

Coalition Government Formation: Lessons for Canada

Bruce M. Hicks, SSHRC Fellow

Bell Chair for the Study of Canadian Parliamentary Democracy
Department of Political Science, Carleton University

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bruce.hicks@umontreal.ca

Both political scientist and citizen in Canada frequently treat Canada as a unique case when it comes to government formation and termination. Election night reporting has networks racing to be the first to announce which political party leader will form the government; and these party leaders cooperate by giving victory or concession speeches with the vote count still incomplete. Coalition governments have never been formed at the federal-level in Canada and the recent practice, when no party wins a majority of seats in the legislature, has been for the leader of the party with the most seats to form a minority government with no negotiated intra-parliamentary support. There has been some recent research and debate over this situation, with most focusing on either the normative rules that underlie the Westminster-model of parliamentary government shared between the U.K. and its Anglo former colonies or the 'best' practices in those countries. This paper attempts to broaden the research debate by using a comparative-model and – examination of government formation and termination. By placing Canadian practices in a larger inter-parliamentary framework we reduce the focus on rules. Rules are one factor, but by placing them in comparative perspective, other factors such as the role of parties and political actors emerge as central to an understanding of how government formation occurs.

Aside from the Union Government in World War I, there has never been a coalition government formed at the federal-level in Canada in the 20th and now 21st centuries.¹ But they have been considered.

In 2008, Canada came close, with the Liberals and New Democrats drawing-up an agreement to form a coalition government with a written commitment of legislative support from the Bloc Québécois. The prorogation of the Canadian parliament followed by a different budget from the Conservative government, combined with the overconfidence in the inevitability of their electoral success on the part of the Liberal team surrounding incoming leader Michael Ignatieff, scuttled the deal.

In 1980, Liberal Prime Minister Pierre Trudeau proposed a coalition with the NDP. While the Liberal Party had won a majority of seats in the House of Commons, it

¹ In the 19th century and certainly prior to Confederation, party identification was fluid and many governments in Canada and the provinces claimed to be coalitions so as to broaden their public appeal.

had failed to win seats in Western Canada, so this coalition was proposed so as to ensure a truly national government (Christian, 2011).²

At the provincial-level in Canada, there were coalition governments in Manitoba from 1931 until 1950 (Press, 2008).³ British Columbia saw a coalition government between the Liberals and Conservatives for a decade beginning in 1931. Ontario had a Liberal-NDP coalition government from 1985-1987. And Saskatchewan had an NDP-Liberal coalition from 1999 to 2003.

It seems that it is only a matter of time before a coalition government is formed at the federal-level and yet political parties, academe, media and the public have not been engaged in any coordinated examination of what may be involved in forming a coalition government.

Contrast this with New Zealand which in 1994 changed its electoral system to mixed member proportionality. Realizing that the new system would result in no political party likely ever again winning a majority, the country began to constructively consider the implications of a divided legislature on government formation, be it coalition or minority government. Teams of public servants began (i) a study of how coalition governments are formed in other countries, (ii) the preparation of internal processes and (iii) a codification of administrative rules so as to ensure that there would be a minimum of disruption at the departmental-level in the event of a divided legislature (James, 1997).

The motivation for this research was the realization that government formation may result in long delays as the political parties explored different configurations and a

² Once rebuffed by NDP leader Ed Broadbent, Trudeau used the Senate to ensure representation in the Cabinet from western Canada. Broadbent has said he regrets his decision.

³ The first coalition was between the United Farmers of Manitoba and Liberals, it was then expanded to include the Co-operative Commonwealth Federation and Social Credit in 1940, and continued absent the CCF beginning in 1943.

concern that individual government departments and the central agencies might become politicized during inter-party negotiations while at the same time recognizing that they needed to be available to provide useful and impartial policy advice as deemed appropriate (Boston, Levine, McLeay, & Roberts, 1996, pp. 116-151). What level of advice is *appropriate* for the bureaucracy to provide was one area they studied.

There were overseas visits by officials and MPs (State Services Commission *Working Under Proportional Representation: A Reference for the Public Sector*, 1995). One of the innovations coming out of the process was to make the Cabinet Manual, which had been in existence since 1979, a more robust document and release it to the public so office holders and voters could equally find clarity with respect to the unwritten constitutional rules that guide government formation and termination (Kitteridge, 2006).

Members of the academy rolled up their sleeves and joined in the exercise, with little prodding from government, so as to provide insight into coalition arrangements in European countries and determine their applicability to New Zealand and to the Westminster-model of responsible parliamentary government (Boston, 1998; Shroff, 1994).

And the prime minister began in advance of the 1996 general election what has now become a tradition of appointing a distinguished jurist to the post of governor general (Hicks, 2013b). The appointee, the Rt. Hon. Sir Michael Hardie Boys, took a proactive role as governor general of New Zealand in educating the public and politicians on the finer points of constitutional law as it pertained to the Westminster-model.

In spite of all this preparation, New Zealand's experience with coalition government was initially difficult. It took two months to form the first government when no party won the majority of seats in the legislature in the 1996 general election and, while it was a coalition government with a comprehensive written agreement for proposed legislation and policy, it was anything but stable (Boston & Church, 2000, p. 5).

While the coalition government was unstable at the political-level, the day-to-day operations of government continued seamlessly and without incident in large part due to this advance preparation which involved researching possibilities and experiences in other countries. While the professionalism of the public servants in New Zealand is obviously part of the reason for this smooth transition at the administrative-level, extensive preparations were key (Shroff, 1998).

As for the political class, under the guidance of the governor general, the leadership of political parties learned from their mistakes (political behaviour is learned), and in 1999 government formation took only 10 days (which was similar to the time it had taken to form a government under New Zealand's previous majoritarian electoral system of single member plurality). In New Zealand, coalition governments have become the norm and have been largely stable ever since.

The conclusion must be that it is only by undertaking systematic planning and by drawing on lessons from other countries that have extensive experience coalitions that the institutions of governance can prepare for new eventualities. This paper makes a first, albeit modest, start in the examination of coalition government formation with an eye to what lessons might be important for Canada.

The research for this paper includes the research done for a series of studies on recent developments with respect to the monarch's reserve powers in other Westminster-model jurisdictions. It turns out, that following New Zealand's lead, Australia (Hicks, 2012a) and then the United Kingdom (Hicks, 2012d) adopted similar approaches to a research project on coalition government formation and even adopted and improved upon the New Zealand initiatives. Secondary literature used for this paper includes the large and growing work on coalition government formation in Western Europe. Much of this field of political science is theoretical and concerns multi-party bargaining with the goal of explaining, and even prediction, why different forms of coalition are formed.⁴ But there is a small sub-set that looks at how they operate in practice which includes an examination of the institutional variables that influence government formation (Strøm, Budge, & Laver, 1994) and a comparative empirical examination of how constitutions and political systems guide coalition formation and behaviour (Müller & Strøm, 2000a).

The first section of this paper examines the state of political and academic discourse surrounding government formation in Canada to better understand why alternative forms of government have not been considered as possibilities for the federal parliament. In the second session it is argued that by using a comparative model all four forms of government – majority single party, minority single party, minority coalition or majority coalition – emerge as viable alternatives that fit both the constitutional convention-model and the electoral democracy-model that seems to drive Canadian discourse surrounding government formation. The three remaining sections look at the logistics of forming coalition government from a comparative perspective, given the

⁴ While this has had some success, even the most comprehensive statistical model that draws on a number of theoretical schools only explains less than 50 percent of government formation in Western Europe post-WWII (L. W. Martin & Stevenson, 2001, p. 47).

Canadian Liberal-NDP coalition agreement of 2008, in terms of (i) negotiations, (ii) agreements and (iii) portfolio sharing.

I. Westminster-model v. Electoral democracy-model

To understand why Canadians have not engaged in a discussion surrounding the possibility of coalition government formation one need only look to the 2008 ‘brush with coalition’ governance in the Canadian parliament. In the moment, and virtually non-stop ever since, Prime Minister Stephen Harper has taken every opportunity to question the legitimacy of any political party forming a coalition government.

Harper’s first pronouncement occurred as soon as it became apparent that the Liberals and NDP would defeat the government on its first financial bill following the 2008 general election, during which the Conservatives had won the most seats but failed to win a majority. It asserted the ‘electoral democracy’ position with respect to government formation (Bonga, 2010):

“The opposition has every right to defeat the government, but Stéphane Dion does not have the right to take power without an election.’ Mr. Harper said. ‘Canada’s government should be decided by Canadians, not backroom deals. It should be your choice – not theirs’” (Laghi, Chase, Galloway, & LeBlanc, 2008).

Over the days and months ahead, Harper would refine his position to not only make a coalition government sound illegitimate in the current circumstances but under future possibilities. Only the party that wins the most seats in a general election can form a government, it can only be removed as government by another party winning the most seats in a general election and if a political party wants to form a coalition government it needs to tell voters that during the election (Russell, 2009).

