Abstract: Deciding how to regulate money during elections is a critical policy choice faced by every democracy. Over the last decade, both the United Kingdom and Canada have implemented substantial revisions to their electoral laws, including policy measures designed to regulate third party spending at the national and sub-state level. The stated goal of both sets of electoral policies has been to prevent interests (corporate, union or other) from overwhelming party-based advertising during the campaign, as is often seen in American electoral politics. Despite similar policy objectives, the countries’ approaches to regulation differ, leaving the potential for significant variation in third party spending outcomes. These differences between countries, with otherwise very similar policy goals and systems of government, provide a unique opportunity to build and test a comparative policy evaluation framework for third party campaign spending. By examining how these two countries differ on issues such as the length of the regulated spending period, the types of spending that falls under regulated spending limits, and how spending must be reported, this paper develops testable indicators to measure the governments’ stated policy goals such as achieving a balance in controlling absolute spending without stifling non-party actors from participating actively in election campaigns.

1. Regulating Third Party Spending in Canada and the United Kingdom

How a country regulates its elections is at its core an expression of its democratic values. While overarching values such as freedom of expression and equality of participation may be shared, or even codified in bills of rights or constitutions, interpretations of these values can often result in narrowly cast policies that regulate who can participate in the electoral process and in what ways. However, once a regulatory regime is designed and implemented, policymakers are faced with an equally important challenge: are regulations meeting the principles and objectives undergirding the regulations themselves? Despite the interpretive nature of some of these values, assessing the successes and failures of these policies is an empirical question.

A country’s election regime is made up of many components: the length of the election period, eligible participants, how much spending is allowed and by whom, the types of state subsidies available (if any), the types of spending and contributions that need to be disclosed and reported, and what penalties will be applied if regulations are violated, among other features. Understanding the overall performance of an election regime requires reflecting on the utility of these components and revising them when they fall short of their intended outputs. Among those regulated are third-party (often called non-party) actors – individuals or groups that are not political parties who can participate in an election campaign by advertising for or against issues of concern. In Canada and the United Kingdom, third parties have recently grown in number and in the amount they have financially contributed to the electoral landscape. Despite this growth, we have little sense of whether the regulatory frameworks that govern them meet their stated objectives and whether the administrative application of these rules enhances or detracts from participation. Thus, the purpose of this paper is two-fold: (1) it builds a framework for election policy evaluation that can be adapted to serve as a template for future policy evaluation, facilitating comparative research; and (2) it employs this policy evaluation framework in order to evaluate the strengths and weaknesses of third party regulations in Canada and the UK from 2000 until present day.

To meet these objectives, we begin by explaining the role of third parties in election campaigns. This is followed by a comparative analysis of policy creation and policy change in the UK and Canada, with a particular focus on the motivations for the regulation of third parties set out by legislators. The next section of the paper discusses the utility of a policy evaluation approach in assessing electoral regulation and sets out a new framework to evaluate third party regulations in Canada and the UK. In our evaluation of these policies, we find that, while both countries’ policy goals are largely met, the policy design leaves many opportunities for the improvement of administrative and regulatory requirements, particularly in light of the rise of new technologies and communication techniques that are now dominating election campaigns.

2. The Role of Third Parties in Election Campaigns

Third parties (or non-party campaigners) include persons or groups, other than a political candidate, registered political party, or constituency association, who participate in
elections. The size and organization of third parties can vary significantly, from a few citizens looking to raise awareness on a certain issue in their local riding, to a well-organized union undertaking a highly visible national campaign intended to influence voter choice. While third parties will come in different sizes and hold different opinions on policy issues, they are united in their desire to assert their preferred opinion during the campaign, thereby influencing voters’ choices. This is an important point to consider when thinking about the design of election regulations; third parties are themselves not looking to be elected, however, they still occupy the same electoral space as political parties and thus have, in some sense, an advantage insofar as they do not have to fear the loss of power, nor are they directly accountable to voters or to a party. This enables third parties to speak more freely and act with fewer political constraints than political parties or candidates. The rise of political action committees (super PACs) in the United States since the Supreme Court’s decision in *Citizens United v. Federal Election Commission* [2010] is illustrative of this effect.

The consequence of third parties’ presence in campaigns is that regulations are frequently expected to strike a delicate balance. Election policies that ban or severely limit the participation of third parties run the risk of suppressing the voices and views of those not represented in political parties, while third parties unencumbered by spending caps may effectively overawe the voices of political parties and candidates, as well as those third parties without the financial means to undertake comparable campaigns. In other words, because third parties are part of the larger electoral process, the objectives of third party regulations cannot be separated from the overall design of an election regime; we must consider them in light of the role of political parties, individual candidates and other political voices such as media.

