

**Climate Change/ Quebec continues to shame Ottawa: Canada has become an International Pariah**

- PEJnews Joan Russow - Global Compliance Research Project

At COP 15, Quebec was singled out, by the President of the Maldives, as an indication of hope because he thought that the Province would influence the Federal Government. But the flawed Canadian Constitution gives the Prime Minister sole power to bind Canada even in the face of majority opposition from Members of Parliament and from Provinces.

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**At COP 15, Quebec was singled out, by the President of the Maldives, as an indication of hope because he thought that the Province would influence the Federal government. But the flawed Canadian Constitution gives the Prime Minister sole power to bind Canada even in the face of majority opposition from Members of Parliament and from Provinces.**

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**At COP 15, the Harper government was not willing to face the international media, and was cowering in a corner of the Bela Centre, with Minister Prentice giving a contrived press conference. In Contrast, Quebec was singled out by many states as being at the forefront. The Harper government was however singled out for receiving the “colossal fossil award for its obstruction during the talks.**

On February 2, 2010, The Montreal Gazette reported Quebec has adopted tough environmental standards, calling for a 30-per-cent reduction in vehicle greenhouse-gas emissions by 2016.

and that “Prentice stated Canada should align its greenhouse-gas cuts with the United States, indirectly criticizing Quebec's [more] ambitious goal to reduce greenhouse gas emissions by 20 per cent in 2020, from 1990 levels.

and the Gazette quoted Prentice as saying : "One of the most glaring examples of the folly of attempting to go it alone in an integrated North American economy is the new, and unique, vehicle regulations introduced by Quebec," and "These ensure consumers will basically have to leave that province to buy vehicles, to avoid levies of up to \$5,000, because 75 per cent of the latest car and truck models don't conform to the new rules."

On January 30, Harper submitted to the UNFCCC, Canada's underwhelming Commitment of 17% below 2005 baseline by 2020.

### **Serious questions arise about Canada's notion of Confederation.**

**Since there was such a discrepancy between what Quebec was willing to agree to, and what the Harper government had agreed too, questions were raised about the relationship between the Federal and Provincial government in Canada.**

**At COP 15, there was considerable discussion about the fact that Obama could not enter into a legally binding agreement because it would have to pass it through Congress. Attention was also directed towards the mechanism in Canada for entering into a legally binding agreement.**

**When I admitted that I was a Canadian, I was often asked to explain the mechanism in Canada for entering into a legally binding agreement. I explained a Canadian Prime Minister even one like Harper leading a minority government, has the power to bind Canada without even taking the agreement to Parliament.**

**I also mentioned that Harper, who was leading a minority government, could ignore majority votes in Parliament, could defy majority votes in a Parliamentary Environment Committee, and could disregard the wishes of the provinces – members of**

## the confederation

The question arose: Is he not required to form a coalition? Why is he not required to go to Parliament before signing and ratifying an international instrument? A member of the international media even queried: "Isn't Canada a democracy?" I tried to explain further the system in Canada and responded that it is a constitutional Monarchy, and the Monarchy is represented by the Governor General who is appointed by the Prime Minister. When asked about the role of the Governor General, I mentioned that under the Article VI of her Lettres Patent she had the power to summon, dissolve and prorogue (close down) Parliament, and under Article V of her Lettres Patent she had the power to remove Members of Parliament, including the Prime Minister, if there were sufficient cause. I was then asked, is the Governor General only a figurehead or does the Governor General exercise her powers under the Lettres Patent? I pointed out that actually since Harper was elected in 2006 the Governor General has definitely used her powers, and has used them twice [of course this was a conversation before the 2009 prorogation]. I told him that in 2008, Harper was being investigated, by a Parliamentary Committee on Ethics and Access to Information, for a funding scheme, in the 2006 Election, that violated the Elections Act. Harper asked the Governor General to dissolve Parliament and to call an election, which she did. (She could have called on the Opposition Parties, which represented at that time over 62 percent of the Members of Parliament, to form a government, but she didn't). I then mentioned that in 2008, the Opposition Parties agreed to put a motion of non-confidence on the floor of the House of Commons and that two of the Opposition Parties had agreed to form a Coalition with the support of the third Opposition Party. Harper, fearing a non-confidence vote, and the possibility of losing power to the Coalition, went to the Governor General and asked her to Prorogue Parliament, which she agreed to do. The reporter then asked about what sort of threat does the Prime Minister have over