In his first meeting with the head of Britain’s coalition government over the banking crisis in London in 2010, Harper was largely consistent claiming (in defiance of

the U.K. Cabinet Manual which states otherwise) that only Conservative leader David Cameron had the constitutional right to form a government.

“Losers don’t get to form coalition governments,’ Harper said, in a shot apparently aimed at Canadian opposition parties.

‘The coalition in Britain, I think it’s important to point out, was formed by the party that won the election, and I think that’s very important’” (CBC, 2012).

At the political-elite level, Harper and the Conservative Party’s ability to redefine the rules surrounding government formation appears to have been successful, at least in the short-term. While there were candidates who ran for the subsequent leadership campaigns held by the NDP and the Liberal Party and argued for the possibility of coalition government formation following an election and even electoral coordination in advance, these candidates failed to gain traction in these contest. The new leaders of these two political parties are on record rejected forming a coalition and engaging in electoral coordination.

The academy remained mute with respect to coalition government formation, but not on the constitutional rules where it has been outspoken and divided. In the lead-up to the prime minister requesting and obtaining the prorogation of parliament so as to stop a vote of non-confidence, the disagreement among academics over the constitutional rules became obvious to all. A book published following the event with the stated goal of instructing Canadians on the principles and rules of parliamentary democracy is noteworthy not for its clarity but for the level of disagreement among the authors (Russell & Sossin, 2009).

Worried that the prime minister might go beyond prorogation in his efforts to avoid accountability to parliament, in January 2009, 35 academics (political scientists and law professors) penned an open letter to explain to Canadians (and to the governor

general who had granted Harper the prorogation of parliament), what steps should be taken if the PM asked for the dissolution of parliament.⁵ Even on this *one specific* aspect of the unwritten constitutional rules, these scholars could not agree on how long the governor general was free to refuse the prime minister's request for dissolution. Their opinions ranged from six months to a year.

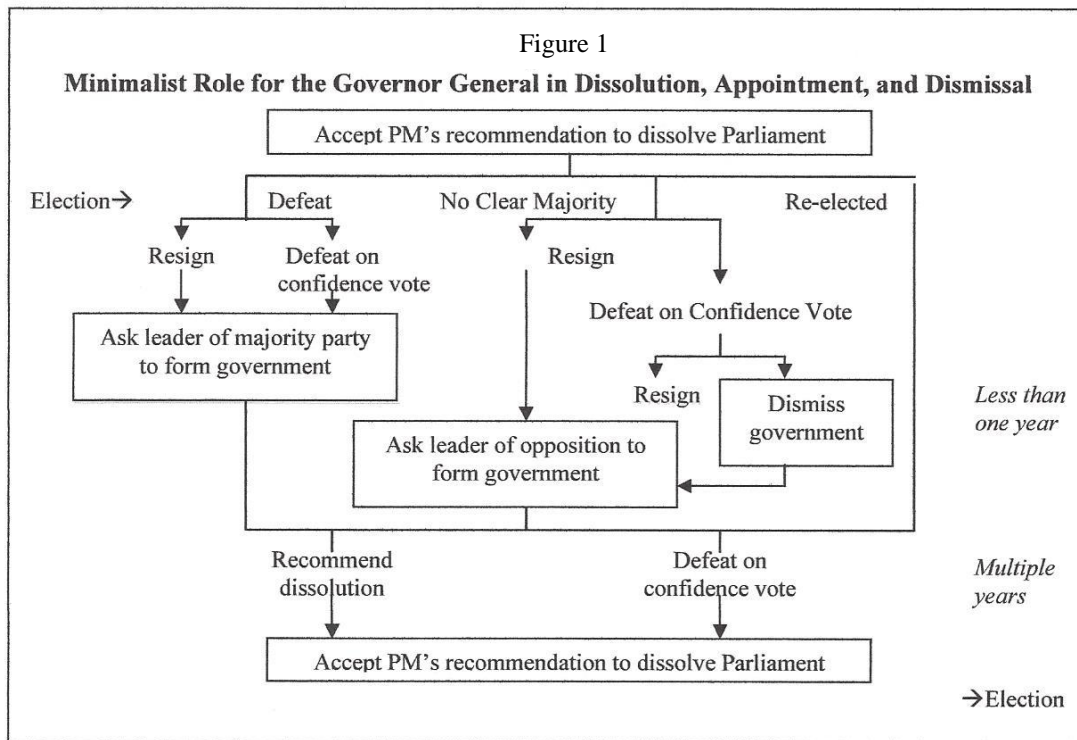


Figure 1, from a paper I wrote at the time, shows the minimalist agreement by Canadian constitutional scholars concerning the constitutional conventions that guide a governor general's decision to dissolve parliament or to invite someone else to form a government (Hicks, 2009, p. 60). In theory, these constitutional rules are shared by all Commonwealth realms as they are Royal prerogatives of a shared monarch, and yet New Zealand's scholars count the time not from the previous election but to the next election

⁵ "Le Parlement est roi", online: Constitution Acts <http://www.constitutionalacts.blogspot.com> (accessed in 2009 for Hicks, 2009).

(asserting that the governor general should deny dissolution if it is too close in time) and in Australia the consensus is that time is not a consideration but rather the question of parliamentary confidence and whether or not another government configuration would enjoy the support of the legislature. Ironically, the one Commonwealth realm that no longer shares these same constitutional rules of the monarch is the home of that monarch, the United Kingdom, which has abolished Royal prerogative for dissolution altogether, and instead vested it in parliament so as to ensure that all alternatives for government formation are explored before an early general election is called.

It is well known that Canadian political scientists have an obsession for the model of responsible parliamentary government handed down by the British parliament at Westminster to its former colonies like Canada, New Zealand and Australia (for a critique see Atkinson & Thomas, 1993; Malloy, 2002; Sproule-Jones, 1992). So it is not surprising that the majority of scholarship surrounding government formation in Canada published since the 2008 ‘brush with coalition’ has focused on the constitutional conventions surrounding government formation and dismissal (for, e.g., Leuprecht & Russell, 2011; J. Smith & Jackson, 2012). Included in this are suggestions for constitutional rule changes so as to reduce the power of the prime minister and, implicitly though not explicitly, create the possibility of a coalition government being formed (Aucoin, Jarvis, & Turnbull, 2011; Hicks, 2012b, 2013a), and a modest attempt to make the case that coalition governments are not incompatible with existing rules (LeDuc, 2009; White, 2009).

In contrast to the Westminster-model approach, there are a few who have discussed government formation from the normative perspective of an ‘electoral

democracy' model (Bonga, 2010). While seen by some as a new populist thread in Canadian politics that has led to increasing demands for direct democracy (Cross, 2002), the truth is that a dispute over the nature of democracy has always existed in Canada and can be found as far back as 1828 when the idea of responsible parliamentary government first emerged in the province of Canada (Hicks, 2012c).⁶ The modern development concerns the tools being advocated for its advancement, such as referenda and recall (D. E. Smith, 2007, p. 55), and the claim that general elections are only about choosing a prime minister, as voters “no longer vote for a particular member of parliament” (Leclair & Gaudreault-DesBiens, 2009, p. 111).

It is from this normative perspective that Tom Flanagan (2009) set forth, what Russell (2009, p. 141) has dubbed the “Harper/Flanagan system of government”, which dictates that:

- 1) The prime minister is the leader of the party that has the most seats in parliament;
- 2) Prime ministers can only be replaced by the leader of another party through a general election; and
- 3) Political parties need to inform voters during the election that a coalition government may be formed.

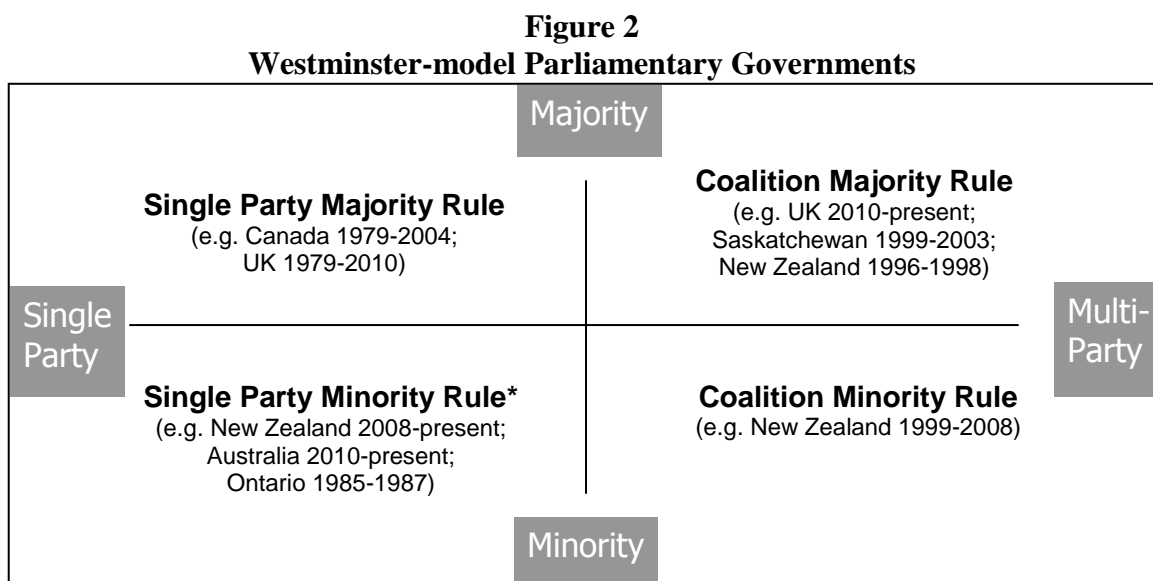
With respect to the last point, Flanagan makes the unsubstantiated comparative claim that: “In countries where coalition governments are common, parties reveal their alliances so that citizens can know how their votes will affect the composition of the executive after the election” (Flanagan, 2009). The validity of this statement will be addressed below.

