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CANADA AND THE RULE OF LAW

Grounded in its principles, Canadian society thrives.

April 17th, 1982 marked a significant milestone for the Canadian people. The 1867 British North America Act, also known as the Constitution Act, 1867, had established Canada as a self-governing confederation through the union of four British Colonies, but its constitution could only be amended by the British government (McCullough, n.d., History of the Canadian Constitution, para. 2). On April 17th, 1982, Britain passed the Canada Act, or, the Constitution Act, 1982. This patriated the Constitution, officially relieving Britain of its power to legislate for Canada, giving Canada, in essence, legal and political independence from Britain (McCullough, n.d., History of The Canadian Constitution, para. 3). The Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, ensures that no law infringes on Canadians' various fundamental rights, for example, freedom of religion, freedom of peaceful assembly, and freedom of expression (Canadian Charter of Rights and Freedoms, 1982, s 2). Recognizing the importance of the Rule of Law in Canadian society, the Charter opens with, "Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law" (Canadian Charter of Rights and Freedoms, 1982, pmbl). To a newcomer to Canada, one could explain the Rule of Law to be a legal concept affirming that the law applies equally to all citizens, that no person or institution, regardless of rank, is above the law; all are equally accountable and subject to it. Part of this is the idea that power must not be used by the government arbitrarily; the government must rule in accordance with established laws and be limited by their constraints (Choi, n.d. Introduction section, para. 1). The Rule of Law is shown to be an underlying, essential concept, intended to shape Canadian society and the way it is governed. With a historical foundation dating back hundreds of years (Choi, n.d., Introduction section, para. 2), it

has immeasurable value in the lives of Canadians, protecting their freedom and encouraging diversity.

While the Rule of Law is a major element of modern-day Canadian democracy, it has existed as a concept since antiquity. Greek philosopher Aristotle makes the argument that it is more beneficial for a society to be ruled by laws rather than simply based on individuals' judgment ("The Rule of Law," 2016, History of the Rule of Law, Aristotle, para. 1). In his "Politics," he writes, "the rule of the law... is preferable to that of any individual. On the same principle, even if it be better for certain individuals to govern, they should be made only guardians and ministers of the law" (Aristotle, 2001/350 BCE, p. 1202), the idea that those who enforce the law serve the purpose of guarding it, being granted authority but not absolution from the law's demands, regulations, consequences and obligations. Centuries later, this idea was expanded upon by John Locke, who emphasized the need for laws to be firmly put in place, as opposed to governments' decisions being made simply arbitrarily, at the whim of those in control ("The Rule of Law," 2016, History of the Rule of Law, John Locke, para. 1). Others, such as philosopher Montesquieu ("The Rule of Law," 2016, History of the Rule of Law, Montesquieu, para. 1) and constitutional theorist Albert Venn Dicey also contributed to the concept's development. Dicey especially highlighted legal equality as indispensable when it comes to the the Rule of Law, writing, about the Rule of Law in England, "not only that... no man is above the law, but... that here every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals" (Dicey, 1960/1885, p. 193). In this vein, the justice system is recognized as playing a critical role in upholding citizens' equality under the law, regardless of social status or influence. The historical

basis for the Rule of Law establishes it as an integral pillar of any democracy, influencing politics and law in modern societies such as Canada.