3. The Goals of Third Party Regulation

The goals of third party regulations can be triangulated through an assessment of legislation around electoral participation, legislative debate and announcements made by public officials. Both Canada and the United Kingdom have reformed their election regulations in the last decade and a half, including overhauls to their policies regulating third party advertising (Crandall & Lawlor, 2014). The selection of these two cases for comparison is motivated by not only the similarities in their overall electoral policy framework and party systems, but also owing to the fact that both countries have turned to each other during times of policy reform and engaged in policy learning from the other’s policy successes and failures (Jeff Marrett (Elections Canada), 18 February 2016). Nonetheless, the overall volume of spending by third parties varies widely between the two countries, making this comparison a clear cut case of most-similar systems design with variation on the dependent variable. The numerous instances of policy reform in the past 15 years offer insights into each country’s objectives for their current election regulations. To establish these policy objectives, each country’s regulations will be briefly described followed by an explanation of the rationale behind the regulation’s design.

a. The United Kingdom

The Political Parties, Elections and Referendums Act 2000 (PPERA) is the key piece of legislation regulating elections in the UK. Coming into force in February 2001, the act dramatically transformed the way third parties are regulated. Whereas prior to the
PPERA no spending limits were placed on third parties undertaking nationally focused election campaigning, the act introduced a spending cap of £793,500 in England, £108,000 in Scotland, £60,000 in Wales, and £27,000 in Northern Ireland over the regulated campaign period for general elections (typically 365 days). By contrast, third party spending at the local level was modestly increased with the PPERA from £5 per constituency (essentially a ban) to £500. The act also introduced registration and reporting regulations for third parties, with any third party planning to spend more than £10,000 in the UK or £5,000 in one of the devolved parliamentary units required to register with and fully disclose expenditures to the UK Electoral Commission.1

Spending limits and reporting requirements for third parties underwent a second round of reforms with the passage of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act in January 2014. With these changes, the spending threshold for registering as a third party doubled to £20,000 in England and £10,000 in each of the devolved parliamentary units. By contrast, the amounts of money third parties are permitted to spend in national campaigns decreased by 60%. For England, the £793,500 limit introduced with the PPERA is now £319,800 for general advertising during the regulated campaign period (the equivalent of 2% of a political party’s maximum campaign expenditure limit), amounting to a spending cap of £9,750 per constituency. With the 2014 act, regulations for party-targeted advertising were also introduced.2 The spending limits for this type of advertising vary depending on whether a registered political party has authorised a third party to incur spending where it will be the target. If the targeted political party authorises spending, the third party may spend up to the limit authorised by the political party, without exceeding the national or constituency spending limits (£390,000 nationally, £319,800 in England). If the targeted party refuses to authorise a third party’s campaign, the spending limit is reduced significantly to £31,980 in England and less than £4,000 in the devolved parliamentary units (equivalent to 0.2% of the maximum campaign expenditure for registered political parties).

The regulations on third parties implemented with the PPERA and most recently with the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act reflect a particular set of policy motivations. A review of the research and reporting materials submitted on the 2014 act helps to establish what these motivations are and how policies have been designed and reformed over this decade and a half period to reflect them.

The starting premise for third party regulations is that third parties should not play a dominant, nor equal, role to political parties in elections. These regulations fit within the overarching election regime that can be understood as encompassing the principles of transparency, accountability, fairness, effectiveness and efficiency. While the spending

1 The Electoral Commission is an independent body created by the PPERA and mandated to administer the regulation of election spending and funding in the UK. Unlike Elections Canada, it does not administer elections (though it does administer referenda).
2 The Electoral Commission describes ‘targeted spending’ as regulated campaign activity that can reasonably be regarded as intended to influence voters to vote for one particular registered political party or any of its candidates.
limits placed on third parties relative to political parties is the most obvious way in which this underlying objective is achieved, how have spending and reporting controls been designed to reflect these noted principles?

The need for transparency is arguably the dominant motivation for current electoral regulations in the UK. It is intended to help stem the risk that a lack of transparency may act to undermine confidence in democratic institutions (Phillips, 2013). For election regulations, transparency is primarily concerned with the public documentation of spending and donations. Whereas prior to the PPERA, third parties that engaged in nationally focused election campaigning faced neither spending limits nor reporting obligations, third parties now must now operate with both. Notably, the 2014 act looked to further strengthen transparency by requiring third parties to publish and record more information about their spending, donations, accounts and board members, including a requirement to submit quarterly and weekly donation reports to the Electoral Commission during the regulated election campaign period ("Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill: Explanatory Notes," 2013). In a similar way, the reporting requirements for third parties are also designed to foster accountability. In particular, a failure to follow elections regulations will result in a penalty.

