

REVIEW

Party Leaders' Debate during the 2006 Federal Election Campaign

Aired on Télévision de Radio-Canada on December 14, 2005

Aired on CBC Television on December 15, 2005

A Broadcasting Consortium has agreed to organize and televise on its member networks a series of debates between various party leaders running in the current federal election campaign. The Consortium comprises Canada's main English - and French - language broadcasters: CBC/Radio-Canada, TVA, CTV and Global. This approach encourages political parties to take part in the debate, while giving the event wider exposure.

To date, a total of 13 political parties have officially registered with the Office of the Chief Electoral Officer (Elections Canada). However, only four were asked to appear in the Consortium debates : the Liberal Party of Canada, the Conservative Party of Canada, the New Democratic Party, and the Bloc Québécois.

The nine other parties were not invited, including the Green Party of Canada, which garnered 582,247 votes in the June 2004 election. Green Party supporters, along with citizens concerned about the democratic process, protested this exclusion. They argued that the Green Party obtained 4.3% of the vote in the last election, making it the only other party in addition to the four with MPs in the House to qualify for public funding as a result of crossing the 2% vote threshold. On January 23, 2006, it will be fielding candidates in all 308 ridings across Canada, unlike the Bloc Québécois, which is only running candidates in Quebec. Polls also point to the party's growing popularity with the electorate. Finally, and most important, some voters feel that the Consortium's approach unduly favours the established parties, depriving up-and-coming parties of a forum to express new ideas. Consequently, they consider it undemocratic for the Green Party leader to be excluded from the televised debates.

The Broadcasting Consortium explained its decision as follows:

The decision about who is invited to participate in the leaders' debates is made by Consortium members on editorial grounds. In this election, the Consortium has only invited the leaders of the four most prominent parties with representation in the House of Commons.

In its reply to complainants, CBC/Radio-Canada stated that the leaders' debates were not its own productions but those of the Broadcasting Consortium, which had made an editorial decision. Moreover, the Corporation reminded complainants that Canadian Radio-television and Telecommunications Commission (CRTC) guidelines require broadcasters to provide equitable—but not equal—treatment of political parties. It also stressed that the Green Party received extensive coverage on its networks.

The complainants insisted that the case be reviewed by the Ombudsman.

Ombudsman's Review

The Ombudsman's mandate is to determine:

... whether the journalistic process or the broadcast involved in the complaint did, in fact, violate the Corporation's journalistic policies and standards.

(available at www.cbc.radio-canada.ca/accountability/ombudsman.shtml)

1. Legislation and Regulations

The *Canada Elections Act* in no way obliges a leader of a registered political party to participate in a broadcaster-organized debate: his/her participation is entirely voluntary. In other words, organizing a televised debate involves negotiations between the broadcaster and the various parties contesting the election. The parties play a decisive role in fact: if there is no agreement, there is simply no debate.

Nor does the *Canada Elections Act* oblige a broadcaster to organize a debate among leaders of recognized political parties during an election campaign. Furthermore, if a broadcaster does decide to organize such a debate, the *Act* does not require it to invite the leader of each official party.

At one time, CRTC regulations did oblige a broadcaster to “feature all rival parties or candidates” in debate programs. Following a legal challenge, the Court ruled that the debates were not of a partisan political nature. Consequently, the CRTC eventually removed this obligation (Public Notice 1995-44), citing freedom of the press and, by extension, freedom of the broadcaster.

Incidentally, it follows from this that if a party leader were to refuse to appear on a debate program organized by a media organization, the debate could not be cancelled on legal or regulatory grounds.

In the CRTC’s *Guidelines for Broadcast Licensees*, the principle of fairness is a recurring theme:

From this right on the part of the public to have adequate knowledge to fulfill its obligations as an informed electorate, flows the obligation on the part of the broadcaster to provide equitable—fair and just—treatment of issues, candidates and parties. It should be noted that “equitable” does not necessarily mean “equal,” but, generally, all candidates and parties are entitled to some coverage that will give them the opportunity to expose their ideas to the public.

With regard to organizing debates, the CRTC states that broadcasters:

will have satisfied the balance requirement of the *Act* if reasonable steps are taken to ensure that their audiences are informed on the main issues and of the positions of all candidates and registered parties on those issues through their public affairs programs generally.

2. CBC/Radio-Canada’s Journalistic Policy

The public broadcaster has a journalistic policy called *Journalistic Standards and Practices* (JSP, available on the Ombudsman’s website).

This policy recalls that “freedom of the press is a cornerstone of our society” (JSP, Preamble). This freedom is more than just the freedom to print. It is also the freedom of

a media organization to cover the topics it chooses with the people it chooses, commonly known as editorial freedom. As a media outlet, CBC/Radio-Canada is free to air or not to air an election debate, and free to decide who will participate in it. On this basis alone, the Ombudsman could reject the complaint.

The JSP does not specifically cover the issue of leaders' debates during election campaigns. But when news management decides to televise a debate, the standards guiding the production and broadcast of news content apply. For example, the *Journalistic Standards and Practices* state that:

Trust in the media is of crucial importance. An increasingly sophisticated public makes heavy demands on the media while at the same time expecting the highest standards of performance... The broadcast media in particular have an obligation to be fair, accurate, thorough, comprehensive and balanced in their presentation of information. (JSP, Preamble, 2)

The full exchange of opinion is one of the principal safeguards of free institutions. (JSP, III, 1)

A journalistic organization, to achieve balance and fairness, should ensure that the widest possible range of views is expressed. (JSP, III, 4.2)

Faced with the possibility of a general election in spring 2005, Consortium broadcasters held a first round of discussions on the joint organization of the leaders' debates. The question of the Green Party's involvement was raised during the discussions, and the Consortium decided to limit participation to the "four most prominent parties with representation in the House of Commons."

