

# ***Rob Ford and the End of Honour***

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### **ABSTRACT**

Toronto Mayor Rob Ford has achieved a level of notoriety unique amongst Canadian politicians for his admissions of drug and alcohol use, and subsequent attempts to deflect media attention and public scrutiny. Due to these indiscretions and admissions, Toronto City Council voted to remove the mayor's emergency, executive and budgetary powers, and transfer official responsibility to Deputy Mayor Norm Kelly. These actions though were due to the lack of legal remedies to remove Ford formally from office.

Conventional wisdom would suggest that Ford should not survive such revelations politically. Based upon police wiretap transcripts, even gang members believed that the threat of such exposure was sufficient to protect them from blowback. Yet Ford remained in office, for reasons unexplained by existing literature. We attempt to explain this lack of loss of legitimacy through the lens of Aristotle's notions of *ethos*, *logos* and *pathos*.

Ultimately, the Ford conundrum has exposed the legal void created when politicians fail to abide by the moral dictates of the law. We suggest that legal remedies were not included within existing legislation, as its drafters never contemplated the possibility of such defiance. It was believed that such behaviour would either result in irreparable loss of political capital/support or that politicians would act honourably and resign. Whether due to naiveté or ignorance, this demise of political honour now endangers the entire framework of public accountability. Accordingly, new and innovative measures are required to provide redress. We propose a process that combines traditional notions of moral responsibility, with the enactment of more formal legal remedies, to provide municipal governments with the power to remove individuals who threaten the integrity of our civic institutions, as a form of shared responsibility.

**Keywords:** Rob Ford, Conflict of Interest Case, Ethics, Aristotle, Honour, Innovation.

*To the residents of Toronto, I know I have let you down. And I can't do anything else but apologize and apologize and I'm so sorry...I love my job. I love my job. I love this city, love saving taxpayers' money and I love being your mayor...For the sake of the taxpayers of this great city – for the sake of the taxpayers – we must get back to work immediately...I was elected to do a job and that's exactly what I'm going to continue doing (Rob Ford, as quoted in the Globe and Mail on November 5, 2013).*

## **Introduction and Background**

Toronto Mayor Rob Ford has achieved a level of notoriety unique amongst Canadian politicians. Elected as mayor in October 2010 on a platform of “Respect for Taxpayers” and “Stopping the gravy train,” Rob Ford rode a wave of popular support against waste and inefficiency in municipal operations. Ford garnered 47.1% support from across the city (CBC News, 2010; Alcoba, 2010), but particularly in the suburbs, adopting the moniker of ‘Ford Nation’ (it should also be noted that the slate of candidates for Mayor was one of the least appealing in Toronto’s history). However, once elected and aided by his brother Doug Ford, who now represented Rob’s former ward, and building a coalition of right wing and centrist support on Council, Mayor Ford was initially able to deliver upon his campaign promises to freeze property taxes, find efficiencies, cancel the Transit City public transit plan, and, according to some, ‘fix the mess’ left by the previous Miller administration.

Over time however, the Mayor slowly began to bleed support on Council over several contentious issues. The first major issue involved redevelopment of the Toronto Port lands waterfront area. Under the auspices of a tri-government agency (Waterfront Toronto), slow progress was being made on remediating the former industrial lands and developing flood control for the Don River to allow new residential and commercial development. The Waterfront plan had been underway for 10 years, and had achieved broad community, government and business support. The Mayor and Councillor Ford blindsided Council in August of 2011 by introducing a completely new plan to speed things up by turning the lands over to a private developer for the construction of a mega-mall, mixed housing, and hotel/casino complex, complete with Ferris wheel and monorail (CBC News, 2011; Lorinc, 2011). Council revolted against this ‘back-room deal’ (the kind Rob Ford had railed against in the past), handing the Fords their first major defeat (Hopper, 2011; Peat, 2011), and slicing Rob Ford’s support dramatically (McDonald, 2012).

In January 2012, Rob Ford suffered another major defeat, with a group of centrist councillors banding together to reverse some \$19 million in planned budget cuts. The Mayor refused to compromise on the cuts, even though numerous citizens had made depositions in December against the proposed cuts, and overall spending would still have been reduced from the previous year (Alcoba, 2012; White and Church, 2012). Following this, the Chair of the Toronto Transit Commission (TTC), Karen Stintz, brought forward proposals in February to revive the Transit City plan, cancelling the Sheppard subway extension, and replacing the existing elevated Scarborough Rapid Transit (RT) line with an LRT line. Council also accepted this change over the Mayor’s opposition (Peat, 2012), after which Rob Ford continued to lose centrist Council support (although Council would later reverse its support of Stintz’s plan). Following these defeats in early 2012, the Mayor’s overall political agenda seemed stalled.

However, these defeats marked only the beginning of Ford’s challenges. These challenges revolved around Mayor Ford’s ‘volunteer’ high school football coaching activities. The first involved his frequent absences from City Hall and Council meetings in order to coach his team (Grant and Church, 2012; Alcoba 2012). Associated with this was the ‘use’ of his Mayor’s Office staff to assist in his coaching activities (Grant and Church, 2012), even though the Mayor insisted that they were doing this as volunteers. The most damaging allegations associated with his football activities involved a formal court case regarding his football

foundation. Ford became embroiled in conflict of interest litigation that nearly resulted in him being turfed out of office by the courts. Finally, there was the infamous ‘crack video’, followed by even more bizarre behaviour on Ford’s part, including repeated incidents of racist, homophobic and misogynous remarks.

