the Public Policy Forum has been working with constitutional scholars, former public service leaders, former heads of government transition teams and leading journalists to find points of consensus for a clear and simple framework for government formation in Canada. Our discussions and research compliment the excellent thinking on this subject by participants at a workshop on constitutional conventions recently convened at the University of Toronto's Asper Centre for Constitutional Rights. Our belief is that a clear set of publicly available guidelines concerning government formation is in the best interest of good governance in Canada.

Please wish us well, for the sake of both the functionality and reputation of our democracy.

David Mitchell is the president & CEO of the Public Policy Forum.

© Copyright (c) The Ottawa Citizen