



Office of the Conflict of Interest and Ethics Commissioner
ATTN: Mary Dawson, Commissioner
Parliament of Canada
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October 11, 2017

RE: Request for inquiry concerning violations by Prime Minister Trudeau's of the Conflict of Interest Code for Members of the House of Commons and the Conflict of Interest Act concerning electoral reform

Dear Conflict of Interest and Ethics Commissioner of Canada, Mary Dawson,

Fair Vote Canada and Democracy Watch are writing to file a complaint and request investigations and public rulings concerning Prime Minister Trudeau's dishonest and improper actions concerning electoral reform. Set out below is the evidence that makes it reasonable to conclude that Prime Minister Trudeau's statements and actions violate rules in the Conflict of Interest Code for Members of the House of Commons (the "MPs Code") and in the Conflict of Interest Act.

A. Background

The purposes of the MPs Code are set out clearly in section 1:

- (a) maintain and enhance public confidence and trust in the integrity of Members as well as the respect and confidence that society places in the House of Commons as an institution;
- (b) demonstrate to the public that Members are held to standards that place the public interest ahead of their private interests and to provide a transparent system by which the public may judge this to be the case;



(c) provide for greater certainty and guidance for Members in how to reconcile their private interests with their public duties and functions; and

(d) foster consensus among Members by establishing common standards and by providing the means by which questions relating to proper conduct may be answered by an independent, non-partisan adviser.

<https://www.ourcommons.ca/About/StandingOrders/appa1-e.htm>

In the lead-up to the 2015 election and beyond, Prime Minister Trudeau promised unequivocally to end the first-past-the-post voting system and replace it with a system that would “Make Every Vote Count.” He first stated this promise, to ovation from Liberal candidates standing behind him, on June 16, 2015 as follows:

We need to know that when we cast a ballot, it counts. That when we vote, it matters. So I’m proposing, we make every vote count. We are committed to ensuring that the 2015 election will be the last federal election using first-past-the-post.

<https://www.liberal.ca/justin-trudeau-delivers-real-change/> and https://www.youtube.com/watch?v=CEVvDK_27IM

(From 8:03 mark to 8:47 mark)

and also at: <https://globalnews.ca/video/rd/465404995891/>

As reported in the media, the promise to change the voting system was repeated more than 2,000 times and was a key plank in the Liberal election platform, which stated:

“We will make every vote count. We are committed to ensuring that 2015 will be the last federal election conducted under the first-past-the-post voting system.

We will convene an all-party Parliamentary committee to review a wide variety of reforms, such as ranked ballots, proportional representation, mandatory voting, and online voting.”



This committee will deliver its recommendations to Parliament. Within 18 months of forming government, we will introduce legislation to enact electoral reform.”

<https://www.liberal.ca/realchange/electoral-reform/>

B. Request for ruling that Prime Minister Trudeau violated rules in the MPs Code

Once elected, Prime Minister Trudeau continued to laud his plan to unequivocally end first-past-the-post voting system:

1. In the Speech from the Throne; *The trust Canadians have in public institutions — including Parliament — has, at times, been compromised. By working with greater openness and transparency, Parliament can restore it. To make sure that every vote counts, the Government will undertake consultations on electoral reform, and will take action to ensure that 2015 will be the last federal election conducted under the first-past-the-post voting system.*

<https://www.canada.ca/en/privy-council/campaigns/speech-throne/making-real-change-happen.html>

2. In his mandate letter to his Minister; *Bring forward a proposal to establish a special parliamentary committee to consult on electoral reform, including preferential ballots, proportional representation, mandatory voting and online voting.*

<http://pm.gc.ca/eng/archived-minister-democratic-institutions-mandate-letter>

3. In creating the Special Committee on Electoral Reform. Pursuant to Standing Order 81(16), the House proceeded to the putting of the question



on the main motion, as amended, of Mr. Cullen (Skeena—Bulkley Valley), seconded by Mr. Dubé (Beloeil—Chambly), — *That a Special Committee on electoral reform be appointed to identify and conduct a study of viable alternate voting systems to replace the first-past-the-post system, as well as to examine mandatory voting and online voting, and to assess the extent to which the options identified could advance the following principles for electoral reform:*

<http://www.ourcommons.ca/Committees/en/ERRE/About>

When Prime Minister Trudeau announced the Liberal's electoral reform promise on June 16, 2015, he stated in that speech:

“Government is only as good as the advice it gets. It is only effective when it acts on good advice. So one of the principles of our comprehensive plan will be a commitment to evidence-based policy.”

<https://globalnews.ca/video/rd/465404995891/>

After hearing months of testimony from academics, experts and citizens, the Special Parliamentary Committee on Electoral Reform (ERRE) submitted a majority report that reflected the recommendations of experts invited to testify. The ERRE heard 180 experts in total and of these, 107 expressed themselves on the choice between keeping our current system or adopting a proportional system. Fully 88% of these expert witnesses called for a proportional system, according to a detailed compilation undertaken by Fair Vote Canada.