Effectiveness and efficiency are administrative principles that also form a part of the regulatory measures put in place since 2000. With the implementation of PPERA new reporting requirements of third parties were incorporated with monitoring to be conducted by the UK Electoral Commission. The intended outcome of these changes was to increase the number and consistency of statutory returns, allowing for better monitoring and enhanced compliance, reducing the submission of incomplete or late returns (The Electoral Commission, 2006, p. 6). In 2005 and 2010, further changes were requested by the UK Electoral Commission (and granted) to provide appropriate civil sanctions for violations of administrative requirements thereby enhancing the effectiveness of the regulatory framework and the efficiency of the implementing agency. Lest effectiveness and efficiency be equated exclusively with increases to administrative devices, in 2013, the Commission advocated for a reduction of administrative burdens on third parties that only spend moderately, requesting, “more proportionate [requirements] by requiring less information from those who register with us but then spend under the registration threshold” (The Electoral Commission, 2013, p. 60). While these represent only a small subset of regulations designed to enhance efficiency and effectiveness, both principles are evident in the documentation governing third party behaviour.

b. Canada
While spending limits and reporting requirements are different in Canada, like the UK, they seek to facilitate an election environment in which political parties are the dominant actors. Efforts to regulate third party spending in Canada began in the 1970s; however, the current election regime is overwhelmingly a product of the Canada Elections Act, 2000 (CEA, 2000), which came into force in 2000. Third party regulations in the CEA, 2000 were introduced to fill a policy void created by earlier court decisions that had found regulations restricting third party spending to be an unreasonable violation of freedom of expressions under the Canadian Charter of Rights and Freedoms (National
As a consequence, third parties that participated in federal elections between 1984 and 1997 faced no spending restrictions. The CEA, 2000 changed this by introducing regulations that place a maximum spending limit of $150,000 for a national third party campaign, of which no more than $3,000 can be spent in an electoral riding to promote or oppose a candidate. These limits are adjusted for inflation each year, and since 2014 are also adjusted if the regulated campaign period exceeds the typical 37 days (as of 2016: $208,200 nationally and $4,164 per constituency). This amounts to less than 1% of a political party’s campaign expenditure limit. A third party must register with Elections Canada if it intends to spend $500 or more and must file an election expense report if this threshold is met or exceeded.

The CEA, 2000 was the first major overhaul of federal election policy in Canada in several decades and received extensive study and debate by Parliament. Similar to the UK, the starting premise for third party regulations was that third parties should not play a dominant, nor equal, role to political parties in elections. However, because the reporting requirements for UK legislation is different from Canada’s, understanding the policy objectives of the CEA, 2000 requires closer scrutiny of statements made by the minister of the Canadian government responsible for the bill. The sponsoring minister of the CEA, 2000 bill was Liberal Leader of the Government in the House of Commons Don Boudria, who repeatedly noted both in the House of Commons and before the Standing Committee on Procedure and House Affairs that the CEA, 2000 was based on three essential principles: equity, transparency, and accessibility. How did these principles inform the design of third party regulations? Regarding equity, the sponsoring minister reasoned that placing limits on spending by political parties, but not third parties, failed to meet the test of equity. In Boudria’s words, “It doesn't take rocket science to understand that if there is going to be rules, they have to apply to all, not just to some” (House of Commons Standing Committee on Procedure and House Affairs, October 26, 1999). Disclosure of spending and donations stood at the heart of the government’s views on the principle of transparency. Without policies regulating third party advertising, donors would remain anonymous and the means by which third parties fund their campaigns could not be known. While the principle of accessibility is most frequently associated with measures intended to enhance and protect voters’ access, with the CEA, 2000 it also applied to the right of third parties to participate in elections. Boudria also commented on the particular reasoning for regulations and spending limits for third parties, explaining that regulations were based on three major principles: that third parties should be able to participate in elections; that third party spending should be restricted; and lastly, that these restrictions should be greater than those placed on political parties (House of Commons, Hansard, February 25, 2000). This interest in restricting the influence of third parties can be situated within the larger policy concerns that fuelled the CEA, 2000 bill: mainly that by 2000 corporate and union contributions to political parties amounted to

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3 Elections Canada is an independent, non-partisan federal agency mandated to: conduct federal general elections, by-elections and referendum; administer the political financing provisions of the Canada Elections Act; and monitor compliance with electoral legislation, amongst other duties.
51% of party fundraising in Canada (Cross 2004: 147). Corporate and union donations to parties and candidates were banned altogether in 2006, thus making third party advertising the only available means for such groups to formally participate in elections. Altogether, Canada’s election regulations place tight restrictions on the spending of non-party groups and individuals interested in participating in elections.