**the Governor General? I responded that the current Governor General was appointed by the previous government usually for a period of five years, and that while Harper could not replace her, he could contact the Queen and request that the Queen recognize the appointment of a new Governor General. The reporter just shook his head, and indicating that he was in a state of disbelief. It was now Midnight, and we went to hear Jim Prentice speak in the plenary to the General Assembly. Harper was probably the only head of a state that was at COP 15, and did not speak for Canada. He argued that the reason was that he was dining with the Queen of Denmark.**

### **Fundamental changes needed in the Constitution**

**1.□□□ Moving away from the antiquated first Past the Post Electoral System, which itself violates key sections in the Canadian Charter of Rights and Freedoms**

**2.□□□ Requiring international agreements to be brought to Parliament**

**3.□□□ Drawing upon the strongest legislation from each province, and if the strongest legislation is less than the international standards, the international standards should prevail.**

**4.□□□ Proposing that the legislation of each province be examined□ and the Federal government would adopt the strongest legislation related to guaranteeing human rights, preventing conflict, ensuring social justice and protecting the environment, thus the Federal position would be continually harmonizing upwards. For too long in Canada provincial /corporate self-interests have aimed as harmonizing to the lowest common denominator.**

**5.□□□ Addressing issues related to the Governor General, and to the Senate**

**But The Constitution in Canada is almost impermeable to Change (see Annex)**

AS an example of how complicated and difficult it is to change: here is the amending

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## Formula

Annex;

The present Constitution of Canada contains not one but five amending formulae.

First, section 38 of the Constitution of Canada sets out the general amending formula for changes to the Constitution. This formula requires the approval of the Senate and House of Commons and of the legislative assemblies of at least two-thirds of the provinces with at least 50% of the population of all provinces. The two-thirds 50% formula [colloquially referred to as the 7-50 formula] at present requires the approval of 7 provinces, representing at least 50% of the population of all the provinces. Among the features of the Constitution that may be changed in accordance with the 7-50 formula is perhaps the most important element in it, namely, the distribution of legislative powers between Parliament and the provincial legislatures. This is the very substance of the federation.

Second, the Constitution of Canada then sets out other amending formulae, all of which are exceptions to the 7-50 formula. Section 41, which applies to a limited number of matters, requires the *unanimous* consent of the Senate and House of Commons and the legislative assembly of each province. The matters requiring unanimous consent are the following:

(a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(b) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province is entitled to be represented at the time this Part comes into force;

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(c) subject to section 43, the use of the English or the French language;

(d) the composition of the Supreme Court of Canada; and

(e) an amendment to this Part.

Third, another exception to the 7-50 formula is found in section 43 and concerns any provision that "applies to one or more but not all, provinces", including alterations to boundaries between provinces and language within a province. Amendments in respect of these matters require the consent of the Senate and House of Commons and the legislative assembly of each province to which the amendment applies.

Fourth, section 44 of the *Constitution Act, 1982* authorizes amendments to the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons, other than those matters referred to in sections 41 and 42 of the *Constitution Act, 1982*

. The amendments authorized by section 44 are within the exclusive power of the Parliament of Canada.

Fifth, and the last exception to the 7-50 general amending formula, is to be found in section 45 of the *Constitution Act, 1982*. This provision empowers the *legislature* of each province exclusively to make laws amending the constitution of that province. This amending formula, like the formula set out in section 44, discussed above, must be read subject to section 41 of the *Constitution Act, 1982* --the unanimous consent formula.

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**and □ explained that a Prime Minister appoints the Governor General, and although the PM cannot remove the Governor General, the Prime Minister can request the Queen to appoint a new Governor General. the role of the Governor General, there would have been even more □**

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**While the Campaign against proroguing Parliament continues,**

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**The Canadian Constitution rather than further the highest tenable principles descends to the lowest common denominator.**

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**Federal minister decries strict limits**

By KEVIN DOUGHERTY, The Gazette February 2, 2010

Federal Environment Minister Jim Prentice took a swing at Quebec yesterday in a speech in Calgary, where most Canadian oil companies have their head offices.

