# International Norms and Domestic Structures: The Rise of Liberal Environmentalism and Intergovernmental Affairs in Canada

Ryan Lebans, Lauren C. Peirce and Kevin Verberne
Graduate School of Public and International Affairs
University of Ottawa

## INTRODUCTION

The traditional conception of watertight compartmentalization between "domestic" and "international" policy issues is simply no longer realistic. The advent of globalization has fundamentally altered how we perceive of policy-making. As Sidney Tarrow put it, "[i]n today's world, we can no more draw a sharp line between domestic and international politics than we can understand national politics in the United States apart from its local roots" (Tarrow, 2005: 2). The rise of the international importance of the climate change issue is perhaps the most prominent example of the breakdown of the traditional local versus global policy distinction. Velma McColl describes the issue well: "Climate change is the mother of all complex issues. It is like chess in six or seven policy dimensions – energy, environment, economy, security, development, trade – and now geo-politics" (McColl, 2009: 22). The notion that the sub-issue areas of climate change can be tackled within either the domestic or international realms in isolation is an antiquated fallacy.

By analyzing the interplay of international and domestic factors in the development of Canadian climate change policy, this paper will contribute to the growing body of literature in globalization studies that examines the interaction between the global and the local. The globalization of environmental governance is an example of the push toward policy cohesion between "sovereign" entities. Despite the multitude of international factors that strive to enforce global governance, domestic interests continue to shape how global trends are interpreted in the context of the traditional

state. In Canada, these domestic interests are largely shaped by the federal nature of the state and the relationship between the national and provincial governments. We argue that the *pièce de résistance* of globalization enthusiasts – that is, that the Westphalian nation-state is no longer relevant – is premature. Although global forces are more powerful in twenty-first century politics than ever before, the sovereign state continues to exist as a vehicle for protecting and promoting parochial interests.

This paper begins with a description of the international factors that impact domestic climate change policy-making. The most important international trends have been the multilateral attempts to formalize global environmental governance and the institutionalization of the norms of liberal environmentalism. Next, we will turn to the domestic context – how have the international trends discussed in the first section influenced the development of climate change policy in Canada? Ultimately, the paper will argue the normative power of the liberal environmental consensus has pushed Canada towards more stringent emissions targets, but that the institutional structure of Canadian federalism has been a significant factor in constraining the development of an effective climate change policy.

## THE INTERNATIONAL CONTEXT

Environmental issues have presented some of the greatest challenges to leaders, politicians, and policy-makers alike because they transcend traditional state boundaries, making them global challenges. This trend has been most apparent in the area of climate change policy. Climate change does not respect traditional state borders and, as a consequence, presents an especially unique challenge. This challenge is further complicated by the multiplicity of its variables--economic, scientific, political, social, and security. Though questions remain for scientists, academics, and policy makers as to *what* constitutes climate change and *how much is too much*, what is clear is that *something* must be done. To this day, however, the details surrounding *what* ought to be done and by *whom* remain unclear. The recent increase in natural disasters and the rise in global temperatures and precipitation levels have pushed climate change to the forefront of global politics. Climate change issues cannot be solved voluntarily or by decree, but rather, require a sophisticated and coordinated international response.

Recent shifts in the global environmental governance (GEG) movement have demonstrated that coercion does not need to come from government, but rather,

can often be located within *governance* frameworks. Given the global nature of the climate change issue, answers to the question of how to address these problems have traditionally focused on international negotiations between nation-states. The creation of coherent, legally binding agreements has, however, proven especially difficult given economic discrepancies, the amount of states and stakeholders involved, and a lack of consensus on what ought to be included and how best to enforce these agreements.

In the following section we will explore GEG trends, while demonstrating that liberal environmentalism has been institutionalized in every major environmental conference or agreement since the 1970s. Liberal environmentalism is underpinned by clear ties to a state-centric foundational structure, but the changing political community now recognizes a more cosmopolitan worldview. The GEG sphere in the twenty-first century thus includes myriad actors, which will be explored in depth in this section. Ultimately, our examination will reveal that although traditional conceptions of sovereignty are becoming fragmented, the state remains 'first among equals' in global governance. The locus for articulating the voices of citizens and for implementing action and change remain state-based.

## TRADITIONAL STATE-CENTRIC APPROACHES IN GLOBAL ENVIRONMENTAL GOVERNANCE

The global nature of many environmental problems was a catalyst for the "proliferation of international environmental agreements" through the 1980s and into the early 1990s (Bernstein *et al*., 2009: 10). By virtue of the fact that states negotiated, signed, and ratified these documents, "there tended to be an excessive focus on the state as the primary actor in international environmental governance" through the mid-1990s (Hoffman, 2005). These international agreements represented a growing convergence on environmental issues that transcend national borders, particularly climate change.

State-centric approaches have also focused on international institutions, that is, the development of traditional, formalized international organizations, which rely on global environmental agreements as the underpinnings of their response to effective GEG. An example of a state-centred approach includes formal organizations such as the United Nations Environment Programme (UNEP), which coordinates global responses to environmental issues between states and key international actors, including The World Trade Organization.

## STATE CENTRIC POLICIES AND PROCESSES AND THE RISE OF LIBERAL ENVIRONMENTALISM

The convergence of environmental and liberal economic norms predicated a key shift in GEG known as, 'liberal environmentalism'. Liberal environmentalism has been at the foundation of every major international environmental conference or agreement since the beginning of the 1970s.