This review of Canada and the UK’s third party regulations reveals a number of similarities in their policy goals. First, both share a starting premise that third parties should not play a dominant, nor equal, role to political parties. Regulations in both countries also place a strong emphasis on transparency – that both spending and donations should be publicly recorded. These regulations also come along with the expectation of accountability – that those who violate these regulations will face sanctions for their actions. As these brief overviews already indicate, the specifics of how these principles are translated into specific policies differs between the two cases and consequently should result in different policy outputs. It is to the evaluation of these outputs that we will now turn.

4. A Policy Evaluation Approach to Third Party Spending Regulations

Why is a comparative policy evaluation of third party spending regulations a worthwhile undertaking? At its core, this type of analysis is interested in fostering effective evidence-based public policy. On-going policy evaluation, both internally by the regulatory bodies themselves and externally by neutral or third party actors, can serve as a preventative measure against external criticism, as well as a tool for policy refinement. However, this type of performance monitoring “seeks primarily to assess the outcomes of a program without an in-depth examination of the program’s effects on those outcomes” (Hatry, Wholey, & Newcomer, 2015, p. 673). When this is coupled with a more robust policy evaluation that permits outcomes to be tied back to policy decisions, these interim policy monitoring activities can serve as an evidence-based approach to providing policy feedback to support sustainable policy improvements.

While benefits to undertaking this type of comparative policy evaluation are potentially significant, analysing the UK’s and Canada’s incorporation of third party regulation into the broader election-financing regime provides a number of challenges. To begin, we need to establish whether the two countries are suitable for comparative analysis. Are policy goals comparable, and if so, what indicators should be used to evaluate both cases? While the Canadian and UK third party regulations have been noted to share more than passing similarities (see Crandall & Lawlor, 2014), certain divergences in these countries’ policy frameworks suggests that goals and indicators should balance applicability to both policy contexts with the necessary generalizability to make the study more broadly useful. Second, if comparative analysis is appropriate, what is the best approach to evaluate policy goals when outcomes might be appropriate in one situation, but not in another? Again, even where there may be general similarities in the timing and motivations of each country’s policy changes, there remain financial and administrative differences in each country’s regulatory regime that may lead to dissimilar, but perfectly acceptable outcomes.
And, finally, how can we measure subjective terms such as policy efficiency, transparency and accountability – each of which will have distinct meanings to different stakeholders?

An evidence-based policy evaluation cannot speak to the normative value of the policy itself, merely to whether the objectives of the policy are being achieved. As Triantafillou points out, “Most political goals and visions are for a number of reasons often quite vague. Think of such goals as fairness, equality, social cohesion, trust, and being empowered. To translate such goals into objective and quantifiable measures may not be impossible, but in the process of doing so they are likely to take a much narrower and perhaps even different meaning than intended” (Triantafillou, 2015, p. 175). In this sense, scholars outside of the policy process may be limited to addressing the abovementioned challenges in terms of data availability, actor motivations, and in establishing causal pathways to policy change.

To help address these challenges, the policy evaluation literature points to the necessity of triangulation from multiple perspectives and data sources to avoid bias or incomplete research (Rogers & Goodrick, 2015). It becomes obvious when looking solely at policy documentation and actor outcomes, without evaluating actor motivations, that we have some variability in data sources including the extant research in the field, administrative and regulatory documentation, published results or financial and administrative metrics, and publically stated motives in policy documentation, media reports or public speeches.

Yet, these sources provide limited insight into how the policies are performing. We also need to consider how outside actors or non-government stakeholders (e.g. those impacted by the regulations) view policy goals, particularly where their goals and the stated policy objectives conflict. By studying these types of schisms and examining cases that fracture the rules or are sanctioned for exceeding the stated regulations, we can achieve some insight into limitations or shortcomings of the policy. In the case of third party policy, the handling of parties that exceed spending limits or ignore reporting requirements immediately test the management of policy goals such as transparency, accountability and efficiency. These types of unintended consequences of policy not only shed light on policy weaknesses and areas for improvement, but they signal how policies may suffer form problems of perceived legitimacy by stakeholders. Second, we can also compare internal consistency of policies by examining contradictions within the policy framework. Often broadly defined goals such as transparency and efficiency will conflict with one another if they are not stated either hierarchically (i.e. which takes precedence?) or if they lack the appropriate specification about scope and limits. Regulations around third party spending may provoke public concerns for the lack of clarity around which goals are considered paramount, thus putting public confidence at risk. The result may be a rupture in public confidence in electoral monitoring.