In past decades, any politician so publicly shamed would have resigned as a mark of honour. Ford, however, has continued to cling to office. On September 10, 2014 he was diagnosed with cancer, and on September 23 he withdrew from the Toronto Mayoral election, with his brother Doug Ford taking his place on the ballot. However, Rob Ford registered his candidacy for his former Ward 2 City Council seat, and still maintains support among a significant portion of the electorate. We will analyze this situation by summarizing the conflict of interest events, the behaviour incidents, and Council’s reaction. We then provide a theoretical perspective on all of this, followed by a set of innovative recommendations that we hope will help to prevent such political tragedies in the future.

### **Conflict of Interest Case**

Mayor Rob Ford was faced with removal from office on November 26, 2012 as a result of a Superior Court ruling against him over a conflict of interest case involving the use of official letterhead to solicit donations for his football foundation (Alcoba and O’Toole, 2012; Rider, Dale and Doolittle, 2012). The complex series of events leading up to the Superior Court conflict of interest decision began in 2009, when Ford was a city councillor: Ford served on Toronto City Council from 2000 to 2010 as the representative for Etobicoke North (Ward 2). In November of 2009, a private citizen complained to the City of Toronto Integrity Commissioner, Janet Leiper, that Ford had sent a letter requesting a donation to the Rob Ford Football Foundation (set up in 2008 prior to running for Mayor), using his Toronto City Council letterhead, and enclosing a sticker promoting his family business (Deco Labels and Tags) in a City Council envelope. The Commissioner wrote to Ford that “asking citizens for money for a personal cause on Councillor letterhead, there is a risk that you could be seen to be using your influence as a Councillor to raise money for your private foundation.” She noted that “Councillor Ford was advised that lobbyists or developers who might want to seek his support in his role as Councillor might feel that they could do that by making donations to his named foundation.” As well, she “identified the City of Toronto logo as being property of the City of Toronto that is ... to be used only for officially sanctioned City of Toronto business”. The Commissioner’s letter of advice “concluded with a recommendation that Councillor Ford refrain from using his letterhead in this way in the future.” The complainant was told that advice had been given and Councillor Ford wrote a letter of apology. The matter was closed and no formal complaint was pursued” (Integrity Commissioner, 2010: 4-5).

Despite this resolution, in February of 2010, another Councillor complained to the Commissioner that a family member had received a Ford Football Foundation fundraising letter, again using City letterhead. The Commissioner again dealt with this complaint informally. Subsequent communications between Ford and the Commissioner indicated that Ford was still not convinced that his approach to fundraising was inappropriate. The Councillor who had complained was satisfied with the Commissioner’s intervention (Integrity Commissioner, 2010: 5).

Formal investigation by the Commissioner resulted from a complaint received in May 2010. The complaint was similar to the previous two. The complainant stated that because Ford had announced his candidacy for Mayor on March 25, “This left me uncomfortable. While it was not stated in words, there was a clear sense of an implied suggestion that a donation to his charity might serve me well should he be elected Mayor” (Integrity Commissioner, 2010: 2). Because Mr. Ford appeared to resist the advice of the Commissioner, the Commissioner chose to pursue this complaint formally.

In the course of the investigation, Ford was reminded of the two previous complaints and the advice not to use his letterhead. Councillor Ford responded, “I do not understand why it would be inappropriate to solicit funds for an arms-length charitable cause using my regular employment letterhead” (Integrity Commissioner, 2010: 4). The investigation found that between 2008 and June 2010, a little under \$40,000 had been donated to the Rob Ford Football Foundation (the donations were received and distributed by the Toronto Community Foundation, which sent Ford the names of the donors and the amounts donated. Ford said that he used this information to phone the donors and thank them). Ford told the Commissioner that he had paid for the letterhead, photocopying and envelopes himself. As well, there was a link to the Foundation on the “Rob Ford for Mayor 2010” web site.

The Commissioner asked Ford whether lobbyists or firms hoping to do business with the city might expect favourable treatment should he become mayor. Ford’s response was that he could not be “bought” (Integrity Commissioner, 2010: 8). It turned out that there were 26 corporate/trade association donors to the Foundation between August 31, 2009 and May 7, 2010, including eleven firms or clients of firms on the Lobbyist Registry that were engaged in, or about to be engaged in lobbying City of Toronto public office holders (Integrity Commissioner, 2010: 8). Ford’s response as to whether he had been lobbied by any of the lobbyist firms after they had made a donation was “ridiculous” (Integrity Commissioner, 2010: 8). In fact:

Additional searches of the lobbyist registry revealed that of the 11 lobbyists/clients of lobbyists who had donated to the Football Foundation, seven had either lobbied or had registered an intention to lobby Councillor Ford in 2009-2010. Lobbyist donations were made to the Football Foundation in 2009-2010 in the amount of \$3150.00.... In addition, one corporate donor to the Football Foundation has been the recipient of multi-million dollar contracts spanning 2009-2011, awarded by the City of Toronto through its competitive bid process. That firm contributed \$400.00 to the Football Foundation on September 14, 2009 (Integrity Commissioner, 2010: 9).