<http://www.fairvote.ca/strong-mandate/> and

<https://tinyurl.com/ybm4mnbz>



Public consultation on electoral reform included:

- 173 MP town halls;
- Dozens of community dialogues hosted by citizens and 600 individual submissions;
- Five intense months of meetings by the electoral reform committee (ERRE), most of which were open to the public and recorded on CPAC;
- A 22 stop cross-Canada tour by the ERRE committee, hearing from Canadians;
- Hundreds of top experts from Canada and around the world heard by the ERRE committee;
- A 19 stop cross-country tour by Democratic Institutions Minister Maryam Monsef;
- An online survey asking about preferences for specific electoral systems using ballots and clear descriptions, completed by 22,000, and;
- Mydemocracy.ca – advertised in a mailout to almost every household and completed by 360,000 Canadians

For five months, the MPs on the ERRE committee heard overwhelming evidence and heartfelt pleas from Canadians for proportional representation.

Thousands took their time to participate in good faith.

This consultative process was the fifteenth of its kind in Canada. Every one of these recommended to make the system fairer and more representative by moving to a proportional voting system.

Yet, our Prime Minister ignored all of the evidence and decided arbitrarily that “all forms of proportional representation would be bad for Canada.”

<http://www.cbc.ca/news/politics/trudeau-electoral-reform-wherry-analysis-1.4179928>



It's important to note that 80% of OECD countries, and over 90 Countries around the world, successfully use some form of proportional representation.

In Prime Minister Trudeau's mandate letter to the new Minister of Democratic Institutions, MP Katrina Gould, he states:

"A variety of consultations across the country have shown that Canadians are not clamouring for a change in the way they choose their federal government".

<http://saskatoon.ctvnews.ca/trudeau-abandons-promise-to-change-voting-system-in-time-for-2019-election-1.3266573>

This is a false statement as shown by the results of the ERRE's public consultation, and is a blatantly dishonest excuse upon which to base the Prime Minister's broken promise on electoral reform.

Many Canadians believed Mr. Trudeau and voted for this Liberal Party when he made an unequivocal promise that 2015 would be the last election using first-past-the-post, that the Liberals would follow evidence-based policy on electoral reform and would "make every vote count." Canadians were never told that the promise was contingent on an unspecified number of citizens continuing to 'clamour for change.'

This abrupt reversal of the promise made on electoral reform, and the complete rewriting of the facts show a lack of integrity. It suggests that Mr. Trudeau made his promise of electoral reform solely to attract voters in the first place and never intended to honour this promise. This becomes even clearer considering that both his election promise and the original mandate letter for the Minister of Democratic Institutions explicitly referred to proportional representation as an option, yet the Prime Minister now states he always thought proportional representation would be bad for Canada (see below).

It seems clear that Prime Minister Trudeau decided that adopting a voting system that would deliver a House of Commons that proportionately reflects the preferences expressed by voters would not be in his own interest or the interest of his Party.



In fact, he proclaimed on February 10th, 2017 that the decision was his alone to make:

<https://globalnews.ca/news/3243620/protests-held-across-canada-over-justin-trudeaus-broken-electoral-reform-promise/>

Before Prime Minister Trudeau broke the promise to change the voting system, he stated:

“such a study must be undertaken without any preconceived notions of what the best solution would be”

<http://www.electoralreformforcanada.com/candidate-responses>

“I’m really open to listening to Canadians. I have moved in my thinking towards a greater degree of openness to what Canadians actually want.”

“It’s not up to any one person, even the Prime Minister, to define exactly what the right system is”

<https://www.thestar.com/news/canada/2016/06/08/trudeau-points-to-black-and-whiteness-of-referendum-in-electoral-reform-debate-wells.html>

After he broke the promise, the Prime Minister reneged on all of his previous statements with these comments:

“We had a preference to give people a ranked ballot....”

“I have been consistent and crystal clear from the beginning of my political career... I think proportional representation would be bad for the Country”

“It was my choice to make”

http://www.huffingtonpost.ca/2017/06/27/trudeau-blames-opposition-electoral-reform_a_23004520/



This decision was made without prior consultation with Parliamentarians. It was a politically-motivated decision derived from those working within the Prime Minister's office. This is a breach of parliamentary rules and counter to the way Westminster Parliaments function.

The MPs Code states:

2. Given that service in Parliament is a public trust, the House of Commons recognizes and declares that Members are expected:

(a) to serve the public interest and represent constituents to the best of their abilities;

(b) to fulfill their public duties with honesty and uphold the highest standards so as to avoid real or apparent conflicts of interests, and maintain and enhance public confidence and trust in the integrity of each Member and in the House of Commons;

Canadians need to feel confident that those we elect are honest and act with integrity and put the needs and desire of the citizens of this country before their partisan self-interest.