Like the state of California, Quebec has adopted tough environmental standards, calling for a 30-per-cent reduction in vehicle greenhouse-gas emissions by 2016.

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Quebec and California are members of the Western Climate Initiative, composed of seven states and four provinces. They hope to press their respective federal governments to take a tougher stance on climate change.

In his speech, Prentice said Canada should align its greenhouse-gas cuts with the United States, indirectly criticizing Quebec's ambitious goal to reduce greenhouse gas emissions by 20 per cent in 2020, from 1990 levels.

"One of the most glaring examples of the folly of attempting to go it alone in an integrated North American economy is the new, and unique, vehicle regulations introduced by Quebec," he said.

"These ensure consumers will basically have to leave that province to buy vehicles, to avoid levies of up to \$5,000, because 75 per cent of the latest car and truck models don't conform to the new rules."

Provincial Environment Minister Line Beauchamp was not available for comment, but a Quebec government official noted that automakers have until 2016 to conform - and because it is an average, they just have to sell more small cars to comply.

Prentice said Canada would work with the U.S., to the point of harmonizing its greenhouse-gas reduction target with the U.S's: a 17-per-cent reduction from 2005 levels by 2020. Previously, Canada set a goal of a 20-per-cent reduction in 2020, starting from 2006.

But environmentalists note this is still only a three-per-cent reduction from 1990, the agreed reference year, and 17 per cent less than what Quebec proposes.

Quebec has also been pushing Ottawa to adopt a cap-and-trade plan, which would limit greenhouse gas emissions by major industries through a system of buying and selling carbon credits on the Montreal Exchange.



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"We will adopt a cap and-trade regime only if the United States signals it wants to do the same," Prentice said.

While acknowledging criticism that Alberta's oilsands project is a major source of pollution, Prentice said Canada's ultimate goal is to be a "clean energy superpower.

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Dawn Walton and Rhéal Séguin

Calgary and Quebec City — From Tuesday's Globe and Mail Published on Monday, Feb. 01, 2010 8:38PM EST Last updated on Monday, Feb. 01, 2010 9:56PM EST

Quebec's new environmental regulations targeting vehicles are an "absolutely counter-productive and utterly pointless" way to cut greenhouse-gas emissions that will ultimately put Canada at a competitive disadvantage in the North American marketplace, the federal Environment Minister said Monday.

Speaking in Calgary, Jim Prentice defended Canada's climate-change strategy announced over the weekend, which follows the lead of the United States to cut emissions by 17 per cent

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from 2005 levels by 2020.

Ottawa's previous target was a 20-per-cent reduction over 2006 levels.

Meanwhile, Mr. Prentice called the new Quebec Environmental Quality Act “one of the most glaring examples of the folly of attempting to go it alone” on climate change.

The legislation, which came into effect last month, states that as of 2016, large auto manufacturers will face a fine of up to \$5,000 for every vehicle they sell that doesn't meet new emissions standards, beginning with 2010 model-year vehicles.

“These ensure that consumers will basically have to leave that province to buy their vehicles to avoid levies of up to \$5,000 per vehicle because 75 per cent of the latest car and truck models don't conform to the new rules,” Mr. Prentice told a business crowd at an event hosted by the University of Calgary.

The auto industry also criticized the regulations and described Quebec as “out of step” with the rest of North America.

But a spokesman for Quebec Environment Minister Line Beauchamp said critics like Mr. Prentice are misinformed. Dave Leclerc said consumers will not pay a \$5,000 levy on vehicles. He said that number is a benchmark that will be used to determine the levy charged to manufacturers, depending on how much they exceed the province's standard. For instance, if a car maker exceeds the limit by 1 per cent, it will be charged 1 per cent of \$5,000, or \$50 per vehicle.

The federal minister's comments are more evidence of a growing rift between Ottawa and Quebec on the issue – as well as others with distinct climate-change plans.

Bloc Québécois environment critic Bernard Bigras said Quebec's position is similar to the

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one adopted by 15 U.S. states representing 40 per cent of the U.S market.

“Quebec isn't alone. Ontario also wants to move ahead on this issue but Ottawa is retreating. We appear to be on a collision course here,” he said.

During global climate-change talks in Copenhagen in December, Quebec Premier Jean Charest described the expanding gap in targets set by the federal government and other provinces as a “tale of two Canadas.” He was determined to move ahead with a made-in-Quebec strategy.