The Commissioner determined that Ford had breached the following three sections of council’s *Code of Conduct*:

**IV. GIFTS AND BENEFITS:** No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office....

**VI. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES:** No member of Council should use, or permit the use of City land, facilities, equipment,

supplies, services, staff or other resources ... for activities other than the business of the Corporation.

**VIII. IMPROPER USE OF INFLUENCE:** No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.

Prior to her formal Report to Council, the Commissioner recommended to Ford that he take “practical, corrective actions before this matter came to Council.” Councillor Ford was given the opportunity to take a number of corrective steps (the recommended steps were acknowledgement of the breach, agreeing to change his fundraising methods, repayment to the City and the lobbyists/corporation, an apology, consultation with the Lobbyist-Registrar, and correction of misstatements about his Football Foundation in his publications). Had he taken her advice, the Commissioner would not have recommended to Council that it impose any sanctions. However, Ford refused, so the Commissioner felt compelled to recommend to Council that Ford be sanctioned.

The Commissioner’s report to Council of August 12, 2010 recommended that Councillor Ford repay the donations received from lobbyists, based upon the list of sanctions in the Code of Conduct that could be recommended by the Commissioner. The complete list of possible sanctions in the *Code of Conduct* is as follows:

1. A reprimand; or
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

Other Actions:

The Integrity Commissioner may also recommend that Council or a local board (restricted definition) take the following actions:

1. Removal from membership of a Committee or local board (restricted definition).
2. Removal as Chair of a Committee or local board (restricted definition).
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to Council, the complainant, or both.

On August 25, 2010, City Council adopted the Integrity Commissioner’s report without motions or debate. A motion to reconsider the adoption was defeated 26 to 10 (Councillor Ford voted in favour).

On January 30, 2012, the Integrity Commissioner reported to Council that in spite of repeated requests from her office, Ford (now Mayor) had not complied with Council's decision of August 25, 2010 (Integrity Commissioner, City of Toronto, Report on Compliance with Council Decision CC 52.1, accessed May 5, 2014). In response, Council discussed the matter on February 7, 2012. During the meeting, Ford spoke to the issue and said "And then to ask that I pay it out of my own pocket personally, there is just, there is no sense to this. The money is gone; the money has been spent on football equipment" (Integrity Commissioner, City of Toronto, Report on Compliance with Council Decision CC 52.1, accessed May 5, 2014: paragraph 9). Council voted 22-12 to rescind its motion of August 25, 2010 (City Council Consideration on February 6, 2012, accessed May 5, 2014), with Rob Ford voting in favour of the motion.

If a Councillor or Mayor votes on a motion, which puts him or her into a conflict of interest, the only remedy, under S. 91 of the Municipal Conflict of Interest Act (MCIA), is for a private citizen to pursue litigation to have a Superior Court declare a real conflict of interest. The definition of a conflict of interest in the MCIA is:

5(1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member, (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof; (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question (Revised Statutes of Ontario, 1990, Ch. M.50).

Up to October 2014, the Act had provided for only *one* remedy: vacation of the office. Paul Magder, a concerned citizen, brought such an application to the Ontario Superior Court following the February vote. Mr. Magder, according to a newspaper report, is "a manager at an electronics manufacturing lab in Mississauga" (The Globe and Mail, Nov. 26 2012). High profile lawyer Clayton Ruby, who worked pro bono, represented Magder. Justice Charles Hackland heard the application, and his decision was released on November 26, 2012. During the trial in September 2012, Rob Ford admitted that although he had been a councillor for 10 years, he had not read the Conflict of Interest Act nor had he read the councillor handbook clarifying what constitutes a conflict of interest. Ford's counsel argued, that the sanction originally imposed by Council, the repayment of \$3,150, was *ultra vires* the powers of the Council. This was because Council had no power to force Ford to personally repay the money. Justice Hackland was not persuaded and noted that Council had the power to suspend remuneration of a Council member for 90 days, which would have been a much harsher penalty financially. He noted that the wording of the sanctions section of the *Code of Conduct* (number 3 above) was broad enough to include personal repayment for donations that should never have been solicited in the way they were.

Hackland determined that Ford had indeed put himself into a real conflict of interest situation on February 7, and declared the Mayor's seat vacant. However, he stayed this order for 14 days to give Ford an opportunity to appeal to the Divisional Court. The crux of Justice Hackland's decision was that Ford had clearly inserted himself into a conflict of interest

situation, understood that he was in that situation, but refused to remove himself from that situation because he did not agree that being in a conflict of interest situation for what he considered to be a good cause was wrong.

Ford's removal from office was due to the strict penalties in the legislation (s. 10.1a), which Judge Hackland admitted was "a blunt instrument." As a result, he had no choice except to declare the Mayor's office vacant. This created considerable confusion at City Hall as it was unclear what were the implications of the ruling. If removed, should they appoint an interim mayor or hold a by-election? If there were a by-election, would Rob Ford be eligible to run?