As a result of the above evidence, and the purposes of the MPs Code, Fair Vote Canada and Democracy Watch request that you investigate Prime Minister Trudeau for violating the above rules by dishonestly, as a federal election candidate, making a clear, unconditional promise he had no intention on keeping to garner votes, and then making false statements after the election as the basis for breaking his promise. We request that you issue a public ruling after this investigation.

C. Request for ruling that Prime Minister Trudeau violated s. 8 of MPs Code, and ss. 4 and 6 of Conflict of Interest Act

The MPs Code also states in section 8:

“When performing parliamentary duties and functions, a Member shall not act in any way to further his or her private interests or those of a member



of the Member’s family, or to improperly further another person’s or entity’s private interests.”

The Conflict of Interest Act (the “Act”), which applies to Prime Minister Trudeau, contains similar rules in sections 4 and 6:

Conflict of interest

4 For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person’s private interests.

Decision-making

6 (1) No public office holder shall make a decision or participate in making a decision related to the exercise of an official power, duty or function if the public office holder knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest.

<http://laws-lois.justice.gc.ca/eng/acts/C-36.65/page-2.html#h-4>

It is common knowledge that reforming the electoral system is complicated by the fact that politicians elected under our first-past-the-post system are in a conflict of interest. They are loathe to change the system because changing the system that brought them to power would affect their chances of reelection. This conflict is particularly acute for members of a ruling party like the current one, which achieved majority-government status with less than 40% of the popular vote, and for the Prime Minister, who wields more power than any other Western democratic country leader under our current system in Canada. It should be clear that the intrinsic conflict of interest in this policy matter imposes unique standards of behaviour on those responsible for this file. The evidence points squarely to the conclusion that the broken promise on electoral reform was due to this conflict of interest and that the Prime Minister’s response on this file represented an ethical breach.



What constitutes a “private interest” that can cause a conflict of interest is defined in section 3 of the MPs Code and section 2 of the Act as not including situations in which an MP or Cabinet minister (or others covered by the Act) is making a decision or involved in a matter that: “is of general application” or “affects a public office holder as one of a broad class of persons” or “concerns the remuneration or benefits received by virtue of being a public office holder.”

You defined what “matter of general application” means in your July 2016 statement concerning Dominic’s LeBlanc’s conflict-of-interest screen, as follows:

“A decision or a matter that is of general application is one that affects the interests of a broad class of persons or entities. If a decision or matter is narrowly focussed and affects the interests of [an entity] as one of a small group or if [it] has a dominant interest in the matter, it would no longer be considered a matter of general application.”

[NOTE: parts in [...] edited to apply your definition generally]

<http://ciiec-ccie.parl.gc.ca/EN/PublicRegistries/Pages/Declaration.aspx?DeclarationID=26fc36bb-1f3e-e611-a39f-002655368060>

The Liberal Party of Canada is one of a small group of federally registered political parties whose interests would be affected by electoral reform. It is reasonable to conclude that, as the ruling party that won the 2015 election under the current election system, the Liberal Party of Canada has a dominant interest in the matter of electoral reform.

Therefore, Prime Minister Trudeau’s decision to break his clear promise to reform Canada’s federal electoral system is covered by both the MPs Code and the Act. In other words, the “general application” exemption in the MPs Code and the Act does not apply to his decision.

As detailed above in sections A and B, Prime Minister Trudeau violated a principle in the MPs Code, the principle requiring honesty, when he broke his clear electoral reform promise. Breaking his promise furthered the interests of the Liberal Party of Canada as it won the 2015 election under the current electoral system. Given that the Liberal Party of Canada is considered to be a legal “person” as a registered party under the Canada Elections Act (the law in Canada that legally defines what a



political party is), there is no justifiable reason for you to fail to consider the Liberal Party as a “person” under the Conflict of Interest Act.

Therefore, by making the decision to break his promise in order to further the interests of the Liberal Party of Canada, Prime Minister Trudeau violated sections 4 and 6 of the Act which prohibit him from taking part in or making a decision if he has an opportunity “to improperly further another person’s private interests.” Given the above, Fair Vote Canada and Democracy Watch request that you investigate Prime Minister Trudeau for violating sections 4 and 6 of the Act when he made his decision to break his electoral reform promise, and issue a public ruling.

D. Conclusion

We ask you to undertake these investigations keeping in the forefront of your considerations the purposes of the MPs Code set out above in section A, which calls for our elected officials to “fulfill their public duties with honesty and uphold the highest standards so as to avoid real or apparent conflicts of interests, and maintain and enhance public confidence and trust in the integrity of each Member and in the House of Commons,” and the main purpose of the Act which is to “minimize the possibility of conflicts arising between the private interests and public duties of public office holders and provide for the resolution of those conflicts in the public interest should they arise”.

Sincerely yours in the pursuit of honesty and integrity in politics,

Kelly Carmichael
Executive Director of Fair Vote Canada

Duff Conacher
Co-founder of Democracy Watch