⁶ In the parliamentary context the debate takes the form of whether a representative is a delegate or trustee, with the former most famously advocated by Madison in *The Federalist Papers* (1999) and the latter by British Parliamentarian and philosopher Edmund (1968).

This normative debate over what the rules *are* or what the rules *should be* with respect to government formation is as much an impediment to coalition government formation as the rules themselves, as it creates a climate wherein the legitimacy of this form of government is in question and it obfuscates the constitutional rules (confusion over rules advantages the incumbent).

II. Comparative-model

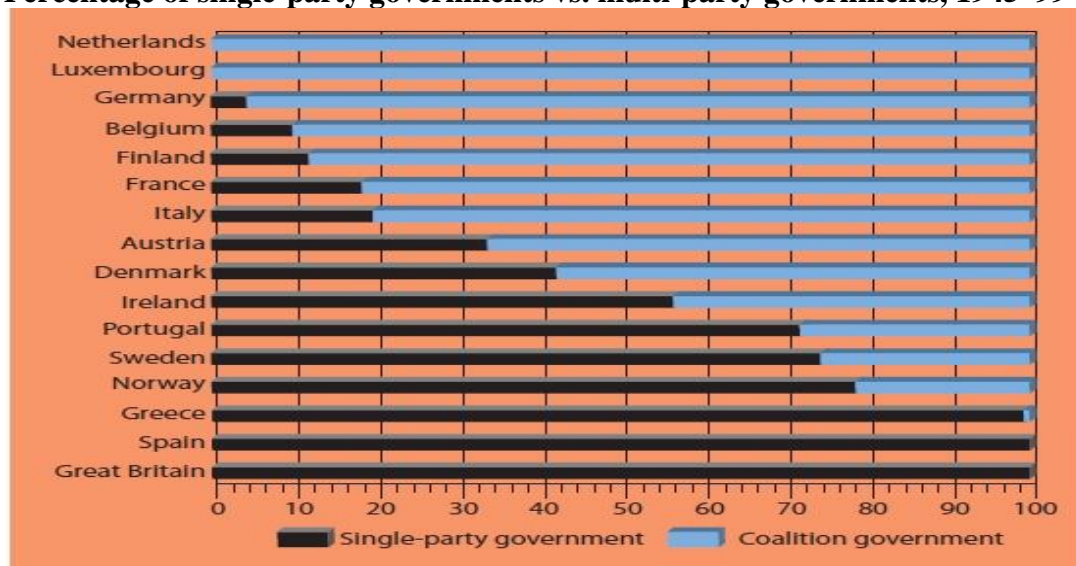
There are four different possibilities for government formation in a parliamentary system. As Figure 2 illustrates, Canada and other countries that share the same Westminster-model of responsible government have recent experience with all four types of government, including coalition governments. In fact, Australia, New Zealand and the United Kingdom each have coalition governments currently.



Coalition governments, as the term is used in this paper, are defined by “the collection of parties which between them make up the cabinet” (Laver & Budge, 1992, p.

5).⁷ Currently, there are nine European countries that have coalition governments of two political parties, 12 with three political parties, 11 which were composed of four to six parties, and four which involved either independent members or political parties plus independents.

Figure 3
Percentage of single-party governments vs. multi-party governments, 1945–99



Source: Boucek (2010; Müller & Strøm, 2000a)

Coalition governments are not only in the majority, they have been increasing over time, though as figure 3 illustrates, some countries are more familiar with the practice ranging from the United Kingdom which until 2010 had no non-wartime experience with coalition governments to the Netherlands where single party governments never occur.

As with electoral systems, there are as many variations in government formation mechanisms are there countries and system designers (Laver & Schofield, 1998). Yet they all share some common features. One such feature is the goal of creating a

⁷ This is what Laver and Budge refer to as a government coalition, to distinguish it from legislative coalitions where a non-governing political party or parties sustain a government by supporting its legislative agenda.

parliamentary government that has the support of a majority of members of the legislature, or more specifically, of the legislative chamber to which the government is held to account.

Comparativists are interested in variation and because coalition governments have been the dominant form of parliamentary government it has been of great interest for cross-country analysis. In order to generate typology and identify differentiation a common language for the stages of government formation and dissolution has emerged.

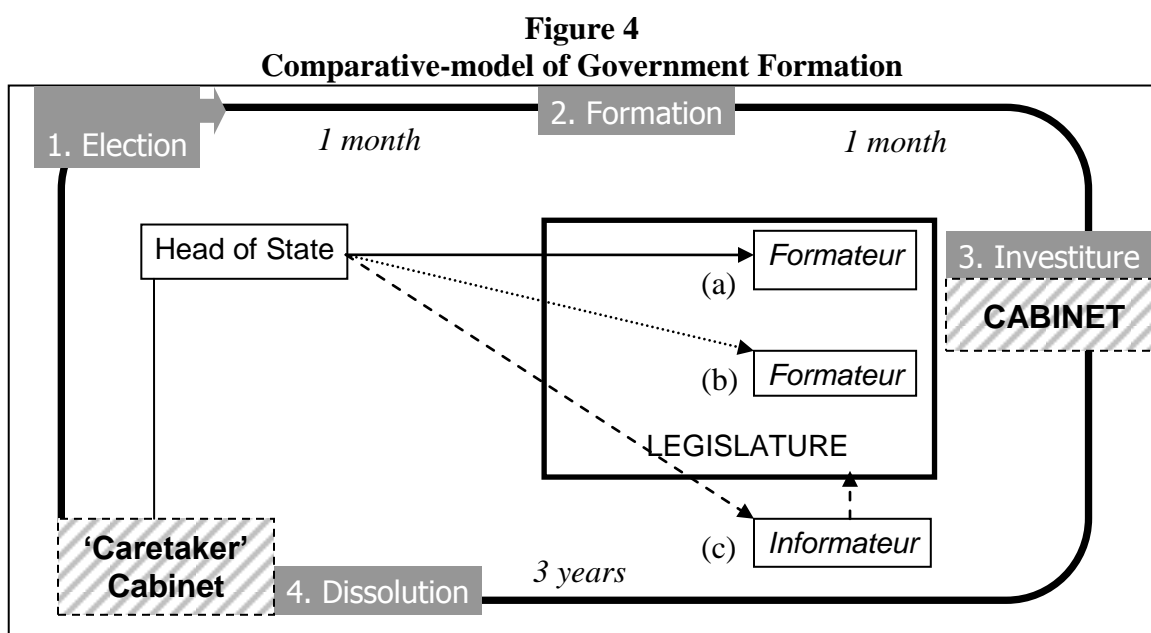


Figure 4 is a visual representation of these stages which can be used to understand government formation in almost all democratic parliamentary systems. I will refer to this as the 'comparative-model' of government formation.

In virtually all countries, following an election, (1) the head of state holds the constitutional authority to invest a government with office. The head of state in many polities does not attempt to form the government herself but rather appoints a *formateur* to assemble a government or, more specifically, the cabinet which has executive authority

(2). The choice of *formateur* varies by country, and in some countries that have a long history of divided parliaments, the head of state will appoint an *informateur* at the outset to gather information and report back on who should be given the first opportunity to be the *formateur*.

In the majority of countries, the leader of the largest legislative party is made the first *formateur* (2a), but this is not the only model. To establish a government that can gain the support of the majority of the legislature, the *formateur* identifies ministerial portfolios and policies that can be used to attract support from other political parties and/or independent legislators. A team is usually appointed, as will be seen in the next session, to undertake negotiations.

If no agreement is reached, a different *formateur* might be appointed and given the opportunity to try to form a government (2b). If agreement is still elusive, the head of state may use the *informateur* approach, choosing someone respected and independent to negotiate with all political parties in the hopes of reaching an agreement as to what government configuration would enjoy the support of the legislature (2c).

Once a cabinet has been formed, the support of the legislature in some cases must be confirmed through an *investiture* vote, which is called ‘positive’ parliamentarism (3) (Bergman, 1993). If the cabinet is not confirmed then negotiations resume until a cabinet that receives the support of the majority of the legislature is found. In countries with negative parliamentarism, the cabinet is simply sworn in by the head of state following the negotiations and allowed to govern until such time as it is defeated on a motion of non-confidence.