Then, last month, he shared a platform with Prime Minister Stephen Harper to announce the construction of an organic waste treatment plant in Quebec, but took the opportunity to slam Ottawa's targets while insisting that Quebec will pursue an aggressive strategy against climate change.

On Monday Mr. Prentice said the government will wait to see what the U.S. does next before deciding whether to adopt a cap-and-trade regime or regulations. He said it is unclear how individual sectors such as the energy industry, including the contentious oil sands, will be affected.

Federal Liberal Leader Michael Ignatieff has said Canada should not wait for Washington to act on climate change.

PROPOSED CANADIAN CITIZENS PUBLIC TRUST CONSITTUTION

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What is needed is a Charter that draws upon the strongest legislation from each province, and if the strongest legislation is less than the international standards, the international standards should prevail. The Green Party of Canada will be working on a research project that will analyze the legislation of each province and will propose a continual harmonizing upwards. For too long in Canada provincial /corporate self interests have aimed as harmonizing to the lowest common denominator.

## MOVING BEYOND CANADIAN PAROCHIALISM: PROPOSAL FOR CANADIAN CITIZENS PUBLIC TRUST CHARTER

Joan Russow (PhD)

The Leader of the Green Party of Canada

The Green Party has been prevented from running candidates in the Quebec election for reasons yet to be fully determined. If the Green Party had been able to run the party would have proposed a Canadian Citizen's Public Trust Constitution.

This constitution would draw upon the strongest legislation from each province, and if the strongest legislation is less than the international standards, the international standards would

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In the Speech from the Throne, Tuesday September 23rd, there was a call for all levels of government and for all citizens to work towards achieving Canadian unity. For too long this appeal has been made, but without leadership. What is needed now is true leadership.

Many citizens question much that the Canadian government leaders have done. The federal and provincial governments had the opportunity to show leadership by ensuring that government-to-government negotiations took place to resolve the outstanding land rights of First Nations peoples, and by enshrining the constitutional measures that would protect the French language and culture in Quebec.

If the both levels of government had resolved these two issues, then they would have been able to open up a dialogue across Canada on how to really change the country to providing a public trust constitution which would undertake the following:

1. to Promote and fully guarantee respect for human rights including

labour rights, health rights, and social justice;

2. to Enable socially equitable and environmentally sound employment;
3. to Achieve a state of peace, justice and security;
4. to Create a global structure that respects the rule of law; and
5. to Ensure the preservation and protection of the environment, respect the inherent worth of nature beyond human purpose, reduce

the ecological footprint and move away from the current model of

over-consumptive development

COMMON CONCERNS OF CANADIANS

THAT TRANSCEND PROVINCIAL BARRIERS

\* Many groups in society are marginalized through class and grounds such as race, tribe, or

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culture; colour, ethnicity, national ethnic or social origin; nationality, place of birth, nature of residence (refugee or immigrant, migrant worker); status, colour, gender, sex, sexual

orientation, gender identity, marital status, form of family, disability; age, language, religion or conviction; political or other opinion; class, economic position, or other status.

Governments have failed to ensure the right to adequate shelter, the right to social security, and the right to be free from hunger. Canada is obliged to ensure these rights under the International Covenant of Cultural, Economic and Social Rights.

\* The constant erosion of the universal comprehensive health care system, and the lack of emphasis on preventive medicine and on addressing environmentally-induced health problems prevail. The continued health and environmental problems caused through the use of chemical pesticides, and the reluctance to promote organic agriculture have not been addressed. Vested economic interests of corporations have been influencing the establishment of standards and regulations under the CODEX Alimentarius.

\* Science has not been used for peace and the benefits of humanity as agreed in a General Assembly resolution from 1975 on "the Use of Scientific Technology for Peace and the Benefits of Humanity". Equally many citizens are concerned that "captive" scientists in the employ of governments or corporations are not able to reveal damaging evidence from fear of reprisals or loss of funding. In addition, there is increasing concern about the corporate influence on the philosophical underpinnings of education, and corporate control over the nature and direction of research at the university.