### United Nations Conference on the Human Environment (Stockholm, June, 1972)

This event was the first global effort to bring together numerous countries to participate in a broad, high-level political conference on the environment. 113 countries were engaged and the forum embodied the first articulation of liberal environmentalism, which gave rise to a set of norms and ideals that has laid the foundation for the basis of all international environmental legal theory and practice ever since (Bernstein, 2000: 469). Key successes included the creation of the Declaration on the Human Environment, which contained 26 articulated principles, and the development of 109 recommendations in the Action Plan for the Human Environment. Another salient feature of the conference was the entrenchment of Article 21 in the conference communiqué, which declared the primacy of state sovereignty over resources, a normative position which has been the bedrock principle upon which international environmental law has been based to date (Bernstein, 2000: 469). Perhaps the most lasting legacy of this forum, however, was the creation of the United Nations Environmental Programme (UNEP).

In the years following the Stockholm conference, developed countries did not immediately embrace environmental conservationist frameworks, as governments did not provide the necessary funding to back the rhetoric of the conference. Thus, in practice, following Stockholm, the institutionalization of global environmental goals remained relatively weak.

### World Commission on Environment and Development and Brundtland Report (1987)

The Commission and its accompanying report (the Brundtland Report) linked environmental protection and economic development/growth, placing these concepts under the larger umbrella of *sustainable development* (Bernstein, 2003: 72). After the 1980s, sustainable development was the predominant paradigm for responses

to international environmental challenges. In addition to framing environmental protection in a development context, its other legacy was the encouragement of cooperative and multilateral objectives in the United Nations framework. Since Brundtland, subsequent governance structures have prized markets and other economic-centred apparatuses, including carbon credits, as preferable to traditional hierarchical regulations, such as quotas or bans in GEG. The goals endorsed in the Brundtland Report ultimately converged around international environmental norms in the early 1990s, resulting in their eventual institutionalization in a plethora of multilateral agreements and practices, of which the United Nations Conference on Environment and Development was most prominent.

### The United Nations Conference on Environment and Development (UNCED) or Earth Summit (Rio de Janeiro, 1992)

The Earth Summit brought together 178 states and 1420 non-governmental organizations. This conference, "catalyzed the institutionalization of norms in a wide range of international environmental treaties, in environment and development policies in international organizations, and, more broadly, in global environment and development discourse." (Bernstein, 2003: 72). This represented a paradigm shift in which international law on sustainable development practices became institutionalized, that is to say *collectively embedded* in the social structure. Thus, environmental protection became contingent upon the promotion and preservation of a liberal economic order. For the first time in GEG, these norms influenced the environmental responses that followed by articulating the "consensus (or conflicts) on norms at this time" (Bernstein, 2000: 468). The Rio Declaration on Environment and Development created the lengthy action plan, "Agenda 21", and the UN Commission on Sustainable Development. Additionally, and most essential in a climate change analysis, it produced the Framework Convention on Climate Change (FCCC). The FCCC generated an overall framework for intergovernmental responses to climate change. 193 countries ratified the agreement, reflecting a consensus among nations about the shared nature of climate change and its accompanying challenges. The FCCC eventually evolved to include an addition to its treaty, the Kyoto Protocol, which contains more powerful and legally binding measures.

### The Kyoto Protocol

In 1997, the Kyoto Protocol established an international institutional framework for domestic responses to climate change. Ratified by 175 countries, the Protocol

represents a growing convergence on a global environmental issue and the institutionalization of a normative consensus. It is the embodiment of the notion of liberal environmentalism, as conceived of by Bernstein. The Protocol linked binding commitments to market mechanisms, highlighting examples of the entrenchment of liberal environmental norms. It placed the burden of responsibility exclusively on developed countries, creating ambitious short and long-term emissions reduction targets and constructing a tradable carbon credit system. Three years later, the G8 countries (China, Japan, USA, Canada, England, France, Germany and Russia) agreed to collectively reduce greenhouse gas emissions 50 percent by 2050, a strategy known as the "50-50 goal." Thus, while policy decisions may be agreed upon at the international level, they are actually enacted and enforced at the local level. Consequently, despite the fact that much scholarship has focused on climate change in the international sphere, as an issue "climate change is not only global it is profoundly local" (Bulkeley *et al.*, 2005: 2).

### The Copenhagen Summit Meeting

The international community had high expectations for the Summit meeting in Copenhagen. However, the summit challenged the idea that outsized multilateral meetings (in this case 193 countries were represented) could yield desired results; that is, the creation of one, comprehensive, coherent, legally binding agreement (McColl, 2010: 22-24).

The failure of negotiations at Copenhagen have highlighted the flaws of the UNFCCC negotiation and decision-making process, and therefore have demonstrated the limitations of this organization in terms of its ability to affect real change, independent of other structure and agency. The most significant and crucial elements of the Accord lie in its ability to focus both on prevention and adaptation, while providing global equalization payment funds to developing nations. In this way, the Accord is ground-breaking and diverges from the Kyoto Protocol.

FROM STATE-CENTRIC MODELS TO POST-SOVEREIGN GOVERNANCE?

By the mid-1990s innumerable actors began to take the stage in the GEG arena. This owed both to the failure of multilateral approaches to address global environmental issues (by not taking into consideration the marketplace and a multiplicity of stakeholders) and a growing trend toward a disaggregated governance approach. The disaggregated model embodies the "...rising need for and capacity of different

domestic government institutions to engage in activities beyond their borders, often with their foreign counterparts" (Slaughter, 2004: 12). Overall, the shift has been from classical federalist models toward a "mosaic or network model" of multilevel governance (Bernstein *et al.*, 2009: 31).