For the current set of debates, broadcasters have already reached an agreement with the political parties. CBC/Radio-Canada can hardly refuse to carry any of these debates: it is performing a public service simply by showing the democratic process in action.

A party leaders' debate during an election campaign isn't just a routine event: history has shown that these debates are among the most closely followed election activities, serving not only to enlighten voters but also to influence their decisions on polling day.

That is why it is important for Canada's public broadcaster, with its focus on serving citizens and promoting a diversity of viewpoints, to advocate the inclusion of as many registered parties as possible in leaders' debates. Where applicable, CBC/Radio-Canada should publicize its selection criteria and explain how it applied them.

But when the number of registered parties starts to grow, so too do the logistical challenges. A televised debate between the leaders of two political parties is a simple affair. But how many leaders can take part in a debate before it becomes a meaningless exercise? If it is in the public interest to organize a debate among the leaders of all political parties, will a debate between 13 party leaders necessarily interest the public? One of the goals of these TV debates is to reach as many voters as possible. Where do you draw the line? You obviously have to consider the relative weight of each competing party, while bearing in mind that the major political parties may refuse to partake in televised debates that give fringe parties equal visibility.

The format of the first debate in this campaign was established in order to deal with the perceived drawbacks of previous debates. So it is evident that different formats can be found to deal with different situations.

Many criteria can be put forward by a broadcaster in trying to reach a consensus. Representation in the House of Commons is a criterion that has the merit of respecting the democratic will of the majority, and is thus indisputable. Perhaps an initial debate should be held among parties having elected MPs, with a separate one organized for those that do not.

Percentage of the popular vote in the previous election is another criterion that reflects the will of the people and is also indisputable. But it is based on a situation that may have changed over time and, above all, raises the question of what constitutes a “meaningful” percentage: 5%? 1%?

A party’s eligibility for public funding might be considered as well, since Parliament legislated that a party had to obtain at least 2% of the popular vote to qualify (s. 435 of the *Canada Elections Act*).

The number of candidates in a current general election is a factual criterion. A party that presents candidates in all 308 ridings demonstrates a larger base than a party that presents candidates in only a handful of ridings.

Poll results are another possible criterion, one that reflects recent public opinion; but a poll’s methodology can always be challenged and a party’s standing may fluctuate widely during an election campaign.

So there is no easy solution. The Consortium’s decision is based on the *Elections Act*, which provides for a first-past-the-post voting system rather than a proportional one. As long as this situation persists, smaller parties will have a hard time electing their candidates to the House of Commons and, consequently, being invited to appear in the televised leaders’ debates. Should we wait for the electoral system to change?

While the debate structure does not appear to violate CBC/Radio-Canada’s *Journalistic Standards and Practices*, the evolving political environment might suggest that alternatives to the current structure be considered. The prospect of minority governments and the emergence of alternatives to the national parliamentary groups—such as the Green Party, and even regional parties like the Bloc Québécois (or the former Reform Party)—would seem to call for a re-examination of the ground rules for televised national debates.

While the Consortium has been invaluable in bringing debates to the widest possible audience during a general election, and CBC/Radio-Canada’s own programming has supplemented that with extensive and equitable coverage of political affairs, news and current affairs programmers may find it advisable to develop new strategies for dealing with election period debates that reflect the full spirit of CBC/Radio-Canada journalistic policy.

At the same time, it should be remembered that election campaign coverage is not limited to organizing party leaders’ debates; it encompasses numerous other aspects, such as presenting party platforms, introducing candidates, and reporting on campaign activities.

On the issue of fairness, the policy states that:

The information reports or reflects equitably the relevant facts and significant points of view; it deals fairly and ethically with persons, institutions, issues and events (JSP, III, 2).

With regard to balance, it further states that:

CBC programs dealing with matters of public interest on which differing views are held must supplement the exposition of one point of view with an equitable treatment of other relevant points of view. Equitable in this context means fair and reasonable, taking into consideration the weight of opinion behind a point of view, as well as its significance or potential significance (JSP, III, 5).

Insofar as certain parties are not represented in the leaders' debates, CBC/Radio-Canada must endeavour to make up for this in the rest of its election coverage, by gauging the relative weight of opinions, as well as their real and potential impact. Only then can election coverage be considered truly fair. Hence the importance of looking at the bigger picture.

When citizens deem that these standards have not been upheld, they may file a complaint with the Ombudsman.

Conclusion

As a media organization, CBC/Radio-Canada enjoys freedom of the press. The leaders of political parties are not obliged to participate in media-organized debates. Party leader debates during election campaigns are the result of negotiations between media organizations and political parties.

Failure to include the leader of a registered party in a televised debate does not per se violate the principle of fairness.

Consequently, the complaint is rejected.

However, the ombudsmen would urge CBC/Radio-Canada news programmers to examine the terms of participation of party leaders in televised debates in light of changing formats, as well as the evolving political and social environment.

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