Most constitutions of developed countries have few, if any, rules to govern formation of governments, as they usually pre-date the growth of political parties and the introduction of proportional representation (which led to multiparty legislatures in Europe). Constitutional conventions and legislative rules, therefore, emerge to fill this void.

How formal or informal the constitution rules are that order government formation will impact on the length of time it takes to form a government and how long the government will last, though both formal and informal processes constrain political parties, MPs and the head of state with respect to bargaining and government formation (Strøm et al., 1994). Additionally, what the political parties know about the policy priorities of the political parties and how distant they are ideologically from one another will result in delays in government formation and stability.

There are only two cross-national studies that examine bargaining delays in government formation: Daniel Diermeier and Peter van Roozendaal (1998) and Lanny Martin and Georg Vanberg (2003). Based on their research, and as noted in figure 4, the average length of time for government formation is one month, though there are large variations by country. For example, it takes only days for France, Norway and Sweden to form a government, on average a week for the United Kingdom, and two months on average in the Netherlands. The length of time taken to form a government can have implications for government operations if proper planning is not undertaken within the public service (as advocated by this paper).⁸

⁸ Of course, a greater impact concerns the restrictions placed on the caretaker government, and this impacts both day-to-day operations and the capacity of the government that emerges to implement its policies and programs.

I have intentionally set aside the question of government replacement between elections from this model due to the conflict this idea poses for both Westminster-model and Electoral democracy-model enthusiasts. It is sufficient for our purposes to confine our examination to the exercise of government formation following an election.

The government formation model illustrated in figure 4, as it applies to Canada's current constitutional conventions, works as follows: The head of state is the Queen, as represented by the governor general, who has the constitutional authority to appoint the government. Following an election there is a *formateur*, who is the prime minister at the time of the election call and who is heading a caretaker government or, if the PM tenders his or her resignation following the election, as often happens once the result are known, then the leader of the political party with the most seats in the Commons becomes the *formateur*. If the PM does not resign, he has the right to meet parliament, since Canada uses negative parliamentarism, to see if parliament will defeat him or will tolerate him continuing in office.

In theory, the governor general could appoint an *informateur* to advise on the selection of a *formateur* should there be no prime minister or if negotiations on government formation under the current prime minister appear to be heading nowhere. In the United Kingdom, the Queen's secretary and the cabinet secretary are now formally, in the Cabinet Manual, acknowledged to be available for this role. Thus, in Canada, the Secretary to the Governor General and the Clerk of Privy Council could fulfill this role. What is more likely to happen in practice, however, is for the GG to simply wait patiently for negotiations between the parliamentary parties to settle upon a *formateur* and a

proposed cabinet supported by enough MPs as to suggest viability before calling on anyone to try to form a government.

This is the way it works under the constitutional conventions as understood by most scholars in Canada. However, under the Electoral democracy-model advocated by Flanagan/Harper, the *formateur* would be the leader of the political party that won the most seats in the legislature during the election and not the current prime minister. But even under this model there is no reason the *formateur* could not and should not enter into negotiations with other political parties for support if her political party does not have a majority of seats in the legislature.

Following a defeat on a motion of non-confidence the PM requests parliament be dissolved in acknowledgement that the government no longer enjoys the legislature's confidence and its powers are restricted to that of a caretaker government (4).⁹ And the process repeats.

Rules matter – they will impact on the length of time it takes and they will advantage certain actors – but as noted in the previous section, there is disagreement over the rules in Canada. When we look at government formation through this comparative-model, then the details of individual rules fall into proper perspective. The larger process of government formation, which is common to all parliamentary democracies, is ultimately a political and not constitutional exercise. The next three sections look at the processes involved in government formation by coalition governments in other industrialized parliamentary democracies.

⁹ In Canada, unlike the United Kingdom, Australia and New Zealand, the actual restrictions placed on a caretaker government are unknown by the public (if they exist at all).

III. Negotiations

The proposed minority Liberal-NDP coalition in 2008 and the agreement of legislative support from the Bloc Québécois were put together incredibly quickly, in under five days. Here is a brief recap of the events surrounding those negotiations (Valpy, 2009): Following the October 14 election, the Conservative government continued as a single-party minority government by opening parliament on November 17 with a Speech from the Throne that appeared conciliatory to the other parties in the legislature and included items that had been in the other parties' election platforms; but then it became confrontational on November 27 by unveiling a mini-budget, what it called a 'fiscal update, that included suspending the right to strike for public servants and the right of female government employees to sue for pay equity, the sale of Crown assets, the elimination of the \$1.95 per vote annual state subsidy for political parties and no stimulus spending¹⁰; and by January 1, the agreements had been signed by the three political parties.¹¹

As for the negotiations over the coalition agreement, these were commenced by two former leaders of these political parties, then expanded to include the two current leaders, one of whom had already announced his intention to step down as leader of his party due to his election loss, and then expanded further to include the two main

¹⁰ Defence Minister Peter MacKay boasted at the time to the *Chronicle Herald* that in the end the opposition would let the budget pass: "When they play chicken, they wind up looking like chickens" (Valpy, 2009, p. 11).

¹¹ The government postponed the scheduled opposition day, which would be the first opportunity for formally express non-confidence in the government, to December 8, but on December 4 the governor general, on the recommendation of the prime minister, prorogued Parliament. By December 10, the Liberal Party national executive had cancelled its leadership contest and appointed Michael Ignatieff as party leader, thus replacing Stéphane Dion as leader of the opposition in parliament. When parliament began its new session on January 26, the Throne Speech committed to dealing with the economic crisis (rather than the government's budget problems) and the next day a budget was tabled which included \$12 billion in infrastructure spending, \$20 billion in tax-cuts, \$13 billion to prime credit lending, \$3 billion for home renovations and five years of deficits totalling \$85 billion. Ignatieff, then announced that the Liberals would not defeat the government, thereby terminating the coalition agreement.

leadership candidates in the race to replace him.¹² Additionally there were parallel negotiations between these individuals (and their principal advisors) and the leader of a non-coalition party over a policy program that could receive the support of the majority in the legislature. This approach differs from the practice in other countries in that it involved former, current and potential leaders.

The choice of how to negotiate varies by country and over time with most political parties choosing not to involve the current party leaders until the end, unless there is no alternative. It will involve close knit teams of negotiators, or tiers of negotiations, depending on the complexity of the intended agreement. This is a common approach in labour, trade and many other contract negotiations and, given the preponderance of lawyers in politics, this common approach is not surprising.

There is no commonality beyond using teams. Primary negotiating teams have been known to range from half a dozen (Mitchell, 1999b) to almost two dozen (Saalfeld, 2000).

Often, when one political party assembles a team the other political party will match it in terms. In New Zealand in 1996 one of the parties brought a larger team to the table and while the other two political parties started with small teams they ended up including additional persons (Boston & McLeay, 1997, pp. 222-223). The inequality in team size may not be the best approach, given the insecurity it fueled in this instance. A

¹² In the first instance NDP Leader Jack Layton enlisted Ed Broadbent to approach former Liberal Prime Minister Jean Chrétien over the possibility of a coalition and by Friday, November 28, the two had entered into negotiations (CP, 2008a). Over the weekend negotiations developed and the two leaders were involved, Layton for the NDP and Stéphane Dion for the Liberals, and by Sunday, November 30, a draft coalition agreement emerged. At this point the candidates for the leadership of the Liberal Party were made aware of the details (News, 2008). Michael Ignatieff and his team were resistant to the idea (CP, 2008c) while Bob Rae was supportive (CP, 2008b), though negotiations continued now with the leader of the Bloc Québécois over legislative support. On Monday, December 1 the deal was finalized and made public by the three leaders.

better approach might be which is referred to as the 'hub and spoke' approach: use a small permanent team of negotiators who will easily cut through matters of commonality, and then refer the difficult questions to side teams (this is common in trade negotiations).

As these negotiations are parliamentary in nature, ratification is usually through the parliamentary caucuses, as their support will be crucial to the sustainability of the coalition, though sometimes the party executive may be asked for ratification (it is unusually and logistically untenable to have the party membership vote). At this stage it is about ratification, not amendment (though in the Netherlands on party allows proposals for amendment at this stage De Winter, 1995, pp. 128-134; Timmermans & Andeweg, 2000, p. 366).

There is a trade-off when it comes to choosing a negotiation approach. Using a small team and negotiating in secret allows for greater scope in discussions, faster agreement and eliminates the possibility of criticism by the media, caucus, party members and supporters over failing to achieve hypothesized demands. Wider consultation and input builds trust and caucus support which will be crucial to ratification of the agreement and implementation of the parliamentary program, and can provide greater stability in the long-term (Steel, 1980). Involving the caucus or party can have the added benefit of offering leverage as the need to get approval allows for negotiators to go back to the table and demand more concessions.

What is put on the table during negotiations includes policy and procedures (which are usually dealt with first) and the divisions of ministerial portfolio (De Winter, 1995, pp. 128-129). In terms of policy, the approach will often be to develop a policy program that can be set before the legislature and the people as a constructive agenda that

symbolizes progress and unity. This will be centered on the policies that the parties have in common – what is called in game theory literature the ‘win-set’ (Tsebelis, 1990) – and can be found easily in advance of the negotiations through the election platforms. Areas of clear disagreement are usually put aside, and even if put aside temporarily with the intention of revisiting them later through some other forum, the realities of government is that they will likely never be dealt with.