With the advent of globalization, increased technology and information-sharing capacities, it appears there has been a shift from government to governance. Especially salient in this transition has been the influence of, "supranational, sub-national, and non-state actors in a world increasingly characterized by multi-polar and multiple tier decision making" (Karkkainen, 2004: 73). The "new' environmental governance form embodies a, "nascent polycentric substitute for more familiar forms of sovereign authority" (Karkkainen, 2004: 74) and is *task specific over general purpose*. What follows is an analysis of two of these new GEG trends--informal and multi-scalar governance approaches.

## Informal Governance Approaches

There has been an increase in private authority and market-based initiatives in GEG which eschew traditional state-centric approaches. In the case of these informal approaches, two trends have allowed for their recent prominence. The first is the advent of a shared policy-making authority and process between business, environment, and other organized interests (Clapp *et al.*, 1998). The second is the amplification of market-oriented policy instruments to address relevant issues in international civil society. When policy-makers were confronted with "reductions in resources to combat environmental problems and increasing demand from civil society to address environmental protection" they turned to the market to solve their problems (Cashore *et al.*, 2001: 507). An example here would be the innovative, market-based cap-and-trade approach to rising carbon dioxide levels. The traditional sovereign authority of states is neither granted nor relinquished in market based systems; nor, for that matter, is it used as an enforcement mechanism. Rather, the state is, "one amongst a number of actors interacting within local, national, regional or global markets" (Bernstein *et al.*, 2009: 9). Compliance then results from powerful market incentives (or disincentives).

Other forms of informal GEG have included conceptions of networks as structures that shape behaviour, and *actors* who engage in vital collective action. Networks therefore contain, "concepts of location, or nodes, and the relations among

these positions – termed ties, connections, or links – to argue that the pattern of relationships shapes the behaviour of the occupant of a post, as well as influences others" (Smith-Doerr and Powell, 2005: 380). In the case of the networks in GEG, it was often believed that networks were more, "nimble, innovative, and inclusive than hierarchical, bureaucratic modes of governance" (Kahler, 2009: 17). Consequently, networks have been hailed as the universal remedy for many environmental issues. This has resulted in networks, especially NGO networks, being pitted against states, in an effort to wield more international influence in domains previously deemed to be state dominated.

## Multi-Scalar Governance Approaches (State and Non-State Mix)

This view is predicated on the supposition of, "pre-existing political-institutional jurisdictions as the sites of governance" but it does not work from the assumption that states are the lead actors in GEG (Bernstein *et al.*, 2009: 8). Rather it is this hybrid, polycentric or multilevel approach which concerns how authority and legitimacy in GEG can function both, "horizontally (between subnational actors for instance) and vertically (between states and cities for instance)" (Bernstein *et al.*, 2009: 8). Multi-scalar governance is thus unique in its ability to move horizontally and vertically, or as Bulkeley has said, it is, ''not confined to moving through a set of nested scales from the local to the national to the international, but can directly access other such local actors whether in the same country or across borders" (2005: 895).

### THE ENDURING PRIMACY OF THE STATE

There has been a multitude of scholarship focused on these diverse approaches to GEG *individually*, but what has not been as apparent is the ways in which these various approaches interact *collectively*. The reality is that GEG occurs in all three of these approaches--state-centric, informal and multi-scalar--simultaneously. What results is a loose system of global environmental governance reflecting the strengths and weaknesses of global politics. This demonstrates the difficulty of inspiring collective action among a fractured international community, even though many agree that not just action, but *collective* action, is necessary. While acknowledging the changing nature of GEG, many international relations scholars continue to emphasize the "bedrock principle" of state sovereignty (Karkkainen, 2004: 72).

In the next section, we shall examine the effects of the institutionalization of GEG in the Canadian context. Our choice of analytical framework warrants a brief

discussion. In the past the principle of subsidiarity has guided federal/provincial policy on the environment (Harrison, 1996). However, in the context of the increasing globalization of the climate change issue, and the notion that "pollution does not respect borders," we argue that the government of Canada must take a leadership role in ensuring all jurisdictions within its borders reduce GHG emissions. The locus of perspective for this section is thus state-centric. Despite the loss of dominance of the realist perspective in international relations theory, the state remains the most important actor in the study of GEG. Unlike many other environmental policy areas, it is impossible to mitigate climate change without fundamentally altering the structure of modern society; put simply, informal governance structures will not be sufficiently robust to reduce emissions to the levels required to solve this issue.

## THE DOMESTIC CONTEXT: CLIMATE CHANGE POLICY IN CANADA

At the August 2002 "Rio +10" Earth Summit in Johannesburg, after more than four years of internal negotiations, former Prime Minister Jean Chrétien announced that Canada would ratify the 1997 Kyoto Protocol. The ratification of the protocol meant that Canada was obligated under international law to reduce its carbon emissions by 6 percent of 1990 levels for the period of 2008-2012. The decision by the Chrétien government to ratify the agreement cannot be fully explained under a traditional realist policy-making perspective. At over 22.5 megatonnes (MTs) of GHG emissions per year, Canada is second only to Australia as the highest per capita GHG emitter among industrialized countries (Harrison, 2006: 1). The Canadian economy is rooted in high-polluting industries, the most significant being the fossil fuel industry. The economic boom in the Canadian prairies has fuelled much of the country's growth, and the provinces of Alberta and Saskatchewan accounted for more than 50 percent of GHG growth in the period between 1990 and 2002. Given the regionalized nature of the Canadian economy, the Prime Minister surely understood the political difficulties in announcing Canada would ratify the treaty. To quote Bernstein "material interests in the form of economic costs and competitive concerns should militate against Canada pursuing an aggressive climate change policy. Its continued support of the Kyoto Protocol ... is thus puzzling for a rationalist or interest-based explanation." (2002: 217-8).