5. Methods

To capture the type of monitoring and evaluation techniques mentioned above, we use a causal process tracing (CPT) approach to systematically compare and assess third party spending policies instituted by the Canadian and UK governments from 2005 to present.
day. The CPT approach has emerged as a useful tool in evaluating comparative small-N case studies, particularly because of its ability to link policy actor motivations and policy goals to outcomes in the short and medium terms (Collier, Brady, & Seawright, 2010; George & Bennett, 2005). CPT is a flexible tool, and consequently is well suited to evaluating complex political outcomes such as policies that are derived from a number of actor networks and outside stakeholders who both operate under the constraints of existing legislation (Kay & Baker, 2015). CPT also acknowledges that not all mechanisms that undergird policy changes are necessarily a product of an inevitable path dependency, but can rely on a combination of micro (individual), meso (policy communities), and macro (institutional systems) actor motivations (Kay & Baker, 2015, p. 8).

Third party spending in Canada and the UK is just such a case. Policies to regulate the electoral activities of third parties in the modern era begin with the founding legislative acts of the modern campaign finance policy frameworks in each country (the 1974 Elections Act in Canada and the 1983 Representation of the People Act in the UK). Varied actors and communities including special interests, the courts, legislatures, labour and the business sector have all played a role in shaping and changing these policies. Consequently, in the period of study under investigation here (2005-2015), there are a number of data sources that play a role in policy measurement – all of which have been a product of activities of these groups’ past legislative and lobbying endeavours. These are listed in Table 1 and form the core of our data.

The practical methodological application of CPT takes the form of an evaluation matrix that lists overarching policy goals (sourced from the documentation listed in Table 1), alongside indicators and measurements, developed by the authors in consultation with the policy documentation and, where possible, through interviews with policy stakeholders. Evaluation matrices are tools for objectively and systematically enumerating and evaluating a cross-section of goals against a number of criteria. It outlines the instruments used to measure goals and thereby implies appropriate data sources to use as a part of the evaluation.

Policies are assessed according to four criteria:

- **Effectiveness** - defined here as the ability of the policy to regulate spending in a manner consistent with its outlined goals;
- **Efficiency** - defined here as the measurement of administrative spending conducted by each country’s electoral commission in pursuit of regulation monitoring per election;
- **Accountability** - defined here as the responsiveness of an electoral commission to violations of the regulatory framework;
- **Transparency** – defined here as the clear identification of financial and non-financial contributions to the campaign by third party actors.

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4 Note that further research into this field will incorporate a fifth policy goal: equality – defined here as providing all political actors the opportunity to express their message in a way that fulfils their goals (note: this does not capture substantive equality which would expect comparable outcomes in terms of effectiveness of third parties’ messaging).
The evaluation of these policy goals is undertaken by answering the following questions: First, do the policy goals appear to be fulfilled based on the intended goals, using the specified measurements? Second, what are the comparative strengths and weaknesses of each country’s campaign finance regulation goals? Third, though to a more limited extent, what is the financial impact of third parties on the election landscape compared to that of political parties? These questions not only address the overarching questions about the success or failures of these policies, but also situate the findings in the broader context of campaign spending regulation where third parties are one set of actors competing for a finite set of resources (attention and voters’ support).

Table 1. Document Chain (Data Sources)

<table>
<thead>
<tr>
<th>Legislative Documentation</th>
<th>Canada</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999 35th Report from the House of Commons Committee on Procedure and Evidence</td>
<td>2000 UK Political Parties, Elections and Referendums Act</td>
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<tr>
<td>• House of Commons debate on Bill C-2 (36th Parl., Session 1, Hansard)</td>
<td>2008 Lord Chancellor and Secretary of State for Justice: Party finance and expenditure in the United Kingdom</td>
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<tr>
<td>• House of Commons Committee on Procedure and Evidence study of Bill C-2 (36th Parl., Session 1, committee transcripts)</td>
<td>2010 UKPGE Campaign Expenditure Report</td>
<td></td>
</tr>
<tr>
<td>2006 Bill C-2, The Federal Accountability Act</td>
<td>2011 Committee on Standards in Public Life: Political Party Finance: Ending the Big Donor Culture</td>
<td></td>
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</tbody>
</table>

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<tr>
<th>Financial Documentation</th>
<th>Canada</th>
<th>UK</th>
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<tr>
<th>Administrative Documentation</th>
<th>Canada</th>
<th>UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Election advertising handbook for Third Parties, Financial Agents and Auditors (available online)</td>
<td>Non-party campaign spending and donations at elections Guidelines (available online)</td>
<td>UK Electoral</td>
</tr>
</tbody>
</table>
6. Policy Outcomes

The policy goals of third party regulations outlined in Section 3 established that Canada and the UK hold a number of comparable objectives, especially those related to transparency, accountability, efficiency and effectiveness. Using the policy evaluation matrix set out in Table 2, this section provides a preliminary analysis of whether the monitoring mechanisms employed in Canada and the UK are contributing to the achievement of these objectives by evaluating a subset of policy goals. Each indicator will be evaluated according to the following rubric: Meets expectations (no observed weaknesses); Meets expectations (some observed weaknesses); Does not meet expectations. The indicators outlined in Table 2 are, again, drawn from the concerns outlined in the legislative or administrative documentation listed in the document chain (Table 1).