The level of public service support for the negotiations varies by country. When New Zealand knew it was moving to a non-majoritarian electoral system it made the choice to allocate all political parties £150,000 to hire external advisers to assist in coalition negotiations (Boston & McLeay, 1997, p. 228). It also instructed the public service:

- To provide information when authorised by the prime minister (who was not to be shown the response);
- Channel all information through the Cabinet Secretary and a committee of senior officials established for that purpose;
- Refuse to provide support to their departments (caretaker) minister with respect to negotiations (unless the request came directly from the PM);
- Only comment on the implications of a policy proposal being discussed by potential coalition partners, not its merits; and
- Don’t participate in the drafting of the agreement which is a political, not governmental, agreement.

After the fact, the only criticism of this approach that emerged was that it was too complex as it delayed negotiations and, in 1999, it was decided to allow public servants to meeting directly with the party negotiators once it was clear which parties would likely form the government so as to provide timely advice during the negotiations.

In advance of the 2010 general election in the United Kingdom, which was expected to deliver to no part a majority in the House of Commons, the then Labour Prime Minister followed the New Zealand example and instructed the cabinet secretary to begin work on a British Cabinet Manual, which was done with extensive consultation with both houses of parliament (see Hicks, 2012d). Included in this manual was the possibility that, at the direction of the prime minister and through the cabinet secretary (who is responsible for the civil service), the advice of the relevant government departments could be made available to all political parties following the election to explore alternatives for government formation (including, it was acknowledged, coalition government formation). The direction to the public service was that this advice must “be focused and provided on an equal basis to all the parties involved, including the party that was currently in government” (Secretary, 2010, p. 2.14). All possibilities for coalition government formation were explored and the parties used the public service to cost out proposed programs and policies as they explored different alternatives as to who should form a government.¹³

In Australia, New Zealand and the United Kingdom that publish externally and circulate internally detailed rules for the limitations on what a government can do during the ‘caretaker’ period. The core principles of these are enshrined in their respective cabinet manuals (Hicks, 2012a, 2012d, 2013b; Office, 2008; Secretariat, 2009; Secretary, 2011, 2012)}

The last item dealt with in coalition negotiations is usually the question of portfolio allocation. Comparative and theoretical research treats parties as actors, leading

¹³ The possibilities explored were between the three largest parties in the House of Commons and were thus Labour-Conservative, Labor-Liberal Democrat and Conservative-Liberal Democrat, with the last being the eventual coalition government formed.

to the expectation that individuals from the same party will behave in a similar manner (Laver & Shepsle, 1996). This is not the reality. The choice of which minister should hold what portfolio will be key to the development and implementation of policy and to the smooth public performance of the portfolio. But the usual practice is to leave this stage of government formation in the hands of the party leaders or the party caucuses and not make it part of the negotiations. While Seyd (2002) has noted that this is strange, given its given the impact the choice of minister will have on the success of the government and its policy platform, the simply reality is that it would be an impossible complication to the negotiation and ratification of the coalition agreement. The possibility of a cabinet, ministerial or some other appointment is an important carrot to bring the parliamentary caucuses of the political parties on board.¹⁴

IV. Agreements

In Canada's 2008 'brush with coalition', there were three documents relatively short documents. As shown in Figure 5, the first document was a one-paragraph cover letter to the governor general signed by the leaders of the New Democrat, Bloc Québécois and Liberal parties informing the governor general that she should, "as soon as the appropriate opportunity arises" (i.e. following the upcoming vote of non-confidence in the Conservative government), call on the leader of the opposition to form a government, and it attached two 'accords' (proving the leader of the opposition had the support of the majority of the members of the House of Commons). This cover page

¹⁴ Barak Obama joked about making his final choices for his cabinet that for every appointment he made he had 10 unhappy people: nine who believe that they would have been the better choice and one who wonders why it took him so long to offer the appointment.

became known in the media as the ‘coalition agreement’, which it was not.¹⁵ The first ‘accord’ between the NDP and Liberals was the actual coalition agreement, entitled *An Accord on a Cooperative Government to Address the Present Economic Crisis* (Liberal-NDP, 2008). The second ‘accord’, entitled *A Policy Accord to Address the Present Economic Crisis* (Liberal-NDP-Bloc, 2008), was a written commitment of legislative support by the Bloc for the new ‘minority coalition government’ during the next 18 months. It set forth a policy agenda for the government and the legislature and committed the government to the establishment of an undefined mechanism to facilitate regular consultation with the Bloc.

Figure 5
What became known as the 2008 ‘coalition agreement’ in Canada



Source: Adrian Wyld © The Canadian Press

¹⁵ The visual image of the three party leaders signing this cover letter provided the opportunity for the prime minister to paint the coalition as including the Bloc, which is a party committed to Québec’s secession from Canada.

The coalition agreement dealt with administrative and structural matters (Liberal-NDP, 2008). Among these were the question of appointments to the highest echelons of the public service and other federal bodies,¹⁶ allocation of portfolios, the establishment of a management group and set the duration of the coalition (until June 30, 2011). While the Liberal and NDP caucuses would sit together on the government side of the House of Commons, they would meet separately and offer advice on matters of concern to their respective caucuses to the government separately, though the possibility of their meeting jointly on certain matters was acknowledged.

The tri-party agreement promising legislative support to the coalition government dealt with policy matters (Liberal-NDP-Bloc, 2008). The primary policy objective for the coalition government and for the 40th Parliament of Canada was to deal with the economic crisis and expected recession. The three political parties agreed that the government should deficit spend so as to provide stimulus for the economy in such areas as infrastructure projects (including on First Nations reserves), housing construction and retrofitting, and in key economic sectors such as manufacturing, forestry and the auto industry (which it was acknowledged may require government aid) for at least the next two years. At the individual-level, targeted skill training would be provided for those most affected by the economic crisis and there would be an overhaul of employment insurance, registered retirement income funds, and bankruptcy and insolvency laws, and a new income support program for older workers. The parties committed to return to government surpluses within four years.

¹⁶ The PM would consult with the leader of the NDP, as appropriate, with the goal of ensuring ‘integrity, transparency and efficiency’ in all appointments.

Aside from the economic initiatives, the coalition government would increase or restore funding for culture, the Wheat Board and supply management, regional development, non-profit economic development organizations, improved child benefits and an early learning and childcare program (in partnership with the provinces). All of these were programs cut or cancelled by the Conservatives. Additionally, the government would initiate immigration reform and a continental cap-and-trade market with absolute greenhouse gas emission targets using 1990 as the base year.¹⁷ This agreement, and thus the policy agenda and Bloc Québécois committed support, only ran until June 30, 2010. As the minority coalition government agreement was set to expire a year later, the government would then have the option of negotiating a new policy agreement so as to obtain Bloc support again for a subsequent period of time, simply deal with the legislature on an *ad hoc* basis or dissolve parliament and hold a new election.

Neither ‘accord’ is unusual when considered in comparative perspective.

Coalition agreements tend to cover policy, procedural matters relating to the administration of government and the division of portfolios between the political parties (as noted, it is rare for it to directly allocate portfolios to individuals). The question of portfolios, including cabinet size, method of appointment and the strategies the junior partner may take with respect to its role in the ministry will be examined in the next section. As for policy, the degree of detail included in an agreement is determined by a number of factors both exogenous and endogenous to the coalition itself.

Almost two thirds of cabinets are governed by formal written agreements and the reliance on written agreements has been increasing. In the 1940s less than half of the

¹⁷ The choice of 1990 was to bring Canada back into the Kyoto Accord which the Conservatives had opted out of.

coalition governments in Western Europe used written agreement, whereas by the 1990s more than 70 percent did. The reason for the increased reliance on written agreements is the increased competition between political parties and this competitive atmosphere has resulted in increased distrust (Strøm & Müller, 1999, p. 269; 2001, p. 5). Distrust is the principle reason for parties wanting detailed written agreement and this can arise from competitive electoral environments, personalities, lack of experience working in coalition or with the other party, and disparities in size between the two parties, in the legislature or in the cabinet.

While disparities in party size has been shown to lead to written agreements, the assumption was that in a fragmented party system, where multiple parties would need to be included in cabinet, there would be more policy demands and thus more detailed agreements (Nousiainen, 1993, p. 264). Yet, the comparative evidence is that this relationship is not direct nor significant (Strøm & Müller, 1999, p. 269). This may be because the ‘win-set’ – the number of policies that a party supports within its own policy planks that are also policies supported by the other parties – for multiple political parties is likely to be smaller, even if they are on the same side of the ideological spectrum (Tsebelis, 1990). Thus we find both detailed coalition agreements, such as in Belgium, and relatively sparse agreements, such as in Denmark. Here too, the relative size of the political parties appears to be a factor.