This section endeavours to analyze the disparate factors, both international and domestic, that have contributed to the development of climate change policy in Canada. The event described above – that is, the decision for Canada to become

party to the Kyoto Protocol – will provide the backdrop to our analysis of the interplay between international and domestic factors in the making of "domestic" policy. Our argumentation is rooted in a constructivist perspective of the power of norms in global environmental governance. We argue that the most salient international factor affecting domestic climate change policy in Canada has been the normative force of the "liberal environmentalist" consensus in the international realm. The exogenous force of the liberal environmentalist consensus has pushed Canada toward enacting tougher GHG emission policies, despite the ostensible incompatibility between these norms and the polluting nature of some of Canada's core industries.

Yet normative international pressures are only one side of the global-local paradigm. The international factors pushing for global coherence on climate change are interpreted in the domestic context by domestic political factors. The central challenge for Ottawa throughout the history of the country has been to guide national policy in the face of the institutional challenge of the separation of powers. Regionalism is entrenched in the constitutional structure of the federation; the crafting of national policy in a number of areas requires intergovernmental consensus through executive federalism. Despite the fact that the normative pressures of liberal environmentalism frame the climate change debate in Canada, the distinctly Canadian political factors of brokerage politics and executive federalism determine the direction (or lack thereof) of domestic climate change policy. Our analysis explores the distinctly Canadian political factors that have significantly impeded the development of climate change policy in Canada.

## NORMS AND LIBERAL ENVIRONMENTALISM

As was discussed in the first section, liberal environmentalism refers to the consensus approach to global environmental governance first enunciated in the 1992 Earth Summit in Rio. The concepts of liberal economic policies and "sustainable development" are at the heart of this consensus. Under this conceptual framework, economic globalization is viewed as fundamentally beneficial for the environment-- as less developed countries become part of the global liberal economic order, their environmental practices will be "harmonized upward" to match the more efficient and less polluting production methods of the global North (Boyce, 2004: 108). The liberal environmentalist perspective has been the ideological basis for the major multilateral environmental conferences since Rio, including Kyoto and the recent effort at Copenhagen.

How does this growing international consensus affect the development of climate change policy in the domestic context? The international agreement on the norms of global environmental governance puts pressure on domestic actors to craft policy in a manner consistent with established principles. Norms can be defined as "shared conceptions of appropriate behaviour or action" (Bernstein, 2002: 206). Raymond argues that norms "tell us who shall play the political game, what the playing board will look like, and which moves are acceptable." (1997: 215).

It is one thing to establish the dominant ideological framework upon which international negotiations on global environmental governance have been centered; it is quite another to extrapolate from this consensus a causal link to the development of climate change policy in a domestic context. The difficulty in properly measuring and defining the causal effect of norms remains the most vexing aspect of the constructivist perspective of international political theory. For this, the validity of the theory has been questioned by traditional realist scholars (Snyder, 2004). For our purposes, however, these difficulties are not particularly troublesome. Raymond (1997: 220-222) argues the most concrete evidence of norm acceptance is institutionalization of that norm, defined as "the perceived legitimacy of the norm as embodied in law, institutions or public discourse *even if all relevant actors do not follow it*" (Bernstein, 2002: 206; italics added). The institutionalization of the norms of liberal environmentalism have been established throughout the short history of multilateral attempts to create a global environmental governance regime.

Bernstein acknowledges that the institutionalization of a norm does not guarantee compliance. There does not exist a perfect causal link between international normative pressures and domestic policy development. Norms do, however, "quasi-causally affect certain actors not by directly or inevitably determining them but rather by rendering these actions plausible or implausible, acceptable or unacceptable, conceivable or inconceivable, respectable or disreputable, etc." (Yee, 1996: 97). In other words, the onus of responsibility is on non-compliers to disprove the legitimacy of consensus norms, not vice versa. This point is germane to the decision of the Harper government to pull Canada out of Kyoto.

## TWO-LEVEL GAMES, INTERNATIONAL SOCIETY, AND A PRIME MINISTER'S LEGACY

The interplay of international normative pressures with domestic political factors in policy-making co-exists for the federal government as a perpetual "two-level game."

This concept was first developed by Robert Putnam in a 1988 study of international negotiations. The importance of the concept warrants extended quotation:

> The politics of many international negotiations can usually be conceived as a two-level game. At the national level, domestic groups pursue their interests by pressuring the government to adopt favourable policies, and politicians seek power by constructing coalitions among these groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign (Putnam, 1988: 434).

The concept of a two-level game is a useful ideological framework with which to analyze the dual forces of international normative pressures and domestic interests in the development of Canadian climate change policy. To return to our example of Canada's involvement in the Kyoto negotiations, the Chrétien government lobbied diligently to have carbon sinks included in the country's GHG emissions calculations. This was an attempt to "minimiz[e] the adverse consequences of foreign developments" by mitigating the need for Canada to impose even stricter emissions caps than if carbon sinks were not considered (Simpson *et al.*, 1997: 70).

