

# The Canadian Governance System

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# Overview: Canada as a Federation

- Ten provinces and three territories
- Population : 32 Million
- Two levels of government – federal and provincial – each with its own executive, legislative and judicial branches
- Constitution Act ( 1867)
  - outlines division of powers between federal and provincial governments
  - Charter of Rights and Freedoms added in 1982

# Distribution of Powers - Examples

- **Federal, over 30 areas**
  - national defence
  - raising of funds ( by any form of taxation)
  - foreign policy
  - transportation
  - communications
  - criminal law
  - peace, order and good government
- **Provincial, 16 exclusive areas**
  - education
  - natural resources
  - hospitals
  - local works projects
  - property and civil rights
  - administration of justice

# Distribution of Powers

- Residual Power : Matters not exclusively assigned to the provinces is deemed to be within federal purview
- Shared Powers/Concurrent jurisdiction:
  - Immigration
  - Agriculture

# Canadian Federalism

- Shaped by two linguistic and cultural groups: French and English – protection of minority language and educational rights; officially bilingual since 1969
- Recognition of First Nations
- One of the most highly decentralized federations in the world – asymmetry (Example: Pensions; Immigration)
- Equalization principle
- Executive federalism – system of regular meetings between PM and Premiers of provinces and Ministers; negotiation of fed-prov agreements

# Canadian Parliamentary System

- The executive and legislative branches of government are fused: Members of the executive branch (the government) must be members of the legislative branch, i.e. Members of Parliament
- The executive may hold office and exercise power only so long as it retains the support of a majority of the members of parliament

# Executive Branch

- **Governor General** represents the Queen as Head of State; gives “Royal Assent” to bills passed by Parliament, executes decisions of Cabinet, as well as other ceremonial duties.
- **Prime Minister is the head of Government**, by convention this is the leader of the party with the majority of seats in the House of Commons.
- **Cabinet members** are appointed by the Prime Minister, all of which must be MPs or Senators. The members of the executive remain members of the legislature throughout the life of the government’s mandate
- The laws and policies adopted by Parliament are implemented by a network of Ministries, which form the **federal administration**.

# Legislative Branch: The House of Commons

- The Lower House of the Canadian Parliament has 308 Members (MPs), each representing a single member constituency. Representation in the House of Commons is based on population.
- Members of Parliament are elected for a period not to exceed five years.
- The House presently has 4 recognized parties, and one independent member
- The party with the second largest number of seats becomes the official opposition party.



# Current Context: The 39<sup>th</sup> Parliament

**A Minority Parliament: 308 Members**

- 125 Conservative Party
- 103 Liberal Party
- 51 Bloc Quebecois Party
- 29 New Democratic Party
- 1 Independent

# Legislative Branch: The Senate

- The Upper House of Parliament has 105 members
- Senate seats are apportioned by region, with 24 each from the Atlantic, Quebec, Ontario and the West, 6 from Newfoundland and one from each of the three territories.
- Senators are unelected. Senators are appointed by the Governor General on advice from the Prime Minister ; they can be appointed after the age of 40 and maintain their seat until the age of 75.
- The Senate has all the powers of the House of Commons except that of initiating financial legislation

# The Legislative Process

- A bill can be initiated by Ministers or by any other MP. Nearly all bills are initiated by government.
- A bill can be initiated in either the Senate or the House, with the exception of money bills (House only). However, bills are rarely initiated by the Senate.
- A bill must pass three readings in the House of Commons and the Senate and be approved by both Houses in identical form before being signed into law by the Governor General. The GG has no veto power.

# Legislative Process

- Implementation of federal laws and enabling regulations are published in the Canada Gazette
- Implementation is the responsibility of the government and its bureaucracy
- Interpretation: neither federal or provincial legislatures may pass laws outside of their jurisdiction. When jurisdiction is disputed, the Supreme Court adjudicates.
- Federal govt may ask Supreme Court for an interpretation; provinces have similar rights and can refer questions of interpretation to their courts of appeal

# Parliamentary Committees \*

- The House currently has 21 **Standing Committees** whose members are named by a Selection Committee (where all parties are represented).
  - **Committee functions:** generally review and report on issues, policies, legislation relating to the mandate, the administration and the operation of the government departments they are responsible for. (Other powers specified in mandates and House Rules).
  - **Composition** of the committee roughly reflects the distribution of seats in the House. The Chair and Vice-Chair are elected by the Committee
  - **The Public Accounts Committee** is chaired by an Opposition Member
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- \*38<sup>th</sup> Parliament

# Parliamentary Committees\*

- The Senate has 16 Standing committees.
- There are also 2 **Joint Standing Committees** (both Senate and House members).
- **Legislative committees** are not permanent and are formed to study particular bills.
- \*38th Parliament

# Judicial Branch

- Constitutional authority for the judicial system in Canada is divided between the federal and provincial governments.
- Parliament has the authority to establish a general court of appeal and courts for the better administration of the laws of Canada: Supreme Court of Canada ; the Federal Court ; the Tax Court
- Provinces have exclusive jurisdiction over the administration of justice in the provinces, including the organization and maintenance of provincial courts both civil and criminal, and civil procedure in those courts.
- Basically 4 levels of court in Canada: Provincial Courts; Provincial and Territorial Superior courts and Federal Court, Trial Division; Provincial and federal Courts of Appeal and the Supreme Court

# Judicial Branch : The Supreme Court of Canada

- Highest court of the country; serves as the final court of appeal in Canada. Its judgments are final.
- Has nine members, representing the five major regions of the country; three of the nine judges must be from Quebec, in recognition of the civil law system.