As noted above, and will be shown below, any consideration of coalition agreements comparatively suggests that opting for a written agreement and choosing the degree of detail is influenced by a number of factors exogenous and endogenous to the coalition. But Seyd has designed a useful typology, reproduced here as Figure 6, which focuses specifically on the question of the extent of policy to include in an agreement and it does so from the perspective of

the parties to the agreement. While it does not touch on many of the variables outlined below, it provides a useful starting point.

Figure 6
The pros and cons of different forms of coalition agreement

	<i>Pros</i>	<i>Cons</i>
<i>Tight policy agreement</i> (i.e. extensive list of policy commitments)	<ul style="list-style-type: none"> ▪ Reduces extent of (time consuming) consultation later on ▪ Enhances the visibility of the junior partner. Evens up the bargaining power of partners on a day to day basis ▪ Greater accountability to voters and parties 	<ul style="list-style-type: none"> ▪ May take a long time to negotiate after an election ▪ Encourages parties to think of government as maximizing 'their' policies, rather than forging a genuine partnership ▪ Provides a stick with which the coalition can be beaten if it fails to honour its promises
<i>Loose policy agreement</i> (i.e. minimal list of policy commitments)	<ul style="list-style-type: none"> ▪ Greater flexibility should the political environment change 	<ul style="list-style-type: none"> ▪ Reduces the bargaining power of the junior partner, unless sufficient consultation and decision making procedures are also built into the coalition

Source: Seyd (2002, p. 85)

Agreements can benefit both the junior partner(s) and the senior partner(s). The former benefits from being able to bind the senior partner to policy that, once in government, their inferior numbers at the cabinet table and in the legislature might not achieve; while the senior partner is able to use these agreement to signal to their caucus and the public that even though they have had to compromise so as to form a government, they are still committed to delivering on key policies that are important to its members and they have not surrendered control of the legislative and policy agenda.

While it is a document designed to express unity, it contains specific policies that, once implemented, each party can point to as their separate priorities and accomplishments when running for re-election in competition with their coalition

partners. And the agreement ensures that a party's policy priority will not be rejected later by the other party; though inversely it often also means that any major policy not set forth in the agreement is unlikely to make it on the government agenda (Mitchell, 2000, pp. 141-142). As noted above, difficult issues that the parties cannot agree on are often left out of the initial agreement. It is therefore likely only those policy items which the parties share in common (the 'winset') are likely to be included in the agreement or acted upon during the duration of the coalition parliamentary government (Tsebelis, 2002).

This idea of narrowing policy objectives to the ones shared by all the parties in the coalition or, in minority coalition situations by the coalition and parties and individuals it negotiates with for legislative support, drives the normative claim that this approach to governing is more democratic since the only policies being enacted are those that were supported by the majority of the voters in the election (Marshall, 1986).¹⁸ This is an interesting response to the 'electoral democracy' school of thought as it uses its logic but applies it to policies rather than representation in the executive.

It bears repeating that, in most cases, it is the junior partner which demands a written agreement and the amount of detail will be, in the first instance, an artifact of its level of insecurity and, in the second, the political parties' experience with coalitions and with one another. These factors will impact on the length of the agreement but more importantly on the stability of the government. As noted above, New Zealand's first experience with coalition government in 1996 was not a success, and yet this government was guided by a very detailed coalition agreement. In 1999, the coalition partners opted to focus on procedures rather than policy, so as to ensure inter-party cooperation. That is

¹⁸ Given the fluidity of public opinion and the lack of policy positions held by most of the public, it is hard to evaluate such a claim *a posteriori*, though it has an *a priori* logic to it.

not to say that the 1999 agreement was better. There is no such thing as a ‘best’ or ‘better’ approach. The detail included in an agreement is simply one of a number of factors that will contribute to a coalition government’s policy and legislative success and its stability. Different designs will work better in different countries, with different actors at different times.¹⁹ The lesson is to focus on the illness (insecurity) when considering the patient (coalition government).

Detailed agreements may also not prevent disputes between the partners because of the lag-time between their negotiation and the implementation of the policy commitments (Mitchell, 1999a). Shifting economic and political circumstance may force parties to abandon items that were thought desirable immediately following the election but no longer are; and it is not always easy to abandon written commitments even in the face of domestic, international or global challenges. If a political party in a coalition is unable to effectively make a case for why it shifted its priorities away from what it had committed to in writing, then it will be unwilling to make a change or unsuccessful at re-election in the face of criticism by opponents and the media that they failed to fulfill their agreement. This is less an artifact of the agreement than it is a reflection of political messaging competency on the part of the coalition partners, though it is worth keeping in mind when negotiating agreements.

In countries where the coalition will still be a minority government, detailed policies and a legislative program are often left out since the parties to the coalition realize that additional compromise will be necessary with other political parties and

¹⁹ In the case of New Zealand, it is clear that the change in approach to their written agreement was instrumental, but it was such in the context of different coalition partners and the learned behaviour that emerged as politicians gained experience with their new electoral system and the new mode of coalition government.

members of the legislature to ensure support for policies and passage of legislation (Strøm & Müller, 2001, pp. 15-16). The parties have to weigh the desirability of forcing their coalition partner to promise to propose a policy from their platform as a government priority against the possibility that this policy will fail to be adopted by the legislature, putting the party's reputation and the survival of the coalition at risk.

The logic of the Canadian 'accords', which relegated policy to a legislative agreement that had the support of the majority of members of the House of Commons rather than placing policy in the minority coalition government's agreement is obvious, and is in keeping with the comparative practice, even if it was unsuccessful in the Canadian situation with these three political parties in 2008.²⁰

The detail in a coalition agreement will also vary by country; in Germany, for example, coalition agreements have become a political norm and often include draft legislative bills, policy commitments and identified benchmarks to ensure compliance (Müller-Rommel, 1994). And they vary over time; in the Netherlands, for example, coalition agreements have been growing in importance and it is hard to imagine a coalition government forming now in that country without one (Mitchell, 1999a).

The role of collective cabinet responsibility increases the likelihood of detailed coalition agreements (Laver, 1992). If the constitutional requirement is that cabinet be collectively accountable for all government policy, then it makes sense to get all political parties in the coalition to agree on the policies they are willing to support in advance as they will be expected to defend the government's policies in the legislature. While

²⁰ Pointing out that the 'separatist' Bloc Québécois was *dictating policy* was used effectively by the Conservative Party to undermine popular support outside the province of Quebec for the proposed coalition government. The Conservative Party's success shows the strength of this party with messaging and the inability of the coalition party leaders to convey their message.

cabinet decisions will be the result of inter-party negotiation, junior partners may lose in these discussions due to numbers or, worse, cabinet procedure. Further, not all government policy makes it to cabinet and individual portfolios will be managed by ministers who are partisans of one party in the coalition. It is the nature of media and opposition that they will identify the ministers known to be least supportive of a policy due to previous stands or personal ideology and force them to comment on the policy. In a single party government, one can rely on party loyalty to keep many ministers singing from the same page in the hymn book, but this reinforcement is lessened in a coalition. Difficult questions can lead to even more difficult defections, so it is not surprising that countries deal with the issue of collective cabinet responsibility either by more detailed agreements or through mechanisms designed to narrow collective responsibility.

Given that it is usually the junior partner who is demanding a written agreement, such agreements are more likely in legislatures where the prime minister holds the power to dissolve parliament and, in these instances, this agreement is often used to try to limit the PM's unilateral authority (Strøm & Müller, 1999, p. 269; 2001, p. 5). However, as there is no third party enforcement, agreements can only protect the junior partner through moral suasion brought to bear by the media and the legislature and through fear of electoral consequences.

One strategy employed by political parties to ensure compliance with a coalition agreement is to stagger the advantages, in terms of policy and program achievements, over the length of the agreement. If a political party's policy goals are realized quickly there at an early point there will be less incentive for that party to honour the agreement; and a party can be expected to unilaterally end the agreement when it is thought to be

politically advantageous. Thus, an “alignment of incentives” ensures that none of the parties has an incentive to cancel the agreement prematurely and pull the plug on the coalition government and/or on the parliament (Strøm & Müller, 1999, pp. 271-272).

So what about Flanagan’s claim that in most countries where coalitions emerge, the political parties had been open about forming a coalition during the election? As coalition governments are in the majority in the world and as they are the norm in countries with proportional representation (which is also used in a majority of countries), it would have been fair of him to suggest that voters in many countries are ‘aware that coalition governments are the likely outcome’. But it is rare for political parties to identify with whom they would form a coalition and, noted above, electoral competition has been increasing so, just as the level of detail in agreements has been on the rise, the likelihood of political parties tipping their hand in terms of what coalitions they would be open to has been decreasing. One cross national study found that roughly two-thirds of coalition agreements analysed were negotiated after elections, with a fifth concluded during the election period and only 12 percent had pre-election bargaining (Seyd, 2002, p. 78).²¹ So Flanagan’s point, inflated by him into a broader normative argument about electoral openness and voters rights, then recast by Harper as an electoral democracy pseudo-convention, is false. In fact, there are a number of countries, where the coalition agreements are kept secret after they are negotiated – this is always true in Luxembourg and in Denmark and is true in Germany roughly one-third of the time (Strøm & Müller, 2001, p. 5).