In Putnam's conception of the two-level game, the Level II game (that is, at the international level) is clearly subordinate to the Level I (domestic) game; after all, the constituency of the executive, despite the interdependency of international governance, remains parochial. But Putnam does raise the possibility of a "principal-agent" problem, wherein the "chief negotiator" (i.e. in the Canadian context, the Prime Minister) does not act as an honest broker for his domestic constituency in international negotiation, but instead acts on other priorities. This anomalistic scenario is indeed an apt description of Canada's involvement with the Kyoto Protocol; the desire of the Canadian government to sign onto the agreement, abide by the norms of liberal environmentalism, and thus gain prestige in the Level II game outweighed the myriad of domestic reasons not to join Kyoto. This decision can be viewed two ways. Firstly, though the ratification of Kyoto was not ostensibly in the material interest of Canada, as a middle power in international politics any international agreement that strengthens multilateralism and the establishment

of a rules-based system can be viewed as a positive development for Canada. A universal ratification *sans* Canada could then be construed as a loss for Canadian prestige vis-à-vis the international community. This rationalist perspective is not incongruent with the normative framework developed above; in fact the two are at work simultaneously. Countries "aspire to belong to a normative community of nations" and secure a place among international society (Keck and Sikkink, 1998: 29). Just because norms are difficult to quantify does not mean there are not traditional *realpolitik* benefits to adherence.

The second factor, which has often been overlooked in the study of state action, is the role of personalities in political decision-making. In the context of Canada and Kyoto, this variable is epitomized in the figure of Prime Minister Chrétien. Chrétien, nearing the end of his final term as Prime Minister and the dénouement of a four-decade career in politics, was in 2002 "less constrained by his own party and the electorate than ever before" (Harrison, 2006: 7). According to Simpson *et al.* (2006: 67), "Chrétien saw climate change as a legacy issue that he wanted historians to place on the positive side of his leadership ledger" along with other progressive policies such as campaign finance reform, same-sex marriage, and marijuana decriminalization. Raymond argues that human emotions are "as integral to purposive-actor explanations of state behaviour as rationality" (1997: 234). Chrétien was in a political position to push Canada toward the international liberal environmentalist consensus, whether he believed it was fundamentally the right decision for the country, or simply that he wanted to ameliorate his legacy.

## EXECUTIVE FEDERALISM AND THE FAILURE OF KYOTO

Despite the strong normative pressures of liberal environmentalism, and the 'liberated' political position of Prime Minister Chrétien, Canada was in the end unable to fulfill its Kyoto obligations. The decentralized structure of the Canadian federation and the absence of a formal federal/provincial conflict resolution mechanism were primary factors in restraining the development of an effective climate change policy post-1997. Not all the blame for Canadian inaction can be placed on the country's federal structure – actors have played an equally important role. The hesitancy of the Chrétien and the subsequent Martin governments to stray from traditional brokerage political tactics and invest political capital in fulfilling Kyoto obligations may have sealed the fate of Kyoto in Canada (Cf. Aucoin, 1986; Stevenson, 1987). A number of

years later, the final blow was delivered when Harper's new conservative government announced that Canada would not meet its Kyoto commitments. Yet in the case of the internal Kyoto negotiations, the lack of consensus between the federal and provincial levels of government severely hampered the development of a national climate change policy.

The separation of powers as laid out in Sections 91 and 92 of the Canadian Constitution requires the federal and provincial governments to work together to solve the complex issue of climate change. There are a number of constitutional avenues through which either level of government could claim competence to legislate in the area of climate change. The federal government has the constitutional authority to levy taxes by any mode or system of taxation, as granted by section 91(3) of the *Constitution Act, 1867*. This means that with regard to a possible carbon tax, the federal government can act alone. Peter Hogg argues that the federal government would most likely be supported by the courts if it were to implement a national cap-and-trade system by amending the C*anada Environmental Protection Act (CEPA).* In the Supreme Court ruling *R. v Hydro-Québec (1997)* the court upheld the CEPA under the constitutionally granted criminal-law power of the federal government (Hogg, 2008: 4-5). An amendment of this act to establish a national cap-and-trade system would fall within the federal government's purview as a result of this court ruling.

According to Lucas (2004: 148), however, "it is futile to speculate about the legislative jurisdiction over subjects, policies, or even particular kinds of statutory schemes or instruments" in the absence of a Supreme Court challenge on the subject. Though former Alberta Premier Ralph Klein mused about bringing the constitutionality of Ottawa's ratification of Kyoto before the courts, neither level of government has demonstrated the "political will" to take action (Kukucha, 2005: 149-150). Since the federal government has the capacity to sign international treaties such as Kyoto, yet at the same time there is substantial ambiguity surrounding domestic jurisdiction to ensure their enforcement, Ottawa and the provinces must work together to find consensus on many issues of global governance (Heinbecker, 2006: 5). The form this consensus-building has traditionally taken in Canada is referred to as 'executive federalism'. This concept refers to the executive-dominated nature of Canadian intergovernmental affairs. Without a formal mechanism to represent the interests of the provinces in the federal government, an ad-hoc brokerage system of joint federal/provincial ministers' meetings has arisen in order to build consensus on

issues where both the federal government and the provinces have constitutional jurisdiction (Bakvis and Skogstad, 2002: 5).

