

**Democratic Practices vs. Expertise: the National Action Committee on the Status of
Women and Canada's Policy on Reproductive Technology**

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Governments across the industrialised world suffer a deep legitimacy crisis. Survey after survey shows a steady decline in citizen's confidence toward their governments (Inglehart, 1997). Despite vigorous debates on the causes and the consequences of this legitimacy crisis (Pharr and Putnam, 2000), a stream of analysis points to the technocratic and undemocratic nature of public institutions. Conventional politics is increasingly causing dissatisfaction, disenchantment and even alienation among citizens. "Governments are in a crisis of identity, some would say of legitimacy, with election turnouts low in many OECD countries and a widespread feeling of disenchantment among citizens with government and the democratic process" (OECD, 2001: 8). The Commission of the European Communities (2001: 7) notes that "Europeans feel alienated from the Union's work" despite the fact that "it has a double democratic mandate through a Parliament representing EU citizens and a Council representing the elected governments of the Member States." These observations have fed into a relatively recent call to begin thinking about democracy outside conventional institutions.

At the centre of this disenchantment is the crisis of representation. The institutional structures of government are said to be dominated by technocrats and policy experts, leaving little room for the political representation of ordinary citizens. Scholars of the policy sciences indeed have been prompt to investigate and propose new forms of democracy outside conventional institutions. The promotion of deliberative mechanisms, participatory democracy, and citizen engagement has taken centre stage within the policy sciences (for a review see: DeLeon, 1997). Many of these democratic practices and principles have been adopted by "representative organizations", that is, identity-based groups charged with articulating the needs, interests and identities of certain segments of society. Women's organizations in particular have been used as prime examples of the merits and challenges of incorporating practices of participation and consultation. A dilemma emerges, however, between a group's intra-organizational strategies for representation and mobilization versus its inter-group strategies for successful influence in the policy-making process (Sapiro, 1998). On the one hand, women's organizations strive to recognize diversity and be inclusive of the experiential knowledge of marginalized groups. On the other hand, women's organizations exist within institutional structures that continue to privilege expertise and professional knowledge. This dilemma is further exasperated when these organizations deliberate on what Majone (1989) terms "trans-scientific issues", that is, policy issues that can be framed in scientific or expert terms but cannot completely be answered through scientific procedures.

The dilemma between expertise and democratic practices that emerges within representative organizations and within the state is a product of what Callon et al., (2001: 169-170) conceive as "double delegation". A prominent feature of all industrialized society, double delegation¹ denotes the transfer of decision-making authority and responsibility across two societal divides; lay people and specialists, on the one hand, and citizens and professional representatives on the other hand. First, through elections and membership in organizations, citizens delegate to representatives the responsibility to decide whose voice belongs to an actor constellation and whose voice does not. Second, often through professional bureaucracy, lay people delegate to experts the responsibility to decide which knowledge is valid for policy-making and which is not. This double delegation cements actor constellations around settled identities and excludes any knowledge that might undermine scientific certainties thereby mainstreaming policy-

making. The double delegation prevents the emergence of new identities and the expression of marginal ones. Moreover, it excludes from policy making any form of knowledge which cannot claim scientific validity (Young, 2000). Thinking democracy outside conventional institutions has therefore meant for policy sciences scholars to find ways for new identities to blossom, to give a voice to marginal citizens and to render knowledge based on experience relevant to policy-making.

This paper examines the challenges posed by “double delegation” for representative organizations that are engaged simultaneously in identity and interest group politics. Specifically, the paper explores the dilemmas and challenges faced by the Canadian women’s organization, the National Action Committee on the Status of Women (NAC), when deliberating on Canada’s policy on assisted reproductive technology (ART). As Canada’s unitary women’s organization, NAC struggled to reconcile their commitment to diversity with the need to protect the collective interests of all women. Ultimately, this struggle would paradoxically give greater voice to individuals whose legitimacy solely rests with an expertise--natural scientific or social scientific--that they have often acquired in dealing with the state.

The discussion begins with an overview of the challenges and dilemmas posed by “double delegation” for policy analysis in general. It highlights how participatory policy analysis can bridge the divide between lay people and specialists within the state but at the same time encourage greater fragmentation within individual representative organizations. The article then explores the organizational strategies and ideological principles of women’s organizations like NAC, which struggle to engage in discursive politics with its members while still striving to come up with a uniform, feminist stance on policy issues. This struggle is further explored and illustrated in our case study on assisted reproductive technologies. The empirical analysis which follows is based on documents prepared by women, individuals and groups, on issues related to ART as well as on a series of confidential interviews.