²¹ Seven percent saw complete agreement reached prior to the election so that the parties campaigned as a coalition versus five percent that saw pre-election negotiations followed by another round so that final agreement was reached after the election was over.

Finally, regarding the public service, Seyd (2002) has asked senior officials in his multi-country research if they preferred detailed agreements. They favoured less detail and, seemingly surprised by the response, he tries to explain the negative reaction to detailed coalition agreements as follows:

“Although civil servants as a group are often held to value politicians setting a clear direction, it may be that they prefer looser policy agreements either because this allows them greater latitude (‘bureau shaping’ behaviour) or because, being at the coalface, they appreciate more than politicians the limits of deciding policy actions well in advance” (Seyd, 2002, p. 84).²²

More likely than bureau shaping or an awareness that the economic and political situation may change and pre-planning creates constraints is that senior bureaucrats are, even in a permanent non-partisan public service, policy actors. They will prefer to author policies themselves, as policy innovation has career advancement potential, they invariably have their own policy beliefs, they are aware that the department itself may have a predilection for particular policies, and they will have learned from past experience that new policies are often handed to departments without additional resources thus jeopardizing existing policies and programs liked by the department. Policy pronouncements in a formalized agreement will be monitored by politicians, media and the public (and sometimes by other agencies in the bureaucracy) and that will leave bureaucrats no choice but to follow through and be judged on the success or failure of a policy they had no hand in crafting.

We know that it is possible to involve bureaucrats in monitoring coalition agreements, as this is done in Germany at both the departmental-level, when assigned policy implementation pursuant to the coalition agreement, and at the central agencies, which report to the Chancellor on the overall progress of the agreement (Müller-Rommel, 1994, p. 165). Given that this role has the potential to bring an impartial public service

²² The failure to acknowledge the likelihood that the bureaucracy can ‘capture’ ministers, a central theme of public policy research, makes one question this interpretation and wonder whether or not it is a by-product of British cultural admiration for its ‘permanent civil service’.

(in countries that have a permanent public service) officially into the political arena and place them between the coalition partners in the event a dispute arises, this is a role that should be considered carefully. It does provide a mechanism for monitoring that has greater capacity to observe departmental, and especially middle-management, compliance, than any ministerial, cabinet or parliamentary body could achieve. If coalition partners thought that this was a worthwhile rule, it should be subject to boundaries and formal mechanisms, and this speaks to my argument *for research and preparation* surrounding the possibility of coalition government formation in Canada.

V. Portfolio Sharing

In the accord signed during Canada's 'brush with coalition' government, the parties agreed that the prime minister would be whomsoever was the leader of the Liberal Party throughout the agreement and that the prime minister's constitutional powers would be unchanged (Liberal-NDP, 2008).²³ The only procedural change from single party government in Canada would be that the minister of finance would be chosen by the Liberal caucus.²⁴ There would be 24 cabinet portfolios in total with the Liberals to get 18 and the NDP six, and these appointments would be made by the prime minister, after consultation with the Leader of the NDP.

Again, there is nothing unusual about this arrangement. It was clearly drafted with sensitivity to Canada's constitutional conventions. It was also drafted by the leadership of two political parties, one centrist-brokerage and one social democratic, planning to replace the legislative party of the right aware of the optics of this change in a

²³ As the Liberal Party leader, Stéphane Dion, had announced his resignation following the general election, he would be prime minister until such time as the party had elected a new leader pursuant to the party's constitution and that individual would then become prime minister.

²⁴ This is a departure from current Canadian practice which is the prime minister singularly advising the governor general on the appointment and dismissal of all ministers.

period of fiscal challenges; and it also reflects the experience of the NDP at the provincial-level where it has been a partner in coalition governments. These guided the decisions to have the finance portfolio filled by someone chosen by the Liberal caucus²⁵, and to cap the cabinet at 24 portfolios.²⁶ But this is by no means the only arrangement that was possible and some of the innovations in other countries could inform future coalitions, particularly since Canada at the federal-level is unconstrained by limits such as maximum cabinet size and limited options for types of ministerial appointments.

In Canada, there are four senior and somewhat unique cabinet posts (Hicks, 1993): the prime minister, the president of the Queen's Privy Council (a position most often used to bring the leader of the government in the House of Commons into cabinet) and the leader of the government in the Senate. These positions were created by Royal prerogative and have been made permanent through convention. Additionally, the President of the Treasury Board, who chairs a committee of the Privy Council called the Treasury Board charged specifically with overseeing the allocation of the government's resources (which holds similar legal status to the cabinet itself), is a senior cabinet minister.²⁷ All other 'full' or senior cabinet ministers are entitled 'minister of...' and are appointed pursuant to an Act of parliament which creates the position, defines the minister's powers and establishes a large permanent government department to assist him

²⁵ The Liberal Party had during its previous time in government established a reputation as prudent fiscal managers, and while the party had a left and right faction as a brokerage party, the caucus had more members from the right. The finance portfolio could be used as a bulwark against interim Prime Minister Dion, leadership contender Bob Rae and any cabinet members to come from the NDP, all of whom were to the left of leadership contender Michael Ignatieff and the majority in the Liberal caucus.

²⁶ Provincial governments in Canada often have a fixed size that can only be altered through legislation. This is true in Ontario where Bob Rae had been leader of the NDP in a coalition government. So the most common provincial-model for coalition governments in Canada has been to have a small cabinet in which party representation is divided proportionately

²⁷ The Treasury Board was established on July 1, 1867 (the day Canada came into existence) by the Queen's Privy Council for Canada, though it now has been enshrined in legislation through the *Financial Administration Act* (R.S.C., 1985, c. F-11).

or her in carrying out those duties. The enabling legislation is invariably called the ‘*Department of _____ Act*’. Examples of these are the Minister of National Defence, Minister of Public Safety and Minister of Foreign Affairs. Additionally, there are two associate minister positions that have specific duties within the field of foreign affairs that have been created by the *Department of Foreign Affairs Act* (R.S.C., 1985, c. E-22), entitled ‘Minister *for* International Trade’ and ‘Minister *for* International Cooperation’ (i.e. foreign aid); and there is an associate minister created by the *Department of National Defence Act* (R.S.C., 1985, c. N-5). This is the formal roster of cabinet posts.

But in Canada the prime minister has the option for also creating an unlimited number of ‘ministers of state’ pursuant to the *Ministries and Ministers of State Act* (R.S.C., 1985, c. M-8), of which there are two types. The first type was to be a ‘super’ minister entitled the ‘minister of state for...’. This individual would be charged with heading a government department entitled the ‘ministry of state for...’ and the minister and ministry would coordinate policy across government departments at both the ministerial- and bureaucratic-levels. The Trudeau Government briefly experimented with this and it was abandoned, though the statutory authority for such positions continues.²⁸

The second is a ‘junior’ minister entitled ‘minister of state (_____)’. These individuals do not normally have a department. They are given specific areas of policy responsibility that the government either wishes to signal as a priority to the public or genuinely wishes to ensure advancement on. In the latter instance, the minister of state will be assigned some departmental resources to assist, and this policy area might concern something within a current department’s sphere of responsibility or span a

²⁸ The two created during the Trudeau-era were the Minister/Ministry of State for Economic Development and the Minister/Ministry of State for Social Development, with all non-central agency departments being classified as either economic or social and thus placed within these policy and spending envelopes.

number of departments or the entire government. Examples of these are the Minister of State (Status of Women), Minister of State (Democratic Reform) and Minister of State (Science and Technology).

In Canada the practice has been to make all ministers, ‘ministers of...’ and ‘ministers of state (____)’ members of the plenary cabinet and then use the cabinet committee structure to streamline decision-making and concentrate power into the hands of the more senior ministers through a priority and planning committee, operations committee and/or executive committee. Similarly, cabinet committees have replaced the failed ‘minister/ministry of state for....’ structure in the coordination of policy across departments.²⁹

It is noteworthy for our purposes that the PM has complete authority to choose the cabinet and establish the rules surrounding cabinet and its committees, so there is no reason he or she could not opt to leave ‘ministers of...’ as members of cabinet and leave ministers of state (____) outside. While there are only so many departmental portfolios that exist by statute, the prime minister does have the capacity to create a ‘minister of...’ at the head of a ‘department’ in advance of parliament adopting a ‘department of ____ act’, simply by having the governor-in-council ‘style’ a minister of state as ‘minister of’ and apportion part of the public service to assist the minister.³⁰ So there is no limit on possibilities in Canada when it comes to portfolio distribution.

²⁹ The Privy Council Office now singularly provides all departmental coordination for cabinet decisions.

³⁰ This simply involves the cabinet adding to Schedule I.1 of the *Financial Administration Act* the name of the division or branch in column I, which splits it off from a schedule I department and makes it a separate agency, and specifying the minister of state who would be responsible for this agency in column II. This is how Prime Minister Brian Mulroney was able to appoint a ‘Minister of Western Economic Diversification’ who would head the newly created department in August of 1987 even though the *Western Economic Development Act* (SC 1988, c.17) wouldn’t pass through parliament and become law until June 8, 1988.