a. Efficiency

1. Is two-way communication between third parties and regulators possible?
In both Canada and the UK, third parties are able to contact their regulators (Elections Canada and the Electoral Commission) concerning questions they may have regarding regulations. Contact is possible via telephone or email. Further data collection on third parties via surveys and interviews will establish whether regulators respond within a reasonable time frame.
- Canada and UK: Meets expectations (no observed weaknesses)

2. Are reporting mechanisms user friendly?
Third party spending regulations are more straightforward in Canada than the UK and this unsurprisingly is reflected in their reporting mechanisms. While Canada has two types of third party spending limits (local and national), since the 2014 act the UK has four: local (does not require reporting); national, issue-focused (with spending equally distributed between ridings); national, party-focused with endorsement; and national, party-focused without endorsement. UK third parties are also required to submit reports throughout the regulated election period and are required to report more spending details than their Canadian counterparts. Despite the greater complexity of reporting requirements in the UK, the reporting templates offered by the Electoral Commission on its website are designed to simplify these reporting standards. These include fillable Excel files that will alert the user if information is missing or if overspending has occurred. Third parties are able to both register and submit returns online at the Electoral Commission’s website. Elections Canada also offers a template for third party spending that is available on its website. While the report template is not interactive, the reporting requirements are outlined, although some categories lack clarity about the depth of
information required. Third parties are able to email or mail their reports to Elections Canada.

- Canada and UK: Meets expectations (no observed weaknesses)

3. Are claims processed in a timely fashion?
In both Canada and the UK, claims appear to be processed in a timely fashion (i.e. within weeks of submission), with no observed complaints about efficiency. All reports are placed online as they are submitted and reviewed by the respective electoral commission.

- Canada and UK: Meets expectations (no observed weaknesses)

b. Effectiveness

1. Are violations pursued / rules enforced? 2. Are there modes of monitoring participation?
The effectiveness of election regulations depends largely on two observable outputs: (1) that the regulations put in place achieve their key policy objectives; and (2) when violations of these regulations take place (and thus obstruct these policy objectives), they are pursued in a way that enforces the rules in order to maintain the integrity of the election policy regime. As this current policy evaluation is focused on monitoring mechanisms, effectiveness will be evaluated based on the second criterion.

In Canada, Elections Canada has the authority to investigate alleged violations of third party regulations, but this is not a power that is proactively used. Investigations are initiated only when a complaint is brought to Elections Canada and third parties are not monitored during the regulated election period. Investigations are conducted by the Commissioner of Canada Elections. From 2004 to present, only six offences have been reported (no offences were reported for the 2008 and 2011 elections), all of which were minor and resulted at most in fines. The most common offence was failure to identify the sponsoring third party on advertising materials. An interview undertaken with an official at Elections Canada in February 2016 indicates that officials believe that regulations are generally closely followed and that there is little concern of major regulation violations (Jeff Marrett (Elections Canada), 18 February 2016). There is no indication that Elections Canada lacks the tools needed to enforce election rules for third parties.
<table>
<thead>
<tr>
<th>Policy Goal</th>
<th>Indicator(s)</th>
<th>Measurement (Source)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency</td>
<td>Is two-way communication between third parties and regulators possible? Are reporting mechanisms user friendly? Are claims processed in a timely fashion?</td>
<td>• Third parties’ understandings of the process (interviews, public statements)</td>
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<tr>
<td></td>
<td></td>
<td>• Available regulatory guidelines (publically available third party handbooks or guideline documents)</td>
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<td></td>
<td></td>
<td>• Electoral commissions’ reactions to reported inefficiencies (reports from electoral commissions)</td>
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<tr>
<td></td>
<td></td>
<td>• Trouble-shooting or FAQ resources (electoral commission websites/ phone-in resources)</td>
</tr>
<tr>
<td>Effectiveness</td>
<td>Are violations pursued / rules enforced? Are there modes of monitoring participation during the campaign?</td>
<td>• Electoral commissions’ disciplinary actions (reports from electoral commissions)</td>
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<td></td>
<td></td>
<td>• Availability of publically available interim reports (reports from electoral commissions)</td>
</tr>
<tr>
<td>Accountability</td>
<td>Is the monitoring agent required to publicly report on its performance?</td>
<td>• Legislative requirements by overseeing body (legislation)</td>
</tr>
<tr>
<td>Transparency</td>
<td>Are rules/procedures clearly laid out? Is the reporting process clearly documented? Are reports available to the public?</td>
<td>• Availability of publically available financial reports (reports from electoral commissions)</td>
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<tr>
<td></td>
<td></td>
<td>• Regulatory guidelines for third parties (published third party handbooks or guideline documents)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Availability of publically available financial reports (reports from electoral commissions)</td>
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</tbody>
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In the UK, enforcement issues are observable early on in the Electoral Commission’s mandate (beginning in 2000). Under the PPERA, the Commission is authorised to investigate and apply penalties to third parties that violate election regulations. Because third parties are required to register with the Commission if they anticipate spending more than the registration threshold (rather than when they actually spend to this limit), the most common violation appears to be late registration. In a 2013 report, the Electoral commission notes that such violations had not been enforced in the past largely because there was no civil sanction available for late registration and little value in taking action when third parties ultimately register and therefore report their spending (The Electoral Commission, 2013, p. 59). This issue was addressed in the 2014 act, which should allow the Electoral Commission to enforce this rule moving forward. Additionally, with the 2014 act, third parties must now provide statements of account during the regulated election period, which allows the Electoral Commission to monitor third party spending during the campaign itself, rather than three or six months after election day. While placing a higher administrative burden on third parties, this appears to facilitate a more proactive monitoring of possible regulation violations.