Participatory Policy Analysis and its Implications for Representative Organizations

Douglas Torgerson wrote in 1986 that policy analysis has three faces which correspond, more or less, to the evolution of the discipline. First is the positivist face whereby rational knowledge promises to discipline the irrational world of politics. This is a form of knowledge based on technical or scientific expertise. This type of analysis favours a delegation of authority to specialists. The second face challenges the neutrality of knowledge and underscores the political motivations underpinning the scientific discourse. Here, there is a delegation to professional representatives whose knowledge derives from advocacy and societal interests. Third is a post-positivist face in which “politics and knowledge are no longer deadly antagonists” (Torgerson, 1986: 39). Once knowledge exits the exclusive domain of scientific and professional discourses, it emerges out of a variety of practical experiences to enrich democracy. As Torgerson (1986: 43) argues, this posture advances a “commitment to promote a policy process which both permits and encourages greater citizen participation”. Torgerson’s article signals a movement away from delegation and toward a greater commitment to citizen participation within the policy sciences, often referred to in the literature as participatory policy analysis.

Several analysts have taken on this commitment to participatory processes enthusiastically without recognising the challenges they pose to the technocratic orientation of the administrative state and the political interests vested in it. Already in 1986, Torgerson foresaw some difficulties for the third face of policy analysis. As he argued (1986: 43):

The full emergence of the third face of policy analysis depends not simply upon the professional development of the field; it depends upon a broader context of social and political forces which typically tend to inhibit moves toward a participatory orientation. If technocratic analysis is an artefact of the administrative state, then a participatory focus challenges an established set of power relationships and anticipates major changes in the political world.

In other words, while participatory policy analysis focuses on democratic practices beyond conventional representational institutions (parliament, parties and electoral politics), its principles and practices will have to be applied in a world dominated by policy-making agencies that are more amicable to the technocratic orientation of policy analysis.

Participatory policy analysis in general does not seek a complete overhaul of conventional institutions but simply demands that they be accompanied by new mechanisms. Dryzek's (2000: 78-79) public sphere, for instance, is not meant to substitute conventional institutions but to complement them by broadening the scope of policy deliberation: "it is important to maintain a public sphere autonomous from the state, for discursive interplay within the public sphere is always likely to be less constrained than within the state. It is within the public sphere that insurgent discourses and identities can first establish themselves." But Dryzek (2000: 78-79) insists: "Democratic life is not just the endless interplay of discourse. There have to be moments of decisive collective action, and in contemporary societies it is mainly (but not only) the state that has this capacity." Likewise, Callon, Lascoumes and Barthe (2002: 351) only demand that scientists and elected officials resort to "hybrid forums" that bring together specialists and lay persons when conventional institutions have proven to be incapable of managing situations of uncertainty. "What is at stake is not so much delegative democracy, but its enrichment" (Callon, Lascoumes and Barthe, 2002: 344). In short, most of participatory policy analysis does not carry a project of deep institutional reform but calls for the integration of new democratic ideas in a world of conventional institutions based upon the principle of delegation. In this paper, we claim that participatory policy analysis is not sufficiently concerned with the difficulties this latter project may pose.

When immersed in a world of conventional institutions, we argue, attempts at circumventing the double delegation logic within any representative organization will launch two subsequent and mutually reinforcing dynamics. First is a dynamic internal to any representative organization in which some members carry a participatory project and question the logic of delegation. If embedded in a world of conventional institutions, this project will create a conflict within the organization. Members accustomed to operating within conventional institutions will favour delegating to experts to preserve their strategic advantages for those moments that require "decisive collective action". When

interacting with conventional structures of government, demands for direct participation within organizations are likely to be contentiously resisted by some members, causing internal tensions and even stalemates. Gradually the organisation's collective voice will weaken as multiple voices emerge. When this occurs, a gap between an internally fragmented organization and conventional government institutions appears, greatly reducing the influence of the organization at decisive moments in a policy debate. This is when the second dynamic is launched, a dynamic largely external to the organizations.

Conventional institutions, even if experts populate them, thanks to the double delegation, do not operate in total isolation. Professional bureaucrats and elected officials normally seek external advice on policy matters, often from organizations and individuals that possess "relevant" knowledge. This dynamic has greatly encouraged the specialization of representative organisations because the modern state itself is specialized and therefore seeks specialized knowledge. As Schmitter and Streeck (1981) argue, advocacy organisations structure themselves along the architectural lines of the state when they abide by a logic of influence. Several states even provide funding to civil society groups to help them become, from a statist perspective, better advisors (Jenson and Phillips 1996; Pross, 1995). If a representative organisation rejects the idea of delegation and becomes more fragmented, the state is likely to turn to unrepresentative individuals who possess specialized knowledge and technical expertise. Paradoxically, these individuals are likely to be those who have always been in close contact with state officials and who therefore advocated for the preservation of some form of delegation within their own organization, but who lost the battle. In other words, attempts at circumventing delegation are unlikely to alter drastically the elitist character of policy-making, but they deprive the elite of a mandate to represent a constellation thereby relieving them from acting in an accountable manner.