Ford appealed to the Divisional Court, and the three-judge panel delivered its decision on January 25, 2013 (with a subsequent Supreme Court appeal denied in June, 2013: *Magder v. Ford*, 2013 ONSC 263). After noting that the MCI was deficient in that it incorporated a "sledgehammer" approach to remedies, the panel focused on Ford's argument that the sanction imposed by Council was *ultra vires*, and agreed with Ford's argument:

Did Mr. Ford have a pecuniary interest in that matter? In our view, he did not. The financial sanction had already been imposed in August 2010 by virtue of Decision CC 52.1. The issue before Council was Mr. Ford's conduct since Decision CC 52.1 was adopted. There was no financial sanction contemplated by the January 30, 2012 report before Council at the meeting on February 7, 2012. Indeed, the report states, under "financial impact", that it "will have no financial impact on the City of Toronto". It is noteworthy that, in contrast, the August 2010 report stated, "This report will have no financial impact on the City of Toronto. It may have a financial impact on Councillor Rob Ford." Therefore, the application judge erred when he found that Mr. Ford contravened s. 5(1) when he spoke at the meeting of February 7, 2012 (*Magder v. Ford*, 2013 ONSC 263: paragraph 45).

The Divisional court concluded that because Ford had no pecuniary interest in the matter, the sanction imposed by Council was *ultra vires* in terms of ordering repayment. Thus, the motion on the sanction was a nullity, and therefore Ford's vote on the motion was as if it had never occurred.

Our view is that for the moment, we should tentatively accept that the Divisional Court made bad law for a good reason – the Ford situation demands political solutions that are beyond the purview of the courts. The political issues are two-fold:

1. How do we provide political safeguards that promote the politics of honour and integrity, and discourage politicians who act without integrity?
2. When the safeguards fail, how do we fairly remove politicians who have exceeded the reasonable limits of acting with integrity?

We will address possible answers to these questions in our conclusion.



## **The Crack Video**

*You've got to start acting like a mayor. You've got to start dressing like a mayor (Councillor Giorgio Mammoliti, as reported in The National Post. January 25, 2013).*

The real damage to Ford's agenda began in the spring of 2013. On May 16, the Gawker website published a report stating that a video existed of Rob Ford smoking crack cocaine, and making racist and homophobic comments. The Toronto Star quickly followed suit on the basis of their own investigation, as two of their reporters, Robyn Doolittle and Kevin Donovan, had also met with the person attempting to sell the video (Doolittle, 2014).

A series of events quickly unfolded over the next week, including the start of a fund "Crackstarter" by Gawker to raise money to purchase the video, comments by US late night TV talk show hosts, Ford's dismissal as football coach for Don Bosco Catholic Secondary School, firing of his chief of staff Mark Towhey, several resignations by his staff, and finally a prepared statement on May 24 in which Ford stated:

*I do not use crack nor am I an addict of crack cocaine. As for a video, I cannot comment on a video that I have never seen or does not exist (The Toronto Star. May 25, 2013).*

Despite his statement and repeated denials, allegations and accusations continued to swirl around the mayor. The "Crackstarter" fund reached its goal of \$200,000; however, contact had been lost with the purported seller of the video. With the lack of concrete evidence (the video), uncertainty outweighed conviction, and the scandal appeared to lose legs over the summer months.

In August 2013, Ford once again came under fire for being caught on video inebriated (posted on YouTube) at a major Toronto festival, *The Taste of the Danforth*. Although the mayor denied that he was drunk, saying he had just had a few beers ("pops" in Doug Ford lingo), questions remained about how he got there (he was seen getting out of his SUV), and his staff could not find him for his scheduled appearance. This incident revived questions regarding his drinking habits, and whether he was using drugs.

Speculation escalated when Ford's friend Sandro Lisi was arrested and charged with possession and trafficking of marijuana on October 1, 2013 (Kevin Donovan. Toronto Star. Oct. 2, 2013). Lisi had been under police surveillance for several months. In late October, the media were successful in getting the courts to release a redacted *Information to Obtain* search warrant (ITO) on the Lisi case. This redacted version of the ITO reported on a series of meetings between Ford and Lisi during the summer, which according to police had the characteristics of drug deals. This surveillance also documented several occasions of the mayor meeting Lisi in a park during the middle of the day, with police finding discarded bottles of vodka and Gatorade.

On October 31, Toronto Police Chief Bill Blair made a statement, that in connection with their previously unrelated Project Traveller drug gang arrests earlier in June, they had obtained copies of the reported video showing Mayor Ford smoking crack (Toronto Star. Oct. 31, 2013). Chief Blair confirmed that the recovered videos were consistent with the accounts described by the *Toronto Star*. Later documents would reveal that the incident had occurred at 15 Windsor Road in Etobicoke at a known drug house on the weekend of February 17, 2013. Upon making

this statement, Bill Blair commented in response to a reporter's direct question, that he had seen the video, and was "disappointed" as a citizen.

Although somewhat secondary to the predominant issue of whether the Mayor had been caught smoking crack in a known to police drug house, with several gang members later arrested in the Project Traveller case, the Mayor and Doug Ford began a 'formal' attack upon Bill Blair, suggesting that he had 'crossed the line' in his investigation and comments regarding the Mayor. On November 5, in a speech to a journalism class at Ryerson University, Doug Ford launched an attack against the Police Chief, questioning his motives and impartiality with respect to the Mayor, and suggesting that perhaps it was the Chief who should be resigning. Unbeknownst to Doug Ford, Mayor Ford was walking through the typical media scrum outside his office as he arrived for work, when he stopped, turned around, and asked a Toronto Sun reporter to ask him "the question," to which he responded:

*Yes, I have smoked crack cocaine. But am I an addict? No. Have I tried it? Probably, in one of my drunken stupors (Mayor Rob Ford, November 5, 2013).*