Executive federalism was on full display in the internal federal/provincial negotiations preceding the Kyoto conference. During a November 1997 joint ministerial meeting (JMM) held in Regina, the federal, provincial, and territorial energy and environment ministers agreed that Canada should seek to stabilize its GHG emissions at 1990 levels by 2010 (Stillborn, 2003: 3-4). In the lead-up to the conference, however, the normative pressures from other international participants in the negotiations, specifically the more aggressive position of the Clinton administration, pushed Chrétien to break the Regina consensus and commit Canada to a six percent reduction of 1990 levels. The unilateral decision by the federal government to break the Regina JMM decision represented a turning point in the development of Canadian climate policy. As Jeffrey Simpson *et al.* put it,

> Had Canada left Kyoto with the target that had produced the fragile consensus at the Regina federal-provincial meeting, the federal government could have returned home and thought immediately about implementation measures. By unilaterally breaking that consensus in choosing its Kyoto commitment, Ottawa had to start over again, selling the reality of global warming, while trying to recreate a consensus around a new target (61).

Not surprisingly, the federal and provincial governments view the situation differently. For the federal government, the Regina JMM target was simply a starting point for negotiations; for the provinces, it was a "firm bottom line" (Harrison, 2006: 9). Indeed, the opinion of Ralph Klein – that "Canada had ran [*sic*] off and signed an agreement that the provinces are not in favour of" – was not, in the view of most of the provinces, far from the truth. In a bid to regain the trust of the provinces, the federal government commissioned a two-year study of implementation policies and a cost-benefit analysis. The result of this was the Climate Change Action Plan 2000, a bland document devoid of serious policies for pushing Canada towards its Kyoto responsibilities. The damage, however, had been done, and the mutual trust that once existed between the two parties had been broken. By 2002, the process had completely faltered--only Québec and Manitoba still urged the federal government to ratify the document, while the other provinces effectively vetoed the development of any serious policy to deal with GHG emissions. The proud boasting of Chrétien in

Johannesburg in 2002 that Canada would ratify Kyoto was built on a bed of leaves; the federal government had failed to secure the vital support of the provinces, and it lacked the political will to take unilateral measures to ensure it could fulfill its responsibilities.

## DIVERGENT PATHS AFTER KYOTO

Following the federal government's decision to bypass the consensus reached at the Regina JMM, the structure of the federal-provincial coordination on climate change policy eroded (Winfield & Macdonald, 2008: 277). The provincial governments began developing their own responses to climate change and greenhouse gases, with the federal government attempting the same. The *Regulatory Framework for Air Emissions* has been the most coherent federal policy put forward to date. It recognises the need for a national plan, reinforcing the liberal environmental notion that change cannot be successful by having "different and potentially conflicting provincial plans, or by setting up rules for industry that vary from one area of the country to another" (Environment Canada, 2007: 1). The framework establishes the mechanisms that the government will use to achieve their stated goal of reducing emissions by 20 percent of the 2006 levels by 2020. These mechanisms include trading emissions within a nationally established cap-and-trade system; contributing to a green technology fund; or reducing emissions through abatement actions, improved energy management, or the use of new technologies such as carbon capture and storage (Environment Canada, 2007: 12). To this end, the government has established funding for research into new technology and set-up tax incentives for businesses and individuals attempting to reduce their carbon footprint, but these have not had a significant impact on Canadian emissions. Moreover, with the recent shift in policy towards harmonization with the United States, the proposed national carbon market has been delayed (Prentice, 2009). Indeed, despite the existence of such a framework, no concrete attempt has been made to reconcile the competing provincial plans and establish and take action that is truly national in nature.

Inaction at the federal level has meant the provinces have stepped forward to establish their own climate change policies and carbon reducing initiatives. The evolution of multi-scalar governance within the international system has contributed to these subnational governments stepping forward to address the issue of climate change in the face of inaction at the federal level. In 2007, Alberta became the first jurisdiction in North America to introduce a cap-and-trade system, while Québec

became the first to introduce an origin-based carbon-tax. British Columbia followed in 2008 with a consumption-based carbon-tax, and along with Manitoba, Ontario and Québec, has signed on to the Western Climate Initiative, an organization of American states and Canadian provinces working to establish a common carbon market. Ontario and Québec have also joined together to launch a cap-and-trade system tied to the original Kyoto benchmark, with the intent of establishing the groundwork for a national cap-and-trade system with more stringent regulations than the federally proposed system (Courchene and Allan, Dec. 2008 – Jan. 2009: 60).

## CONCLUSION

This paper has analyzed the effect of the rise of global environmental governance on domestic policy and intergovernmental relations in Canada. In the first section, we looked at the international trends in global governance and described the multiplicity of international factors that have impacted upon domestic policy-making. Our discussion included global environmental agreements and institutions predicated upon norms of liberal environmentalism. The second section analyzed how international trends have affected domestic climate change policy in Canada and the effect of international normative pressures on federal/provincial relations.

Despite the array of disaggregated forms of global environmental governance, we have argued that a timely, critical and complex issue such as climate change warrants a state-led response to greenhouse gas emission reduction. Recent globalization scholarship has forecasted the decline of the sovereign state and the proliferation of non-state actors, such as market-based approaches, networks and multi-scalar governance. Given the nature of climate change as a focal point in the environmental domain, as well as the perceived urgency of this issue, it is only natural that GEG policy-making in the twenty-first century will contain numerous structures and actors. We argue that even though post-sovereign governance approaches are integral to a robust model of global environmental governance, the state must reassert itself as *primus inter pares* in the GEG realm.

## WORKS CITED

Alcock, Frank (November 2008). "Conflicts and Coalitions Within and Across the ENGO Community," Global Environmental Politics 8: 4, pp. 66-91.