Women's Organizations and Democratic Representation: The Case of NAC

Women's organisations have first hand experience with the tensions and merits of incorporating democratic practices and principles within their organization. Early feminist activism did not explicitly question existing mechanisms of representation, the authority of science and the hierarchical organisations that accompanies the double delegation; rather, it called for greater or equal participation of women within these institutions. Contemporary feminist thinking, however, adopts quite a different stance, depicting conventional institutions as inherently patriarchal and oppressive to women. Influenced by cultural feminism which emerged in the 1970s, feminist activists assert the value of women's practical experiences and, in a manner similar to participatory policy analysis, refuses to privilege expert knowledge over other forms of knowledge. Some feminist factions, according to Vickers, Rankin and Appelle (1993: 173) "sought to eliminate the 'dangerous development' of 'powerful expertise' and 'the rise of ego-tripping leaders'." While conventional organisations encourage the specialization of tasks and thereby contribute to the formation of a decisive elite, the emancipatory project advanced by cultural feminism favours capacity-building practices and consensual and non-hierarchical structures. More insistent on representation, post-modern feminism questions gender as a homogenous whole capable of expressing a uniform voice. It challenges the authority of representative organisations, arguing that it fails to recognise the diversity of women's identities.

The increasing tension between feminist activists within state institutions and those advancing new democratic projects significantly contributed to the fragmentation of women's organizations. For instance, in her analysis of women's groups in the United States, Reger (2002: 720) argues: "Social movement organizations struggle with and often fail at the task of representing and respecting a diverse membership. In the U.S. women's movement, groups repeatedly suffered from factions and discord over issues of race, ethnicity, sexuality, and class." In short, situated within the institutional structures of government, attempts at inventing new democratic practices posed significant challenges to women's organizations.

The feminist literature has extensively documented the transformation of women's organizations in Canada along the line of the double dynamic described above. In 1972, the National Action Committee on the Status of Women (NAC) was created to press for the implementation of the recommendations of the Royal Commission on the Status of Women tabled in 1970. At its origin, NAC abided by the equality seeking agenda of liberal feminism. Concerned with its strategic position in federal politics, delegation was a central feature of this organisation as reflected by the creation of specialized working groups and a leadership that enjoyed recognition and privileged relationships within the Canadian political elite. Encouraged by the project of becoming a "new parliament of women," NAC grew from an umbrella organisation of 30 groups to one of over 575 groups in 1988 (Vickers, Rankin and Appelle, 1993: 20). This growth and diversification of membership, in itself, became fertile ground for challenging the legitimacy of NAC as the representative voice of all women in Canada. At the very moment NAC appeared as the uncontested centre of the women's movement in the early 1990s (Phillips, 1991), criticisms began to pose a significant challenge to the representative capacity of the organisation. Phillips (1996: 252) describes the tension within the Canadian women's movement in the following terms:

If all women have distinctive identities as a result of being situated in multiple communities, who is left in the category simply called 'women'? A number of feminists have attempted to reconcile the charge that feminism has not been sufficiently sensitive to difference with the aims of creating an inclusive political movement. The dilemma is that feminist politics would evaporate without a critical mass of women who share a collective identity as women sufficient to mobilize as a political force.

In parallel to NAC's diminished credibility to speak on behalf of women, an external dynamic encouraged further transformations of the organisation. In 1988 and 1989, the Mulroney government reduced funding to the Secretary of State Women's Program, the funding agency of NAC and women's groups, by 30%. The financial situation of advocacy-oriented organizations became even more precarious, as they struggled to summon resources to fund their research and advocacy work. As Dobrowolsky explains, during this time "it became much more difficult to prepare interventions that considered politically complicated issues in detail, for the resources required for such undertakings were drying up" (Dobrowolsky, 2000: 161). As the federal government gradually reduced its financial contributions to the group, NAC's capacity to

provide expertise and legitimacy declined. The group became largely self-financed in the second half of the 1990s (Bashevkin, 1996: 223).

In 1993, an increasing concern for diversity led to the revamping of NAC's representational practices. During that year, for the first time, a woman from a cultural minority was elected as leader of NAC. Moreover, eleven of NAC's executive members were women of visible minority. Increasingly the organisation turned toward grassroots activism and away from advocacy in Ottawa. This leaves a profoundly transformed women's movement in Canada with, as Jenson and Phillips (1996: 127) argue, service delivery organisations replacing NAC as the main feminist interlocutor in Ottawa: "the current approach is creating a hierarchy of groups, with those focussed exclusively on service delivery at the top, and those focussed on advocacy deemed irrelevant." These service delivery organisations do not perform a representational function on behalf of women. Individual members, who were active participants within NAC's committee structure, continued their advocacy work as expert advisors to federal policy-makers. Abandoning any claim to representation, these individual women no longer see themselves accountable to identity-based women's organisations. The fragmentation of the women's movement and the rise of women experts in Ottawa illustrate the paradoxical consequences of adopting democratic practices in an effort to circumvent delegation.

These general observations closely match our case study on assisted reproductive technology (ART). This case study in fact reveals the internal and external dynamics that are triggered when a representative organisation attempts to circumvent the double delegation in a world of conventional institutions. The case study is divided in three sections, which closely correspond to the main phases of policy development for ART in Canada. The first phase (1989-1993) is the preparation of a set of policy recommendations by a Royal Commission on New Reproductive Technologies (RCNRT). The second phase (1993-1997) is the preparation of a first government response to these recommendations. The third phase (1997-2003), still underway, is the preparation of a government bill on ART.