## **Council Reacts**

This admission by the Mayor launched a series of events that further called into question his 'competence' for the position. In the wake of this admission, further revelations came forth, including another drunken stupor episode on St. Patrick's Day of 2012. The Mayor had reportedly been drinking and smoking in his office at City Hall with other guests, then went out to the Biermarkt, where his party was served in a private room. According to one of the servers, the Mayor and his female friend appeared to be snorting cocaine (one of his staffers told the server that 'he had seen nothing'). The Mayor then returned to City Hall, where he had an exchange with security. Rob Ford was reportedly carrying a half empty bottle of brandy, and asked where his car was. He also reportedly made some sexually suggestive comments. This final point led to yet another infamous comment from Rob Ford to reporters:

*Oh, and the last thing was Olivia Gondek, that I wanted to eat her p---y. I've never said that in my life to her. I would never do that. I'm happily married. I've got more than enough to eat at home (Mayor Rob Ford, November 14, 2013).*

Following these remarks, Council members began the formal process of seeking to remove the Mayor's discretionary powers as part of seeking to encourage him to take a leave of absence to address his issues.

*We write to you as colleagues representing wards from across the city and the political spectrum" ... "Over the past six months, and especially the past few weeks, we have grown increasingly concerned by the seemingly endless cycle of allegations, denials and belated admissions about your behaviour." ...councillors "stand together" in asking him to "take a leave of absence to address your challenges privately, outside of the public eye." ...the "majority of Torontonians" share the group's view, and that city council "will excuse any absences you require to address the situation with finality (Councillor Jaye Robinson, Globe and Mail, Nov. 13, 2013).*

## **The Issue**

*But apologies are not enough, according to Deputy Mayor Norm Kelly, who says Ford has lost the "moral authority" to lead. "It's not enough because it doesn't address the major issues in his life and the life of this council," Kelly said Thursday morning on CBC's Metro Morning. "He must take a leave of absence in order to rehabilitate himself" (Globe and Mail, Nov. 14, 2013).*

Although others believed that Rob Ford had lost the moral authority to lead, Ford has consistently reiterated both his refusal to step down and his desire to continue to serve as mayor. The incidents leading to Council's removal of the Mayor's additional powers (powers granted by Council that are not automatically attributed to the position) supported the Deputy Mayor's remarks, but have also traditionally been sufficient as to result in voluntary resignation (or leave of absence) by other political figures. One of the factors complicating this situation has been the shift in discourse promoted by the Fords. Both Rob and Doug Ford have put forth a series of arguments suggesting that there is no justification for Rob to step down.

First, they note that from a legal perspective, Rob has done nothing warranting his resignation or removal. Ford has not been convicted of a criminal offense, either in relation to his actions as Mayor, or as a private citizen. Second, Rob Ford was elected Mayor with an "overwhelming majority" in the words of Doug Ford, and that any actions to remove him would constitute an attack upon democracy. Although Rob Ford may be ultimately responsible to the electorate through the election process, this clearly neglects the notion of elected representatives taking action as warranted under the circumstances. Third is the argument that the actions for which Rob is being 'punished', occurred as part of his private life, and did not impact upon the performance of his duties. This is notwithstanding that some of the documented incidents occurred during normal work hours (meetings with Lisi, his coaching activities, the Taste of the Danforth), and reported incidents of drinking in his office (though after normal office hours). Finally, they continue to note Rob Ford's persistent base of support according to the polls, that this is just an attack by the Toronto Star and downtown elites against regular guy Rob. Notwithstanding all of his foibles, between 25-30% continue to state that they believe he is doing a good job, and will vote for him on October 27, 2014.

## **Theoretical Background**

The Canadian political system is based upon the United Kingdom's Westminster Parliamentary System and Whitehall governance model. Inherent within these models are the notions of individual 'honour' and 'responsibility'. It is expected that members will conduct themselves responsibly and with honour. Members that are found to have breached implicit codes of conduct, both publicly and privately, are expected to do the 'honourable' thing and resign. Although this 'principle' has been advocated over time for a series of offenses, compliance is more a function of moral suasion or individual accountability.

Hence, individual member accountability and responsibility remains couched within 18<sup>th</sup> century notions of duty, honour, and responsibility. Similarly, much of our governing legislation is predicated upon such notions, and consequently are silent regarding situations where members

disavow their responsibility. These notions in turn find their roots within Greek models of democracy. To an extent, more recent legislation and amendments have sought to specify explicit repercussions in the case of member defiance. Nevertheless, compliance under the spirit of the law has deferred to compliance in accordance with the letter of the law.

### ***Rob Ford as Tragic Comedy***

Mayor Rob Ford's story reads akin to a tragic comedy. The hope is that all of his 'tragic actions' on behalf of the taxpayer (tax cuts, budget efficiencies, subways) will somehow result in a brighter future for Toronto and its citizens. Unfortunately, for all of Rob Ford's potential as an anti-politician, everyman hero railing against the perceived enemy of 'downtown latte-sipping elites', his now well-publicized tragic hero flaws threaten to undermine his message. Moreover, as in *Troilus and Cressida*, we appear to be witnessing the 'demise of civil society', through the abdication of traditional notions of duty, honour, responsibility and respect.