Because of the importance of the Rule of Law and the necessity for protection of fundamental rights to be included within the law itself, education about laws and government as well as each individual's rights is absolutely essential. One of the characteristics of the Rule of Law is that of Just Laws, being that "[t]he laws are clear, publicized, stable, and just; are applied evenly; and protect fundamental rights" ("What is the Rule of Law?" n.d., Just Laws, para. 1). However, it is not enough that such principles be established or even documented. In order to ensure transparency and fairness when it comes to the way that laws are enacted, the population must be educated so that they are able to advocate for themselves and their rights should the need arise. Education, specifically education about the institutions that govern and regulate society, is a direct manifestation of the Rule of Law in Canadians' daily lives. Education ensures accountability under the law for all institutions, public and private. It gives citizens the tools to protect themselves from violations of their rights, and it forms the front line of defence in a free and equal society. A lack of education threatens the Rule of Law. It shifts the balance of power away from the people and fairly enacted laws and can open the door to corruption and oppression. In order to prevent such things from happening, in Canada, the younger generation has the right to a public education ("Right to Education," n.d., para. 2). Students are taught about the components of Canada's democracy, its governmental systems including the judicial system, and their rights as Canadians. In British Columbia, for example, these elements are part of the provincial social studies curriculum ("Social Studies," n.d., Introduction, para. 5). Another way

the public is empowered through education is through justice education organizations, usually provincially based, such as the Ontario Justice Education Network, the Justice Education Society of British Columbia, and the Public Legal Education and Information Service of New Brunswick, among many others (“Public Legal Information and Education in Canada,” n.d.). These organizations provide resources, programs, and workshops to the public (“OJEN in the Community,” n.d., para. 2), “informing them about the law and the legal system” (“Public Legal Information and Education in Canada,” n.d., para. 1). Through education for children and youth and for the general public, the precedence of the Rule of Law and therefore Canada’s democracy are strengthened, protecting the rights and freedoms of Canadians.

The value of Rule of Law in Canada is even more apparent when Canada’s increasingly diverse population is considered. Canada is especially notable in ethnocultural diversity. In Canada, more than 200 languages are spoken (“Linguistic Characteristics of Canadians,” 2018, Linguistic Diversity, para. 1) and over six religious faiths are practiced. With regards to ethnic origin, over 200 ethnicities are represented within the population (“Immigration and Ethnocultural Diversity in Canada,” 2018, Ethnic Ancestry, para. 1). The proportion of Canadian citizens and permanent residents born outside of Canada exceeds 20% (“Immigration and Ethnocultural Diversity in Canada,” 2018, Immigration, para. 1). But these distinctions are not necessarily divisive. The Rule of Law makes it so that all of Canada’s residents can stand united, on equal footing. As all Canadians are equal under the law, they have a shared responsibility to obey the law in order to keep themselves and their communities safe. While it promotes unity between different people, the law also safeguards these differences themselves, allowing them to

be highlighted and embraced, creating a welcoming environment for newcomers. According to the Canadian Charter of Rights and Freedoms, equality is a fundamental right (“The Rights and Freedoms the Charter Protects,” 2018, Equality Rights, para. 1). This means that no matter their race, national or ethnic origin, colour, religion, sex, age, or ability, sexual orientation, residency, marital status or citizenship, every person has the right to be treated with respect, not to have to face discrimination. The Rule of Law allows Canadian society to be aware of acts of intolerance and gives a fair means of punishing them, thereby ensuring harmony and diversity. As inclusion, multiculturalism, and equality are valued, so must the Rule of Law be valued, and vice-versa. When the Rule of Law is respected and upheld, the people governed by defined laws rather than the variable inclinations and whims of their leaders, their fundamental rights are protected and diversity is allowed to flourish.

To be ruled by the law means to be free from the instability and oppression of absolute power. To be equal under the law means to have the liberty to be an individual without fear of discrimination or arbitrary punishment. The Rule of Law, for hundreds of years, has provided the basis for a democratic society where the government serves the people rather than the people serving the government, as leaders and politicians work to enforce and democratically enact laws not supersede them. A society ruled by law is equipped to protect human beings’ fundamental rights, deal justly with crime, and limit power so that all can be accountable and treated with the respect and dignity that they deserve (“The Rule of Law,” 2016, One Ideal Among the Others, para. 1, The Contestedness of the Rule of Law, para. 1). Canada is fortunate to uphold the Rule of Law in its institutions, educating the public to ensure that the values upon which the nation

was founded continue to guide how it is governed, as its population grows more vibrant and more diverse.

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