Additionally, there are ‘parliamentary secretary’ positions that can be handed out. These positions were created so that there would always be an MP in the House of Commons to answer questions about the department when the minister was away (or if the minister was a member of the other legislative chamber). It is increasingly rare for a parliamentary secretary to answer question in the House of Commons, as ministers will cover for other ministers (being more experienced politicians with more detailed knowledge of the government’s overall priorities). Parliamentary secretaries are often used to house sit the parliamentary debates surrounding the department’s legislation, represent the department on the committee which oversees its policies and programs, and participate on media panels that involve opposition critics for the portfolio. Nevertheless, these positions offer yet another tool for interparty coordination and distribution of government largess.³¹

As a general rule, political parties seek portfolios that coincide with the party’s primary policy priorities. When it comes to legislative priorities, the goal of obtaining specific portfolios is lessened in the case of a majority coalition where the policy is actually part of the win-set between the coalition partners and is included in the coalition agreements. Obtaining portfolios on policy issues central to a party’s platform is essential if a policy is not included in the coalition agreement and is especially important in coalition minority governments.

³¹ Ministerial or parliamentary secretary appointments, and the unspoken promise of such an appointment and further advancement in seniority, have long been a tool to ensure government loyalty among the government’s parliamentary caucus. They carry with them an additional salary (some of which is tax-free) beyond that earned as an MP, as well as additional staff, travel funds, a title (Honourable) and (in the case of ministers) a car and driver.

Further, many government policies do not require legislation and ministers often have autonomy over their department's policies and programs (Laver & Shepsle, 1996).³² The level of autonomy ministers have varies by country. For example, ministerial autonomy is high in Germany and the Netherlands, but low in Britain and Ireland (Thiebault, 1993). In countries with high autonomy the importance of obtaining portfolios relevant to a political party's policy objectives is greater.

In Western Europe, there is a strong correlation between the proportion of members of the legislature and the number of executive branch appointments a party receives (Browne & Franklin, 1973; Laver & Schofield, 1998). When this proportionality is departed from it is done in favour of the junior partner, either through more position or a disproportionate number of senior positions. This is done as an enticement to join the coalition and as a way of reducing insecurity. In systems where the number of positions available is fixed, proportionality is more common.

Increasing the size of the cabinet in countries where the number is not fixed will be subject to exogenous factors such as parliamentary tradition, the health of the economy and the government's fiscal health (i.e. is the government running a deficit or carrying a sizeable debt). An example of where parliamentary tradition limits the ability to expand the cabinet is Germany, where the size of cabinet is not fixed and yet additional positions are rarely created in response to coalition partner demands (Norpoth, 1982, p. 22).

In most countries, there is a level of junior ministers who do not attend cabinet meetings (in Western Europe only Denmark and Finland do not have junior ministerial posts,

³² Subject, of course, to the resistance that the bureaucracy may make to a change to or implementation of a new policy.

Müller 2000b, p. 582). Senior people in the coalition parties will not be satisfied with junior ministerial appointments. Absent the creation of additional senior ministerial portfolios (which outside the Commonwealth are often called ministers of state), an alternative is to appoint 'super' junior ministers who would have the right to sit in cabinet but not vote (Garry, 1995, p. 198). Accommodation of regional, gender, ethnicity and parliamentary caucus pressure is often done through the appointment of junior ministers (something equally true for non-coalition governments). And coalition governments will sometimes make appointments requested by the junior coalition party to government positions in the furtherance of their policy goals or to ensure their support (Mitchell, 2000, pp. 143-145).

As important as the number and seniority of ministerial positions is the capacity of these positions to further the party's policy and political goals. This goes beyond obtaining specific portfolios that correspond with policy priorities as obviously no junior partner is going to get all the portfolios they would like. It speaks to the overall structure of the ministry.

Rather than fighting for specific portfolios it may be more strategic to work towards a structure whereby portfolios that partially overlap or neighbour one another in terms of jurisdiction and policy interest are divided between the parties. So, for example, in Germany, Finance and Economic Affairs, Interior and Justice, and Foreign Affairs and Economic Cooperation (feign aid), are normally divided between the coalition partners. This not only ensures inter-party cooperation but encourages joint legislative proposals that go beyond the coalition agreement (Saalfeld, 2000, p. 70).

While it has been noted that senior members in the party will balk at being offered junior ministerial appointments, these positions can be used by the party to ensure a

check on the other coalition partner and open lines of communications. One way to do this is to assign junior ministers from one political party to a portfolio which is under a minister from a different party (called ‘pooling’). This is now common practice in Western Europe (Strøm & Müller, 2001, p. 12). The junior minister can thus ensure that that the coalition agreement is being adhered to, that their political party’s cabinet members are apprised of developments and that their party’s perspective is considered in day-to-day decision making. While inter-party coordination between coalition partners is the role of the cabinet or the management committee, this is not always effective or efficient given the urgency of some issues that confront government (Müller & Strøm, 2000b, pp. 582-583).

As an alternative to the broad policy role, junior ministers can be given a specific policy role within the portfolio on a file that is of importance to the party. Government departments often have broad mandates and the policy goal of a political party may be specific to one area within that mandate, so the junior minister position can be a way of ensuring the delivery of this platform plank without the added burden of overseeing the entire department and of having to answer for its activities in parliament and before the media.

Another option is for a political party to take junior ministerial positions that have a broad non-departmental mandate. A number of issues, and thus positions to coordinate those issues, cut across the remit of many or all departments, such as employment equity and status of women.³³ These positions can offer a coalition partner that is in a particularly weak position in terms of elected or competent members of the legislature to appoint to cabinet the capacity to

³³ Obviously there are senior ministerial positions that have a pan-governmental mandate, such as finance, treasury, justice and, to a growing extent, environment (depending on the government’s commitment to this file and to undertaking environmental assessments), but these portfolios will be coveted by the senior partner.

have department-level input on a number of files. Having input at the departmental-level will be key to policy success as once an item makes it to cabinet it is often too late to propose changes.

And there is no reason these approaches cannot be combined. A junior minister with a broad non-departmental mandate could also be made a junior minister within a department assigned responsibility for a particular file of priority to the party.

As noted at the outset, the ministerial system in Canada offers limitless possibilities other than the approach chosen by the coalition partners in 2008. In fact one could argue that it is ideally suited to coalition government formation. This is not to say that the structure planned for by the Liberals and NDP was flawed. It is simply to argue that planning and considering coalition government well in advance will allow political parties greater options. A well thought out and structured ministry will ensure a more stable government and fewer points of friction that may lead to discord within the government and between their parliamentary caucuses.

VI. Conclusion

Canada's brush with coalition government formation in 2008 has a few interesting lessons but raised far more interesting questions. It would be wrong to read much into the lack of success of this agreement given the political situation at the time and the actors involved. In fact, that an agreement was possible in those circumstances with those political leaders and potential leaders is likely an indication that Canada at some point will have a coalition government at the federal-level, rather than evidence of incompatibility.

There is nothing inherent in the Westminster-model of responsible government that prevents the formation of a coalition government. In fact, the principle of government accountability to a majority in the House of Commons would suggest that coalition government is a more natural fit than single party minority governments. That

is why when faced with a divided parliament, the party leaders opted to form (and there currently are) coalition governments in the United Kingdom, Australia and New Zealand currently.

With respect to the Electoral democracy-model, given that the claims by Flanagan and Harper that political parties in most countries identify in advance their intended coalition partners is known to be false, coalition government is also a logic choice given the fact that coalition agreements tend to involve the win-set of policies that the coalition partners share which were supported by a majority of the voters in the recent election. The only stipulation that supporters of this model might make is that the party which won the most seats should be the [first] *formateur* asked to try to form a government.

Whether or not a coalition government is desirable, given that a coalition government is possible it would make sense to prepare for this possibility. The evidence from New Zealand is that preparation at the public servant-level allowed that country to weather the turbulent birth of coalition governments with little or no disruption in government services. At the political-level, there are also important lessons to learn in terms of how to properly structure negotiations (something that was not possible and not done in 2008). Canada's unrestricted rules concerning ministerial appointments and cabinet structure offer a large number of possibilities for coalition government formation that will also only be realized with advance research and planning. Some of these might offer political parties more policy opportunities and greater control than the Canadian 'provincial-model' of a size-limited cabinet with a proportional division of cabinet posts. Forming a government where the political parties feel comfortable in the arrangements is admittedly a large part of the battle as that will engender trust and trust is the surest way

to ensure stability. Further, implementation of policy is tied to cabinet structure. It would seem an exploration of structural alternatives (something that does not appear to have been done in 2008) could only benefit the political parties.

There are many arguments for why additional research on coalition government formation is needed in Canada at the bureaucratic-, political- and academic-levels. There are none, outside of a partisan desire to prevent alternative governments from coming to power, against.

VII. References

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