Speaking for Whom? NAC and the RCNRT

In the past decades, the issue of reproductive technologies both in Canada, and abroad, has galvanized mobilization and organization on the part of many segments of society. In the late 1980s, the controversial issues of embryo research, *in vitro* fertilization, and surrogacy prompted a number of women's organizations and feminist researchers in Canada to lobby for a public inquiry on the social and ethical implications of these technologies. The lack of public attention given to the moral and social implications of reproductive technologies prompted the formation of the 1987 Canadian Coalition for a Royal Commission on New Reproductive Technologies. Initiated by feminist organisations, researchers, and health groups, the Coalition argued discussions on reproductive technologies were being adjudicated primarily by the medical profession. The Coalition was especially concerned with the lack of attention conferred to the broader implications of these technologies on women. A royal commission was regarded as an effective vehicle for representative organisations to bring these concerns on the public agenda.

The federal government responded with the appointment of the Royal Commission on New Reproductive Technologies in 1989. The Commission was asked to identify national policy needs and develop policy recommendations in the area of reproductive technologies. It was to inquire into the medical and legal issues involving these technologies; their implications for women's reproductive health and well-being; their social and legal arrangements, such as surrogacy; and 'ownership' rights and economic and commercial considerations, such as research funding and marketing regulations (RCNRT, 1993). The Royal Commission, like others before it, held numerous public hearings across the country, inviting a diversity of groups representing segments of the population, including women, aboriginal communities, anti-abortion organizations, professional organizations, and members of the research community.

One of the most vocal opponents of reproductive technologies heard during the Commission's hearings was the National Action Committee on the Status of Women (NAC). NAC's main policy agenda has been, for the most part, the redefinition of gender relations and the representation of numerous women's groups, mostly small and local, which emerged during the 1970s to express the interests of specific categories of women (Black, 1992). Today, its membership reflects this diversity, consisting of over 500 groups, including national organisations, grass-roots and community women's action groups, disabled women's groups, immigrant women's groups, unions and all major political parties. Since its foundation in 1972, NAC's prime objective has been to improve the status of women in Canadian society.

Concerned with the impact of these practices on women's well-being, women's groups, like the National Action Committee on the Status of Women (NAC), along with feminist academics, called for a moratorium on the use of these technologies. Following the logic of delegation based on identity, NAC's critique of reproductive technologies centred on women's collective identity and interests rather than the personal experiences of individual women. The critical knowledge generated by NAC that was directed towards an emancipatory project for all women, conflicted with the experiential knowledge of individual women seeking a solution to a personal problem. Conflicts inherent to the internal dynamic explained about began to emerge.

NAC was highly critical of reproductive technologies and called for their complete ban in the name of all women. It took on a socialist feminist stance against reproductive technologies, arguing that the drive behind new reproductive technologies emanated from the interests of researchers and capitalists profiting from the development of technologies and drugs aimed at women. As such, new reproductive technologies could only serve to maintain women's subordinate position in society by expanding opportunities for women's exploitation and oppression, especially poorer women:

NRTs represent the values and priorities of an economically stratified, male-dominated, technocratic science, the same science that has created the basis of much of the environmental destruction our planet now faces. We fear a future that combines Margaret Atwood's *Handmaid's Tale*, where lower class women are employed as the breeders for a more privileged class, and Aldous Huxley's *Brave New World* of manufactured made-to-order- people (NAC Brief, 1990).

According to NAC, reproductive technologies reinforced the notion of women's primary societal role as that of the biological mother. Defining infertility as a social condition rather than a medical one, NAC argued that the availability of these technologies increased the social pressure exerted on women who cannot have children of their own. While NAC supported, in theory, the right of women to seek solutions to their fertility problems, reproductive technologies were deemed to be harmful to women in general. While lesbian groups and infertile women were engaged in a discourse of individual rights, NAC's arguments were based on the notion of women's collective rights and interests. As NAC explained:

Even if many individual women are willing to put their personal health on the line to achieve pregnancy, as Canada's largest unitary women's organisation, NAC has a special responsibility to argue for women's collective health interests (RCNRT, 1993: 15).

This emphasis on collective rights to justify an anti-science position was made possible by the delegative logic adhered to by NAC's leaders. NAC's critical stance on reproductive technologies did not emerge from consultations with its member groups; rather, it was a product of several other factors, including its practice of delegating research work to committees made up of experts or activists in a particular policy area. The Co-chair of the committee on reproductive technologies, Vanda Burstyn, was the principal author of NAC's submission to the Royal Commission. A social activist in the area of women's health, Burstyn's was an outspoken critic of reproductive technologies and genetic engineering. Her opposition to these technologies greatly informed NAC's position on the issue. Burstyn's stance also reflected the NAC's decision to evaluate policy issues in terms of their impact on the most disadvantaged women. This new representational practice required NAC to assess the impact of reproductive technologies on the most vulnerable women in Canadian society, including poor and minority women who could be exploited for reproductive purposes.