Thus, we turn to a more classical account of 'honour' and 'responsibility' and how to interpret their use/abuse in our modern day world. In brief, we ask, what is honour today? Here the Rob Ford story is but one representation of a larger social and political dilemma; namely, the end of honour in political life. Such notions form part of the democratic model that finds its roots in ancient Greece. Although different from the democracy we know today, the idea of the polity entrusted to the 'many' as a form of government was predicated on the social (society) being placed ahead of individuals' (the one) needs and wants. Accordingly, we turn to a classical, specifically Aristotelian, understanding of honour, morality, and ethics, as these ideas have come to inform our Western modern sensibilities. Our aim is to consider Aristotelian ideas as a way to theoretically frame the *present mood* around "Rob Ford and the end of honour."

### ***Aristotle on Persuasion and Moral Authority***

For Aristotle, honour can sometimes be found in the "hero" with the following qualities. First is the quality of "time"; that is, a character whose reputation for excellence stands the test of time. Second is the quality of "fame"; meaning to go down in memory or history. The hero is not forgotten by time because they strive to be a "good" person, doing what they do as *intrinsic* acts that are done for their own efficacy. All these good deeds move towards fulfilling one's "end" as action that is self-sufficient and final (not in the service of *instrumental* ends). Such truly ethical men though, as defined by Aristotle's concepts of *Ethos*, *Logos*, and *Pathos*, are difficult to find (even in ancient Greece).

*Ethos* for Aristotle speaks to the ethical appeal of the rhetor or speaker. The speaker or author's character brings value to their arguments, their speech. This in turn offers support for those arguments, as the audience trusts the speaker. Aristotle speaks of two types of *ethos*: the *invented* and the *situated*. The *invented* type is seen in the tone or attitude taken by the speaker towards their audience. The *situated* type involves what the audience thinks of the speaker even before they begin to speak. Typically this involves the heroic figures typically portrayed in tragic comedies (Julius Caesar, Oedipus Rex). From a traditional political perspective, this is characterized by highly educated, politically sophisticated, and/or well-off candidates (reflective of the Protestant work ethic). The alternative is the "everyman", who is deemed "trustworthy" as they come across to their audience as genuine.

*Logos* means the “word” or “reason” in addition to “action”. Aristotle argued that *personal character* and *ethical character* are two different things. In most cases, they are merged as the person builds their reputation. What is important is the narrative delivered (whether the numbers and ideas are factual or not), and staying “true” to one’s promises. *Ethos*, the spirit or character of a nation, is always tied into time and place. In 2010, the ethos of Toronto suburbs was one interested in punishing those whom they felt had abused the good of society: the moneyed elite. Over time, an ethos of distrust of smooth sounding politicians had developed due to a failure to deliver. Increasingly, the public wanted the opportunity to attain the honour and status Western society (steeped in the ethos of individualism) defines as *the good*. To those holding these values, what is important is whether what is said and promised sounds rationale and indeed, *good*.

Lastly, *pathos* helps us understand the tragic hero’s *emotional* appeal. Emotions for Aristotle are just as valid for moving people into action as that of logic or method. Emotions involve a passionate way of knowing – different from, but not inferior to – the rationality of the philosopher or the precise observation of the scientist. Here, Aristotle is referring to the Arts and their ability to move people to think and act. As Aristotle points out, we do not automatically act the right way. Morality has to do with developing habits, the habits of right thinking, right choice, and right behaviour. Whereas the passion and emotion of tragic heroes is important, they also need to be balanced against personal and ethical character.

## **Discussion**

*There’s a lot of people who have done what I’ve done (Mayor Rob Ford, Now Toronto. Nov. 18, 2013).*

### ***Aristotle, Rob Ford and Honour***

As noted previously, honour can be found in “heroes” with a reputation for excellence that strive to be a “good” person (by doing good for its own sake). However, such language and thinking around “the good person” or “virtuous soul” sounds out-dated and at times confusing to our modern sensibilities. Aristotle reasoned that an individual, who is a good doctor, doesn’t necessarily have to be a good person. After all, individuals with exceptional excellence (actions and ethics) do not exist in sufficient frequency (Aristotle’s rule of the “few”). Do political figures have to act in accordance with some higher moral or ethical code? Can’t they be great leaders while simultaneously leading less than ethical or honourable personal lives? Should Mayor Rob Ford be held to a higher moral standard than the rest of us?

We turn then to these questions and consider “why” Rob Ford is still in office and why his approval rating is relatively still high. Clearly, our definition of “honour” is similar to the values held by Aristotle and those of his day and age, but we, like Aristotle, can begin to understand why less than honourable individuals can become political leaders and remain in power. If the “many” (democracy) are responsible for their elected leaders, we can use Aristotle’s three types of persuasion to illustrate the popularity of Rob Ford, and his inability to step down from office even in the light of dishonourable activity in his personal world (even Rob Ford seems to understand this at some unconscious level through his never-ending appeal to the

‘voters who voted him in and how he will continue as long as they keep “wanting” him in office).