Aucoin, Peter (March 1986). "Organizational Change in the Machinery of Canadian Government: From Rational Management to Brokerage Politics". *Canadian Journal of Political Science* (19:1), pp. 3-27.

Bakvis, Herman and Skogstad, Grace (2003). "Canadian Federalism: Performance, Effectiveness, and Legitimacy", in *Canadian Federalism: Performance, Effectiveness, and Legitimacy*, eds. Bakvis and Skogstad. Canada: Oxford University Press, 2002, pp. 2-15.

Bernstein, Steven (2000). "Ideas, Social Structure and the Compromise of Liberal Environmentalism". *European Journal of International Relations*, 6(4), pp. 464-512.

Bernstein, Steven (2001). *The Compromise of Liberal Environmentalism*. New York: Columbia University Press.

Bernstein, Steven (2003). "International Institutions and the Framing of Canada's Climate Change Policy: Mitigating or Making the Integrity Gap?" In *The Integrity Gap: Canada's Environmental Policy and Institutions*, eds. Eugene Lee and Anthony Perl. Vancouver: UBC Press.

Boyce, James K. (Spring 2004). "Green and Brown? Globalization and the Environment," Oxford Review of Economic Policy 20:1, pp. 105-128.

Bramley, Matthew, P.J. Partington & Dave Sawyer (2009). "Linking National Cap-and-trade Systems in North America". *The Pembina Institute and The International Institute for Sustainable Development.* Viewed Online 04 March 2010 at: http://pubs.pembina.org/reports/linking-cap-and-trade-draft.pdf.

Bulkeley, Harriet & Michele Betsill (2003). *Cities and Climate Change: Urban Sustainability and Global Environmental Governance.* New York: Routledge.

Bulkeley, Harriet (2005). "Reconfiguring Environmental Governance: Towards a Politics of Scales and Networks". *Political Geography*, 24, pp. 875 – 902.

Cashore, Benjamin, Ilan Vertinsky & Rachana Raizada (2001). "Firms' Responses to External Pressures for Sustainable Forest Management in British Columbia and the US Pacific Northwest". In *Sustaining the Pacific Coast Forests: Forging Truces in the War in the Woods*, Vancouver: UBC Press, pp. 80-119.

Cashore, Benjamin (2002). "Legitimacy and the Privatization of Environmental Governance: How Non-State Market Driven (NMSD) Governance Systems Gain Rule-Making Authority". *Governance: An International Journal of Policy, Administration, and Institutions*, 15(4), pp. 503-529.

Clapp, Jennifer, Steven Bernstein & Matthew Hoffmann (December 2009). "Reframing Global Environmental Governance: Results of a CIGI/CIS Collaboration," Centre for International Governance Innovation, Working Paper no. 45.

Courchene, Thomas J. & John R. Allan (December 2008 – January 2009). "The Provinces and Carbon Pricing: Three Inconvenient Truths". *Policy Options*, pp. 60 – 67.

Courchene, Thomas J. (2008). "Climate Change, Competitiveness, and Environmental Federalism: The Case for a Carbon Tax". *Institute for Research on Public Policy*, Montréal, QC.

Dimitrov, Radislov S. (2005) "Hostage to Norms: States, Institutions and Global Forest Politics". *Global Environmental Politics.* 5(4), pp. 1-24.

Elgie, Stewart and Stephanie Cairns (December 2009 – January 2010). "Shifting to a low-carbon economy: It starts with a price on emissions". *Policy Options*, pp. 61 – 66.

Environment Canada (2007). *Regulatory Framework for Air Emissions. Government of Canada*, Ottawa, ON.

Environment Canada (2009). *Canada's Offset System for Greenhouse Gases, Overview.* Government of Canada, Ottawa, ON. Viewed On-line March 15 2010 at: http://www.ec.gc.ca/creditscompensatoires-offsets/92CA76F4-7A25-42F4-A1E0-E8361655A09D/Offsets_Overview_June_11_final_e.pdf.

Global Carbon Capture and Storage Institute (2009). "Accelerating CCS". p. 2. Accessed 11 March, 2010 at: http://www.globalccsinstitute.com/downloads/Overview/Global_CCS_Institute_Overview_Booklet_English.pdf.

Harrison, Kathryn (1996). *Passing the Buck: Federalism and Canadian Environmental Policy*. Vancouver: UBC Press.

Harrison, Kathryn (2000). "Intergovernmental Relations and Environmental Policy: Concepts and Context", in *Managing the Environmental Union: Intergovernmental Relations and Environmental Policy in Canada*, eds. Patrick C. Fafard and Kathryn H Harrison. Kingston: McGill-Queen's University Press. Pp. 3-19.

Harrison, Kathryn (March 22, 2006). "The Struggle of Ideas and Self-Interest: Canada's Ratification and Implementation of the Kyoto Protocol". Speech at Presentation to Annual Meeting of the International Studies Association.

Heinbecker, Paul (June 2006). "Polycentric Governance? Subnational Governments and Foreign Policy in an Age of Globalization". *Mimeo*.

Hoffmann, Matthew J. (2005). *Ozone Depletion and Climate Change: Constructing a Global Response*. Albany: State University of New York Press.

Hogg, Peter W. (August 2008). "A Question of Parliamentary Power: Criminal Law and the Control of Greenhouse Gas Emissions". *Backgrounder 114*¸ C.D. Howe Institute

Intergovernmental Affairs (2010). "Intergovernmental Relations in the Canadian Context". Privy Council Office. Viewed on-line March 10, 2010 at: www.pco-bcp.gc.ca/aia/index.asp?lang=eng&page=relations&doc=context/context-eng.htm.