NAC's radical opposition to reproductive technologies was also reflective of its confrontational relationship with the federal government during the late 1980s and 1990s. Faced with an unreceptive government committed to a neo-conservative agenda, NAC took on a more combative posture in its dealings with the federal government.

NAC...moved into a period of confrontation. Previously it had lobbied government, had been listened to by government, 'and now and then got some things addressed by government, [but all] that changed as the government's agenda was much more clearly neo-conservative' and neo-liberal (Dobrowolsky, 2000: 162).

This anti-science position, however, was not supported by other women's groups and individual women that regarded the issue of reproductive technologies in terms of individual choice and access. Moreover, these groups questioned the legitimacy of NAC as the representative organisation of Canadian women and rejected its attempt to advance a universal feminist perspective on the issue of ARTs. Lesbian and infertile women

contested NAC's position which suggested that IVF and related technologies increased social pressure on infertile women to have a biological child. Instead, they contended that decisions regarding the use of reproductive technologies be left to individual women.

This criticism against NAC launched by individual interveners was indicative of the general backlash against community and public interest groups during the late 1980s and early 1990s.ⁱⁱ Jenson and Phillips explain how the advocacy and representational components of public interests groups has been delegitimated, both within the state and in the general public. The authors argue that the politics of the neo-conservative agenda redefined basic principles of economic and social citizenship in Canada. Cutbacks in social spending, reductions in group funding, and the elimination of intermediary organisations of representation within the state, contributed to a shift in citizenship regimes, from one based on social justice and equity to one that centres on a "new marketised and individualised citizenship" (Jenson and Phillips, 1996: ???). The authors argue that under this new citizenship regime, the representational role of advocacy groups is suspect. As the authors explain:

Organised public interest groups are delegitimated in the discourse of right wing populism because they are not 'real Canadians.' The first line of attack is on the groups' sources of funding. The second is on the representation and the determination of legitimacy: *Have they proven themselves worthy of the claim that they represent someone?* A common statement is that 'group X doesn't represent me/all women/all Canadians.' Thus, even if a group is self-supporting, it may still be branded a 'special interest.' Failure to represent only some, and not everyone, makes a group 'special' and therefore lacking legitimacy (Jenson and Phillips, 1996: 27).

Several commissioners shared this sentiment, questioning the representational role of advocacy groups, like NAC and assigning greater importance to the perspectives of individual interveners during the public hearings as well as the viewpoints of professional associations. This attitude of commissioners fed into NAC's internal conflict whereby organisational practices based on delegation and representation faced a serious challenge.

Representing Diversity: NAC and C-47

The first government response to the report of the Royal Commission was a call in 1995 for a voluntary moratorium on nine ARTs. This voluntary moratorium was a temporary response as government prepared the Human Reproductive and Genetic Technologies Act (C-47), a bill which, in line with some of the recommendations of the Royal Commission, sought to prohibit controversial practices using the federal government's criminal law jurisdiction. The bill was introduced in the House of Commons in 1996 and died on the order paper after elections were called in 1997. During the period between the release of the report of the Royal Commission and the introduction of C-47 in the House of Commons, the government initiated public consultations through Health Canada to verify the validity of the Commission's

recommendations. These public consultations were deemed necessary given the negative reactions to the report and the controversy surrounding the Commission itself.

During this time, NAC had undergone internal restructuring culminating in changes to its leadership and representational practices. These transformations would have a significant impact on the manner in which the group would deliberate on the issue of ARTs. The organisation's representatives decided that speaking on behalf of women, without consultation, as was the case with the Royal Commission process, had to be abandoned in favour of a more participatory approach that would recognize the diversity of women's views on this issue. In a document celebrating the 25th anniversary of the organisation, Anne Molgat and Joan Grant Cummings (2003) wrote: "We are coming to appreciate difference, to recognize that our strength lies in our diversity, and that there are many ways to be a feminist. Sisterhood is not about being the same, but about respecting difference, and about disagreeing without personalizing."

Although sensitive to the importance of diversity, some women who had been involved in NAC for a long time felt it was inappropriate to sacrifice entirely the organisation's strategic position in Ottawa. Women who were active in the area of reproductive technologies well before the appointment of the Royal Commission, and developed close ties with the technocrats of the administrative state, attempted to preserve the relevance of expertise and experts within NAC. They knew however, they had to walk a fine line between relying on expert knowledge while still consulting lay persons when developing their official position of ARTs. This represents a change from NAC's lack of consultation during the Commission work for which they were criticised. A specialised policy committee within NAC was nevertheless formed to participate in the development of a Canadian ART policy, the Federal Advisory Committee on New Genetic and Reproductive Technology. In sharp contrast with the stance taken during the Royal Commission, the committee's position on C-47 lacked radicalism, in an effort to build a consensus among women. Despite this effort the consensus was never achieved.