### ***Ethos, Logos, and Pathos***

As described previously, *ethos* speaks to the ethical appeal of the speaker. The character of the speaker creates value for their arguments, and thereby support as the audience trusts the speaker. Ford’s appeal to the working class populations of Toronto rests upon his ability to position himself as the “everyman” or “trustworthy”, such that he comes across to his audience as genuine (situated *ethos*). This rhetoric is supported by his use of simple (and common) language, conveying his desire to do ‘good’ for the city he loves (invented *ethos*). The twist is that for Ford, the ‘good’ speaks to the *sacredness* of capital — “to put an end to the wasteful spending and to watch the taxpayers’ money and respect the taxpayers’ money”(CBC News, 2010). This message also resonated with “many highly educated, politically sophisticated, well-off people [who] voted for Rob Ford in the last Toronto mayoralty election” (Dryden, 2013). However nowhere does this speak to respect for society and its citizens.

*Ethos* as the spirit or character of a nation is always tied into time and place. In 2010, Toronto elected a mayor that represented these values: individualism and fiscal control. Ford exuded the *ethos* of a community that was interested in punishing those whom they felt had abused the good of society, namely, the moneyed elite. His appearance and way of speaking about money benefited from his prior speeches at Council, and differed from that of the other mayoral candidates in that it was read as respect for his audience; respect for their “hard earned money.” It is here that modern notions of individualism play out in the Rob Ford saga. Ford’s mythology (Doolittle, 2014) situated him as the son of a hard-working father who “pulled himself up by the bootstraps.” This appealed to notions of opportunity for a society steeped in the *ethos* of individualism, where hard work would lead to honour and status.

Aristotle reminds us that in a democracy, the people vote leaders in. The people in Rob Ford’s Toronto are, as Ken Dryden writes, “mad”. Namely, “...mad at all those people who have all the power, or believe they do. People who think they’re so smart. Who know everything. Who study and analyze. Who have all the facts. Who sound so smug, so superior. Who make everyone else feel so stupid” (Dryden, 2013). Ford reminded them of all their hard work and hard earned pay, which was being wasted by profligate governments.

Having established an *ethos* of individualism and money as sacred to “me”, the *logos* that arises from this can be traced in Rob Ford’s speeches and campaign promises. To those holding these values dear, what he said and promised sounded rational and indeed, good. The distrust of smooth sounding politicians and need for costly studies before action could be taken no longer seemed reasonable or of sound logic. Individualism wants action, and it demands it quickly, reflective of our fast food, fast everything society. Ford’s words spoke to voters, and he was able to sell his “words” as ready to be *acted on* as soon as he became mayor. Once mayor, this narrative continued. He insisted that he was staying “true” to his election promises, which resonated stronger with voters than his personal problems. This in turn allows Ford to ask voters to focus upon his ‘actions’ as mayor, rather than his personal life. His insistence on “saving people money” is the word, or that which was reasonable to believe in.

The challenge more recently for the Fords has been to maintain taxpayers focus upon the word (logos). No matter how much Ford's personal life may look like a major tragedy, he reminds voters that his personal behaviour will not infringe on his ability to keep their money sacred. What is uncertain is whether there is anyone who can question and convince voters of the "unreasonableness" of Ford's words and actions. How does one persuade the audience, the voter, that Ford's personal character is a reflection of his inability to act on their behalf? Aristotle argued that *personal character* and *ethical character* are two different things that are usually merged as a person builds their reputation. Nevertheless, something about Ford's "everydayness", his "bumbling fool quality", or his "I'm only human" quality remains endearing and refreshing in contrast to the more polished or arrogant *ethos* of Senator Wallin, Senator Duffy, or Prime Minister Harper. For the Fords to lose in 2014, an opponent has to be able to reformulate "what is reasonable", and merge the *personal* and the *ethical* character of the Mayor and his brother Doug.

Lastly, there is Ford's *emotional* appeal (pathos). Emotions involve a passionate way of knowing – different from, but not inferior to – the rationality of the philosopher. Ford's supporters, and even those who do not support him for mayor, want to see him make the right choices, and ultimately overcome his addictions. It's like rooting for the underdog to win, for the villain to reveal the tragic flaw that made them that way. Some writers have suggested that a story of redemption "along with remarkable powers of forgiveness on the part of the Toronto electorate", may yet result in Ford's re-election. In 2010, his "mad as hell" campaign was very emotionally persuasive. The question in 2014 is whether this emotional appeal will be less appealing in a candidate who cannot control his impulsive behaviours. Where once his passion and emotion came across as caring about taxpayers and their money, voters are now going to have to think about the right balance of his personal and ethical character, and similarly that of his brother Doug who is now running for Mayor (in place of Rob).

If as Aristotle argues, goodness is in humans *potentially*, meaning that there has to be *deliberate choice* in addition to knowledge, then Ford must be viewed by voters as *voluntarily* choosing to continue down a path of unethical behaviour, or *voluntarily* choosing to become a better man. His decision to take time off in May and June from the 2014 campaign could be viewed in a positive light, if he returns looking like a new man. "Image-making is a big part of Ford's mayoral game plan, Wieder said, and shedding pounds could go a surprisingly long way towards convincing taxpayers that a slimmer Ford is a changed man" (CBC News, 2014). All of this ties into the *Pathos* or emotional appeal that Ford may or may not return with. What we can say for now is that these types of persuasion have all played a role in the election of Mayor Rob Ford, and his own sense of why he does not have to step down, regardless of the personal demons that afflict him. Nothing but a criminal charge or future changes to legislation will be able to promote vicissitudes in Rob Ford or the like. Even then, there will be those who can and will argue that the crisis is in the system, not in the individual. The possibility of Rob Ford in office again as a City Councillor, with his brother Doug as Mayor, remains a very real possibility.