Kahler, Miles (2009). "Networked Politics: Agency, Power, and Governance" in *Networked Politics: Agency, Power, and Governance*, ed. Miles Kahler. Ithaca: Cornell University Press: Pp. 1 – 20.

Karkkainnen, Bradley C. (February 2004). "Post-Sovereign Environmental Governance," Global Environmental Politics 4:1, pp. 72-96.

Keck, M. and Sikkink, K. (1998). A*ctivists Beyond Borders: Transnational Issue Networks in International Politics*. New York: Cornell Press.

Keohane, Robert O. (2002). *Power and Governance in a Partially Globalized World*. New York: Routledge.

Kukucha, Christopher (March 2005). "From Kyoto to the WTO: Evaluating the Constitutional Legitimacy of the Provinces in *Canadian Foreign Trade and Environmental Policy*". Canadian Journal of Political Science (38:1), pp. 129-152.

Lucas, Alistair R. (2005) "Legal Constraints and Opportunities: Climate Change and the Law", in Hard Choices: *Climate Change in Canada*, eds. H. Coward and A. Weaver. Waterloo: Wilfred Laurier Press, 142-153.

McColl, Velma (December 2008 – January 2009). "Toward North American Cooperation on Climate Change and Energy". *Policy Options*, pp. 34-39.

McColl, Velma (October 2009). "Thinking Outside the Climate Change Box: Changing our National Conversation" *Policy Options*, pp. 51-56.

McColl, Velma (February 2010). "Deconstructing Copenhagen". *Policy Options*, pp. 22-29.

Ministry of Finance, British Columbia (2010). "British Columbia Carbon Tax Update". *Government of British Columbia*, pg. 1. Viewed On-line 10 March 2010 at: http://www.rev.gov.bc.ca/documents_library/notices/BC_Carbon_Tax_ Update.pdf

Prentice, Jim (October 6, 2009). "Speech". North American Forum, Canadian Council of Chief Executives, Ottawa, Ontario.

Putnam, Robert (1998). "Diplomacy and Domestic Politics: The Logic of Two-Level Games". *International Organization* (42:3), pp. 427-460.

Raymond, Gregory (November 1997). "Problems and Prospects in the Study of International Norms". *Mershon International Studies Review*, pp. 205-245.

Rosenau, James N. (1995). "Governance in the Twenty-First Century". *Global Governance*, 1. Pp. 13-43

Sasser, Erika N., Aseem Prakash, Benjamin Cashore & Graeme Auld (2006). "Direct Targeting as an NGO Political Strategy: Examining Private Authority Regimes in the Forestry Sector," Business and Politics 8:3.

Simpson, Jeffrey; Jaccard, Mark; and Rivers, Nic (2007). *Hot Air: Meeting Canada's Climate Change Challenge*. Toronto: Douglas Gibson Books.

Slaughter, Anne-Marie (2004). *A New World Order*. Princeton: Princeton University Press.

Smith-Doerr, Laurel & Walter W. Powell (2005). "Networks and Economic Life". In *The Handbook of Economic Sociology*, eds. Neil J. Smelser & Richard Swedburg. Princeton: Princeton University Press, pp. 379 – 402.

Smith, Heather (May 1998). "The Provinces and Canadian Climate Change Policy". *Policy Options*, 27-30.

Smith, Jackie (1997) "Characteristics of the Modern Transnational Social Movement Sector". In *Transnational Social Movements and Global Politics*, eds. Jackie Smith, Charles Chatfield & Ron Pagnucco, Syracuse: Syracuse University Press, pp. 42-58.

Snyder, Jack (November/December 2004). "One World, Rival Theories". *Foreign Affairs*, pp.52-64.

Stevenson, H. Michael (December 1987). "Ideology and Unstable Party Identification in Canada: Limited Rationality in a Brokerage Party System". *Canadian Journal of Political Science* (20:4), pp. 813-850.

Stillborn, Jack (May 2003). "Canadian Intergovernmental Relations and the Kyoto Protocol: What Happened, What Didn't?" Speech to Conference of Canadian Political Science Association.

Szmurlo. C.J. Jr. (November 2009). "Carbon Capture and Storage: No Mere Pipedream" *Policy Options*, pp. 72-75

Tarrow, Sidney (2005). *The New Transnational Activism*. Cambridge: Cambridge University Press.

VanNijnatten, Debora L. (2000) "Intergovernmental Relations and Environmental Policy-Making: A Cross-National Perspective", in *Managing the Environmental Union: Intergovernmental Relations and Environmental Policy in Canada*, eds. Patrick C. Fafard and Kathryn Harrison. Kingston: McGill-Queen's University Press, pp. 23 – 48.

Western Climate Initiative (2009). *Design Recommendations for the WCI Regional Cap and Trade Program*. Viewed On-line 12 March 2010 at: http://westernclimateinitiative.org/the-wci-cap-and-trade-program/design-recommendations.

Winfield, Mark & Douglas Macdonald (2008) "The Harmonization Accord and Climate Change Policy: Two Case Studies in Federal-Provincial Environmental Policy" in *Canadian Federalism: Performance, Effectiveness and Legitimacy*, eds. Herman Bakvis    and Grace Skogstad. Toronto: Oxford University Press, pp. 266-290.

Yee, Albert (Winter 1996). "The Causal Effects of Ideas on Policies". *International Organization* (50:1), pp. 69-108.