Instead of adopting a strong anti-science stance, NAC's brief on C-47 insists on women's reproductive autonomy and especially on the importance of "equality of result". This is a significant change because, in contrast to an anti-science position, equality of result serves to recognise the legitimacy of some ART. Equality of results implies the recognition that women are not all alike and therefore those who are at a disadvantage may need special treatment to achieve results easily attainable by other women. For example, lesbians who decried NAC's position during the Royal Commission process are clearly better served by an equality of results than by an anti-science perspective; to attain the same reproductive goals as other women, lesbians need access to ART.

In abandoning its anti-science position, NAC's committee on ART took great care not to alienate women with disabilities who had supported the group's earlier opposition to ART. If equality of results may serve to legitimize access to *in vitro* fertilisation by lesbians, for example, it may also justify the prohibition of pre-natal diagnosis, which cause a prejudice to disabled people. Instead of committing to the vague principle of human dignity, NAC argues, C-47 "would do better to address issues of disability rights and a commitment to diversity" (NAC, 1997: 3). In sharp contrast with the period of the Royal Commission, NAC appeared resolved to recognise the diversity within its organisation during the development of C-47.

This commitment to diversity did not come without problems especially arriving at an agreement on the specific meaning of equality of result. Once NAC's expert committee had recognised diversity, it could not avoid participation on the part of the organisation's diverse segments in the formulation of a position. As NAC's experience indicates, such participatory processes can be long and difficult. Indeed, NAC failed to find agreement on a position concerning C-47: "As an organisation we do not have consensus about the best models for ensuring equality of result" (NAC, 1997: 6). The brief explains how members of NAC disagree on the appropriateness to use criminal law to regulate ART, the aim of C-47. While NAC's brief states the group approves "much of the intent of Bill C-47" (1997: 8), it never clearly states whether or not C-47 should be voted into law. The best the group could do was to insist on its (1997: 5) "commitment to address these complex issues [ART] through a democratic process" and to complain about "the very limited nature of the consultative process engaged in by the federal government in the development of the legislation" (1997: 8). Interestingly, these criticisms resonate with those launched against NAC during the Royal Commission process.

Even if NAC's brief was prepared through a committee structure, by experts with ties to the administrative state, the absence of a clear position weakened its influence on ART. C-47 did not die on the order paper just because elections were called. Parliamentarians had over a year to pass the bill and the Liberal party could have re-introduced the bill rapidly after its 1997 re-election. If the government chose not to do so, it is notably because the medical profession was against any government intrusion into their practice and research (Montpetit, forthcoming). NAC's incapacity to propose convincing measures to achieve equality of result inadvertently failed to provide a challenge to medical self-regulation of ART. In doing so, NAC's hesitant position could only have been disappointing to expert women who had long struggled to approach ART in a non-medical or non-scientific perspective.

Health Canada and Canadian policy makers themselves bear some responsibility for the reduced influence of NAC. First, immediately after the release of the Royal Commission's report, Health Canada officials decided to meet with a wide variety of local groups during a countrywide tour instead of holding consultations in Ottawa with national organisations (Montpetit, 2003). This tour became a good opportunity for grassroots organisations in the women's movement to distance themselves from NAC's original anti-science position. In fact, this consultation did not endorse NAC's anti-science position, but rather upheld the validity of Commission's recommendations. Second, policy makers who were members of the House's Standing Committee on Health deliberating on C-47 appeared particularly concerned with technical issues. In order to make up their minds on this complex issue, they required legal and medical expertise. The scientific authority of the medical profession then appeared more useful than NAC's discourse on democracy and the vague principle of "equality of result". Likewise, the legal concepts and the jurisprudence invoked by the National Association of Women and the Law (NAWL) in its brief on C-47 made a good impression on legislators. Incidentally, NAWL advised legislators to use criminal law with extreme caution, a position which suggested C-47 had to be extensively revised. NAWL's position could be acted upon easily in comparison to that of NAC. Again, despite several references to NAWL's brief, NAC insisted that legislative action should be based on the principle of

equality of results, even though there was no consensus within the group on what this principle entailed.

In short, the development of C-47 coincides with a significant change in the internal dynamic of NAC. During this period, members dissatisfied with delegation increasingly dominated the group, the main operating principle relied upon by NAC since its creation. Not surprisingly, this change pushed NAC on the periphery of the women constellation with a concomitant reduction of efficacy in Ottawa in comparison to concurrent groups, notably the medical profession. Frustrated with the situation, those women who in the past had exercised influence in Ottawa will adjust to the new reality during the next phase of ART policy making.

The “Disappearance Act”: NAC and the Draft Bill

Dissatisfaction with C-47 led the re-elected Liberal government in 1997 to ask Health Canada to return to the drawing board to prepare a new bill on ART. Revisiting the work that had been accomplished in the preparation of C-47 proved a difficult exercise and therefore, in 1999, Health Canada decided to transfer the preparation of the bill from the Health Policy Division to a Special Project Division, mostly staffed with “fresh faces”.ⁱⁱⁱ A new consultation process was conducted with interest groups and provincial governments across the country, with special attention assigned to federal-provincial jurisdictional issues on this matter. Provincial agencies, such as health and justice departments, as well as offices of the Status of Women, were consulted given the impact of federal policy of reproductive technologies on their jurisdictional authority. As in previous consultations, Health Canada targeted many groups and individuals who were not affiliated with any national organizations.