- Canada: Meets expectations (no observed weaknesses)
- UK: Meets expectations (some observed weaknesses, though with recent policy responses)

c. Accountability

1. Is the monitoring agent required to publicly report on its performance?

In both Canada and the UK, monitoring agents are required to report on their performance to some degree. In Canada, Sections 533 to 535 of the Canada Elections Act set out that Elections Canada must submit reports following every general election or by-election. While the wording of these sections does not explicitly require Elections Canada to report on its performance, there are provisions that offer this opportunity and in practice it is something that Elections Canada has done on a fairly regular basis. For example, Section 534 (a) asks Elections Canada to report on “any matter or event that has arisen or occurred in connection with the administration of the Chief Electoral Officer’s office since the last report and that he or she considers should be brought to the attention of the House of Commons”; while Section 535 sets out that Elections Canada may make recommendations to Parliament regarding any amendments viewed as desirable to administer the act. That the governing legislation appears to leave performance review to the discretion of the monitoring agency is arguably a weakness in accountability design, but has not been observed to be an issue in practice. All these reports are submitted to the Speaker of the House of Commons and are therefore public. These reports are available on Elections Canada’s website going back to 1994.

Like Elections Canada, the Electoral Commission is required to prepare and publish reports after elections and by-elections on the administration of the election (Section 5, PPERA). Here again, the Electoral Commission is provided flexibility on how such reports should be managed and can report “in such manner as the Commission may determine” (Section 5(1)). The Electoral Commission appears to have opted to include a
review of its performance as part of this reporting. For example, its 2015 report, “Report on the administration of the 7 May 2015 elections, including the UK Parliamentary general election” includes a section “Were the May 2015 polls well-run?”, that provides an analysis of survey data concerning voters’ experience and their confidence in the elections process. The same report also analyses the changes to third party campaigning rules introduced by the 2014 act, the common challenges that came about in its administration, and an explanation of the Electoral Commission’s ongoing concerns regarding regulation and enforcement. Its campaign spending reports also have a dedicated section that outlines issues for the regulatory regime, which highlight possible weaknesses in policy. Compared to Elections Canada, the Electoral Commission’s reporting on its own performance appears more systematic and comprehensive. All reports published by the Electoral Commission are available on its website.

- Canada: Meets expectations (some observed weaknesses)
- UK: Meets expectations (no observed weaknesses)

**d. Transparency**

1. *Are rules/procedures clearly laid out?*

Elections Canada clearly lays out rules and procedures in a detailed Handbook for Third Parties, Financial Agents and Auditors, available on its website. Furthermore, Elections Canada provides a detailed definition of what constitutes advertising: “An election advertising expense is an expense incurred in relation to: the production of an election advertising message, and the acquisition of the means of transmission to the public of an election advertising message” (Elections Canada, 2015, p. 20). However, there is ample grey space around web advertising, although social media, email advertisement or website content are clearly stated to not constitute election advertising (Elections Canada, 2015, p. 19). Similarly, the UK Electoral Commission also provides a series of guidance documents for non-party campaigners and also makes available an automatic email notification to supply third parties with up-to-date guidance. The Commission’s “Overview of regulated non-party campaigning” clearly outlines what campaign activity is subject to third party regulations and sets out a two step purpose and public test to determine whether campaign activity requires reporting.