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\* Misplaced federal and provincial spending priorities are blatantly evident: \$10 billion on the military, 2 billion plus on promoting corporate competitiveness, and millions of dollars tied up in corporate deferred taxes. In addition, subsidies continue to be given to promote socially inequitable and environmentally unsound practices. Prime Minister Chretien with his Team Canada has subsidized and promoted the sale of CANDU reactors in different parts of the world. The NDP government in Saskatchewan has failed to prevent the import of nuclear material from dismantled nuclear weapons in the Soviet union to be processed in Saskatchewan for use in civil nuclear reactors., presumably in the CANDU reactors whose safety continues to be seriously questioned. The United States along with NATO "allies" is using Canada to test weapons, and US nuclear powered vessels continue to berth in urban harbours. Uranium, used in the production of nuclear arms, is continually being mined.

\* Promotion of unrestrained economic growth, often results in the compromising of principles when the only jobs available for Canadians are those in the GOABREBPTHAW Industries (Green house gas-producing; Ozone depleting, Acid rain producing, Resource extraction, Biotechnology/pharmaceutical, Producers of Toxic, Hazardous, and Atomic Wastes). The production of toxic, hazardous, and atomic substances and wastes and the transfer of these wastes to other states, in particular developing countries, or deposited on the lands of marginalized citizens or of indigenous continues.

\* Disregard for reducing Canada's ecological footprint or moving away from Canada's overconsumptive pattern of development and production is pervasive and well entrenched with little government action to reverse this trend. The impact of car-dependency on viable communities across Canada, and on the continued irresponsible contribution to CO2 emissions in violation of obligations under the Framework Convention on Climate Change are ignored. In addition, as a result of car-dependency, Canadian communities lack human centred interaction. Culture and aesthetics in Canadian society and communities have been marginalized, and the potential of the National Broadcasting system reduced through decreased funding .



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\* Corporations are often successful at receiving compensation rather than being responsible for paying compensation for degrading the environment. The years of negligence of corporate-sympathetic administrations have resulted in the failure to enforce Canadian statutes that would have protected the environment. The ISO 14,000 process whereby corporations set their own environmental standards and are then assessed on how well they conform to their self-initiated standards, along with "voluntary compliance" is resulting in further deregulation by governments.

• Failure to ban genetically engineered foods and crops throughout Canada. Promotion of genetically engineered foods and crops.

\* Citizens, including first nations peoples, are being arrested as criminals for protecting old growth forests and community watersheds when these citizens are asking the government to do little more than what Canada undertook to do internationally, or is required to do through federal and provincial statutes. The Federal government and provincial governments have violated Civil and Political Rights at APEC, Gustafson Lake, Oka, Temagami, Clayoquot Sound, Slocan Valley in Downtown Montreal etc.

Change is absolutely essential in Canada, but not change by devolving

responsibilities to the provinces. Canada has to be a country that stands for guaranteeing human rights, protecting and conserving the environment, preventing of war and conflict, ensuring social justice and providing for socially equitable and environmentally sound employment (That is, the Public Trust).

Unfortunately, in Canada at all levels of government, the only time the language of commitment and international obligation appears to be used is when government representatives are referring to vested economic corporate interest trade agreements, or bilateral military agreements. Rarely is the language of obligation and commitment used when governments refer to the guaranteeing of human rights, the protecting of the environment, or the preventing of war and conflict. Citizens in fact are arrested as criminals when they stand on the road or in watersheds demanding that governments discharge their international obligations and act on their commitments.

The devolution of power to the corporations by corporate-sympathetic

administrations, the antiquated attitudes of many of our politicians and,

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There is an urgent need for a strong, principled federal presence throughout the country. Canada must accommodate the concerns of First Nations peoples and French Canadians in Quebec, as well as those of all the cultures that are an integral part of Canada.

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National Leader of the Green Party of Canada

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\* Many groups in society are marginalized through class and grounds such as race, tribe, or culture; colour, ethnicity, national ethnic or social origin; nationality, place of birth, nature of residence (refugee or immigrant, migrant worker); status, colour, gender, sex, sexual

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## PROPOSED CANADIAN CITIZENS PUBLIC TRUST CONSTITUTION

What is needed is a Charter that draws upon the strongest legislation from each province, and if the strongest legislation is less than the international standards, the international standards should prevail. The Green Party of Canada will be working on a research project that will analyze the