On the professional side, infertility and family planning counsellors, as well as social scientists and allied health professionals, began to organize. Viewing ART as both a medical and social issue, they drew attention to the psychological and social impact of reproductive technologies on women and the family unit. Other specialists, such as bio-ethicists, most of them academicians, were also gaining voice as individual experts. Patients and users of reproductive technologies also participated in the consultations. While access remained an important issue, this group also shared their personal experiences as both consumers and “products” of reproductive technologies. Individuals born of assisted reproduction shared their experience of living without knowing part of their genetic and medical background. Women and couples who had children through donor insemination relayed their own struggles for social legitimacy and the dilemmas posed by a system that privileges the anonymity of donors over a parent’s need for medical information. As before, the consultations revealed the diversity of experiences and the range of medical and social scientific expertise that surround the issue of ART.

The 12 years of consultations, first conducted by the Royal Commission and then pursued by Health Canada, made clear that no consensus existed in Canada on the contours of an appropriate legislation on ART. Combined with a perceived “democratic deficit on the Hill”,^{iv} this situation prompted the federal government to experiment with the unusual legislative procedure of introducing a draft bill in the House of Commons. Unlike a regular bill, a draft bill is immediately sent to the relevant standing committee mandated to prepare a report on possible amendments that a minister should consider before introducing a regular bill. The draft bill procedure allows Members of Parliaments

to closely examine the legislative measures devised and proposed by a department and its minister. In the spring of 2001, the Standing Committee on Health was thus mandated to report on a draft bill prepared by Health Canada's Special Project Division on ART before the end of the year.

The Standing Committee on Health also undertook important consultations on the draft bill, but for reasons radically different from those which motivated Health Canada's consultations. While Health Canada's Special Project Division is staffed with people who have spent years working and developing an extensive expertise on ART, the Standing Committee on Health has a fluctuating membership comprising Members of Parliament who possess little knowledge on ART. Consequently, Members of Parliament primarily wanted to hear from witnesses capable of explaining the technical issues and problems raised by ART. Even more than during committee work over C-47, MPs preferred hearing from experts rather than representative organisations. According to committee members, the hearings allowed them the opportunity to acquire extensive knowledge on this highly complex and technical issue. As an interviewee explained:

When you have someone who is considered by the Library of Parliament to be an expert in the field, and they suggested that name to us, and we hear that person, it is pretty exciting. It is like taking six university courses simultaneously to have all these wonderful people come in and tell you what they have learned. And they kind of give you a review of the literature at the beginning of their presentation. And then, in the second half, will be their conclusions about the subject. So it is very, very exciting. And they are very helpful.^v

Three sources were used to develop the list of witnesses invited to appear before the Committee: first, each political party represented on the committee drew a list of groups or persons it wanted to hear from; second, as the above quote mentions, the Library of Parliament suggested a list of experts; and third, Health Canada's experts were made available to the committee by the minister. The list of briefs presented to the committee on the draft bill is strikingly different from the list of briefs presented to the same committee on C-47. While most briefs on C-47 came from representative organisations, a majority of briefs presented on the draft bill were from individual experts and academics from various disciplinary fields. It is surprising to observe that women's groups authored a very small proportion of the briefs that were submitted to the Committee. In 1997, seven women representative organisations, several of them affiliated with NAC, wrote formal briefs on C-47: the Feminist Alliance on New Reproductive Technology, NAC, the National Association of Women and the Law, the Women's Health Clinic, the Winnipeg Women's Health Clinic, the National Council of Women of Canada, and REAL Women of Canada (Montpetit, forthcoming). In 2001, only two women's organisations presented formal briefs on the draft bill: REAL Women of Canada, largely recognized as an anti-feminist organisation, and the Canadian Women's Health Network (CWHN), the latter matching more closely a service-oriented organisation than a representative organisation. While some national representative organizations were invited to appear before the Standing Committee to present their

views on behalf of their constituencies, NAC was not one of them; it was not on the list of invited groups and did not send a brief to the Committee.

According to Committee members, the relative absence of women's groups during the draft bill consultation process was attributed to their fixed position on reproductive technologies since the appointment of the Royal Commission in 1989. This interpretation was erroneous for it ignored NAC's changing stance on reproductive technologies from its anti-science position during the royal commission to its "equality of results" position advocated during C-47. Committee members argued that while women's groups had invested a lot of energy mobilizing on ART ten years ago, they had now shifted their organizational priorities to other matters, such as service delivery and grass-root activism. The lack of advocacy on the part of women's organizations on this matter was interpreted as tacit agreement with the Commission's recommendations:

The women's groups, like the National Committee on the Status of Women [NAC], were very excited and alerted all its member groups at the time of the Royal Commission. And when the Royal Commission concluded with its recommendations, most women groups in the country agreed. So essentially, one can say that the feminist community in Canada had a position: it was the position of the Royal Commission. So we didn't hear from women's groups per se. We heard from the Royal Commissioners.^{vi}