- Canada: Meets expectations (some observed weaknesses)
- UK: Meets expectations (no observed weaknesses)

2. *Is the reporting process clearly documented?*

The guidelines listed above for both countries provide clear and detailed instructions for reporting. However, while the reports provided by the UK Electoral Commission indicate that third parties either correctly reported their spending or incorrect expenditures were reviewed prior to being posted online, a number of third party spending reports posted by Elections Canada demonstrate a combination of underreporting, reporting of ineligible expenses or reporting of expenses below the required threshold to report. This suggests that third parties may find the documentation around the reporting process unclear or may fear reprisal from the agency and therefore report items that are beyond the scope of the regulations. This was further substantiated in interviews with third parties in Canada.
- Canada: Meets expectations (some observed weaknesses)
- UK: Meets expectations (no observed weaknesses)

3. Are reports available to the public?
In both Canada and the UK, third party spending reports have been available to the public online since the early 2000s. In the case of Elections Canada, reports are available to download in PDF format, whereas the UK Electoral Commission makes spending reports available in database format with user-friendly query and filtering tools. Arguably, the access provided by the UK Electoral Commission facilitates easier comparison with other party and candidate expenditures, which is an advantage to citizens or scholars who seek to compare the total volume of spending during an election campaign.

A clear indication of violations or infractions is another type of reporting that should be publically available to ensure transparency. In Canada, the Commissioner of Canada Elections is responsible for the pursuit of civil violations to third party regulations. The Commissioner’s office is a separate body from Elections Canada and therefore external coordination is required, which could result in inefficiencies in the reporting of infractions. The Commissioner’s office lists infractions dating back to the 1992 Charlottetown referendum for parties, individual candidates and third parties on its website and is easily accessible to the public. The offence and sentence are also reported along with a brief summary of the circumstances. All criminal violations are handled by the RCMP.

Since the 2010 election, civil violations in the UK have been handled by the Electoral Commission. In 2013, the Commission declared that it possessed, “robust investigatory powers to deal with suspected breaches by parties and campaigners, and have been able to impose civil sanctions for many breaches” (The Electoral Commission, 2013, p. 8). Violations or instances of electoral fraud are posted directly on the Commission’s website with a report produced after each election. Criminal violations are pursued by the police.

- Canada: Meets expectations (some observed weaknesses)
- UK: Meets expectations (no observed weaknesses)

Table 3. Evaluation Summary (UK)

<table>
<thead>
<tr>
<th>Goal</th>
<th>Meets expectation (no observed weaknesses)</th>
<th>Meets expectations (some observed weaknesses)</th>
<th>Does not meet expectations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monitoring</td>
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<tr>
<td>Efficiency</td>
<td>Two-way communication</td>
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<td>User-friendly reporting</td>
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<tr>
<td>Effectiveness</td>
<td></td>
<td>Enforcement and monitoring</td>
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<tr>
<td>Accountability</td>
<td>Accountability of monitoring agency</td>
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<td></td>
</tr>
<tr>
<td>Transparency</td>
<td>Clarity of rules for third parties; Clarity of reporting processes;</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
7. Discussion / Conclusion

According to this evaluation of the regulations surrounding third party actors in Canada and the UK, both regulatory frameworks appear to be operating well given the goals set out for them by legislative and administrative documentation. The motivation for comparing these two countries’ electoral regimes around third parties was based in their similar systems design and the fact that their respective electoral commissions had already engaged in policy learning from one another during the policy design phase. While both countries demonstrate a few areas where practices and procedures could be sharpened, neither country’s electoral commission demonstrates any major shortcomings (see summary Tables 3 and 4) in their regulations or enforcement. And even though third parties are viewed as secondary actors to parties and candidates during election campaigns, we see no evidence that third parties are under-regulated or ignored by election monitoring bodies.

This study demonstrates two notable outcomes: the first is the relative strength of each country’s third party regulation regime as evidenced by a policy evaluation approach. Often, policies are taken as static and success or effectiveness of the policy is automatically assumed. However, a policy evaluation approach can test these assumptions and highlight areas wherein a policy framework could be expanded on or refined to better accomplish its stated goals. Second, and linked to the first, is the utility of a comparative policy evaluation approach when demonstrating a case for policy learning. The similarities between Canada and the UK’s respective approaches to regulating third parties indicate that they share common goals and norms around the appropriate place for third parties in the broader campaign context.
Third parties in the United Kingdom spent over £2.9 million in the 2010 UK General Election. In Canada, third parties spent over $4 million in the 2011 Canadian Federal Election. While precise numbers for the 2015 elections are not yet available, it is assumed, given the volume of activity during the campaign, that third parties are increasing their financial participation over time. As the number of third parties increases (and, presumably, the total amount spent), maintaining the goals of transparency, accountability, efficiency and effectiveness outlined in the legislative debate around third parties will require enhanced vigilance on the part of each country’s electoral commission. As such, continuously monitoring the public policies set out to uphold these norms should be a priority of electoral agencies and citizens alike.
References
Jeff Marrett (Elections Canada). (18 February 2016). Personal Interview. Ottawa, ON.