Actually, many Royal Commissioners came to the Committee as individual experts in their own field to stress aspects of the bill they were most concerned about and to answer the Committee's questions. For example, when appearing before the Committee, Abby Lippman from the CWHN, insisted she acting not only as the spoke-person of her organisation but also as an individual expert:

I am here in an 'official' and a personal capacity. Officially, representing CWHN; personally to speak for myself, and I will let you know which hat I am wearing as I proceed. (...) I was asked to represent the organization perhaps less because I am co-chair of the Board, than because I am familiar with many of the issues the draft bill addresses. (Lippman, 2001, p.1)

Some of the individual witnesses, as one respondent stated, felt they could express their views more freely as individual experts rather than representatives of certain constituencies. These individuals acquired substantial experience as representatives of constituencies because they were often among those who worked within NAC's committee structure during C-47 and the Royal Commission.

The absence of groups like NAC, the Feminist Alliance on NRGs and the National Association of Women and the Law, left women, as a collective group, without representation in the later stages of the ART policy debate. Women who once claimed to fulfill a representative function currently act as individual experts capable of educating policy makers on a complex issue. No longer accountable to a representative organisation, these individual women gained access to policy-makers not as feminist

advocates but as experts in their fields. In short, NAC's attempts to be more inclusive of diversity and the internal fragmentation that ensued, made it possible for individual experts to dominate policy deliberations on ART. This, in turn, had an important impact on the type of issues that would inform the Committee's report.

Despite its voiced concern for the health of women, the Standing Committee on Health Report (2001) grounded its analysis on a proposed hierarchy of interests: putting first and foremost the interests of children born of ART, second parents' concerns, and thirdly, the interests of the scientific and economic community. The central recommendation of the report in fact concerned the right of children conceived through IVF or artificial insemination to know the identity of donors. Women's collective interests and identity, a concern raised at the onset by NAC, disappeared during this stage of the policy deliberation on ART.

Conclusion

This article was primarily concerned with the unintended and paradoxical consequences of participatory policy analysis. Participatory policy analysis was said to favour practices which circumvent the logic of double delegation inherent in conventional democratic institutions. Experts and professional representatives, proponents of participatory policy analysis argue, dominate conventional institutions, thereby excluding broad segments of the citizenry from policy deliberations. The dominance of expertise in policy making has been a point of resistance for the women's movement in Canada. However, women's organizations, like NAC, have also struggled to reconcile their commitment to representation and participatory politics with the need to influence government policy via expertise. An empirical analysis of NAC's role in the development of a Canadian policy for ART provided an ideal case for examining the tensions and challenges faced by representative groups when reconciling its intra-organizational goals of representation with its inter-group strategies to influence policy.

We argued that participatory ideas, when introduced in a world dominated by conventional institutions, engender tensions, conflicts and eventually the fragmentation of representative organisations. On the one hand, members who in the past acted as professional representatives or as the organisation's experts will view delegation as a necessity to preserve women's strategic position in policy-making processes. On the other hand, members who most faithfully adhere to the principles of participatory policy analysis will try to constrain their representatives and experts with extensive consultations and consensus-building practices. This tension might culminate into professional representatives and experts leaving the representative organisation to act in policy-making processes in their individual capacity. Unintentionally, the administrative state encourages this desertion by its continual need for expert advice.

The internal conflicts created by participatory ideas within NAC were evident during the development of a Canadian policy for ART. First, the representative organisation suffered serious criticisms after adopting, without consultation, a strong stance against ART during the royal commission process. Second, drawing lessons from these criticisms, NAC attempted to reduce the exclusionary effect of delegation by emphasising broader participation and consensus building during the development of a policy response to the Royal Commission's report. This new approach, however, caused much frustration among women who were concerned with the declining influence of

NAC in Ottawa. Third, the frustration of professional representatives and experts within NAC culminated with their departure to continue their advocacy in Ottawa, but often on an individual basis or on behalf of service-oriented organisations. As a consequence, individual women experts, no longer accountable to representative women organisations, increasingly dominate ART policy-making within the federal government.

Of course, participatory ideas do not bear all the responsibility for this paradoxical situation; women who left representative organisations simply responded to a demand for expertise by the administrative state. This latter point is important as it illustrates the difficulty of reconciling participatory practices with institutional structures of government that continue to be governed by technocratic principles of expertise, efficiency and control. The logic of delegation is embedded in these structures, encouraging the transfer of authority from lay persons to experts. This, along with the crisis of representation facing organizations like women's groups, will continue to pose a fundamental challenge to the spirit and practice of participatory policy analysis.

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End notes

ⁱ Delegation, as a concept, is used extensively in the French speaking literature but not as frequently in the English speaking literature, which nevertheless acknowledge the idea. Delegation can either take the form of political representation or transfer of responsibility to public officials.

ⁱⁱ Confidential interview, March 2003.

ⁱⁱⁱ Confidential interview, April 2000.

^{iv} Confidential interview, March 2003.

^v Confidential interview, March 2003.

^{vi} Confidential interview, March 2003.