## **The Attitudes of Canadians Toward Ethics in Politics**

In the 1990s, several Canadian political scientists conducted research into the attitudes of Canadians toward ethics issues in politics (Mancuso et al., 1998). They oversaw a telephone survey of about 1,500 Canadians who were provided with a number of scenarios involving conflicts of interest in politics – ranging from minor to major – and other types of political corruption. In general, the research showed that the great majority of Canadians -- 70 to 80 per cent -- have high ethical standards and hope that elected politicians will act in an honourable fashion that reflects a high level of personal integrity (it should be noted that the older the respondent, the higher the ethical standards.) However, the same majority also doubts whether most politicians can live up to their expectations. Because of various political scandals, and the negative tone that much of politics has taken on, many Canadians had become cynical about whether ethical standards in politics would ever improve. This cynicism is clearly one factor feeding the support that Rob Ford still has. If no politician can be trusted, it is best to support the crook that supports the outcomes closest to the voter's desires.

We suggest that there are a number of other factors that also account for the continued level of support that Ford has maintained. They are too complex to analyse in any depth in this paper, but they need to be listed as factors that deserve future research attention. They include the relation between the decline of organized religion and the concurrent decline of ethical standards that troubles sociologist Reginald W. Bibby (2011), the abysmal state of civics education in our elementary and high schools (Milner and Print, 2009), and the impact of immigration on the general understanding of political values. One of the results of the combination of all of these factors is that the importance of ensuring that as many as possible of our leaders have personal integrity and behave with integrity is not as well understood as it needs to be if our society is to continue to prosper. Integrity includes honesty, as well as principles such as honour, duty, accountability, and responsibility. These are attributes that politicians need to demonstrate both in their personal and public life. It makes no sense that a politician can behave with integrity in his or her public life, but not in his or her personal life. As Rob Ford likes to remind us, no one is perfect. True. However, we argue that unless the majority of elected politicians are on the plus side of integrity, the political system becomes mired in trouble.

## **Conclusion**

What we have learned from the Integrity Commissioner's reports, subsequent litigation, and removal of his Mayoral powers, is that Rob Ford considers that if he thinks he is right, he can ignore the law. However, he does not act as if he has the intellectual capacity to understand the law, or its theoretical underpinnings. We do not know whether Ford's use of his Football Foundation was just part of his overall campaign strategy to be seen as supporting worthy causes. On the other hand, it may have been that Ford's genuine commitment to promoting football in high school was so strong that he was blinded to understanding how his use of public office to raise funds could put him into a real conflict of interest situation.

In situations like this one, there are two lessons:

1. All elected politicians need to have at least a basic understanding of the meaning, history and philosophy behind the rule of law; and



2. All elected politicians need to accept that they cannot use public office for personal gain, even if that personal gain is a potentially illegal attempt to be recognized for helping others.

The Rob Ford tragedy is a wake-up call. Leaders in our society – whether elected, in the public service, in private business, or in the academic world – need to work together to emphasize the importance of integrity to the advancement of a civilized society. The work includes more effective education regarding ethics in our school system, and in universities and colleges. It includes the continued advancement of ethics regimes in government, such as integrity commissioners, lobbyist registrars, ombudsmen, and auditors general. The Ford saga does not signal the failure of these institutions in the City of Toronto, but rather illustrates the fact that they are having an impact. Even Rob Ford eventually understood why he could not use city resources to advance his private charity, and stopped trying to do so.

At one time, integrity commissioners and lobbyist registrars were regarded as innovations that might or might not succeed, but they have proven their worth. However, effective institutions are not enough. Without the underpinning of a solid civic culture, even good institutions that support and enforce ethical behaviour will eventually flounder. To foster a strong civic culture, innovative reforms in civics education in our education system are called for. The mock parliament system in Norway provides one example:

In Oslo, Norway, students in their last two years of compulsory school participate in a mock parliamentary committee decision-making process through role-playing. Each student is given a card with the name of an individual Member of Parliament (MP), and his or her party. Students are placed in a committee responsible for dealing with one or two issues, and are given time to express their opinion on the issue(s) followed by the opportunity to express the opinion of the MP they are representing. The committee's deliberation is interrupted with phone calls and computer messages by lobbyists, constituents, party activist, and the like, to get a feel for the entire legislative process. These students then have to align or compromise with other parties in order to get the committee's legislation passed. Through this process, students learn firsthand how laws are made, about conflicting interests, and the constraints of parties and interested persons (Fair Vote, 2014).

Similar exercises have been conducted in Canada as well; however, the overall level of understanding of civics and the functioning of democratic institutions among the general public remains inadequate to properly hold political leaders to account for their actions.

The Ford situation also underlines the need to have a system in place that can remove elected politicians who have so seriously demonstrated a lack of integrity that they can no longer be trusted to remain in office. Those who argue that the only way to remove such individuals is at the polls, we argue, have too narrow a view of democracy. Democracy is a system of government that is predicated on the principle of mutual respect. Out of mutual respect come free and fair elections, protections of human rights and minority rights, the promotion of social equality, the rule of law, and the norms and supports for ethics in politics (Greene and Shugarman, 1997).

In his ruling regarding the alleged conflict of interest by Mayor Ford, Justice Hackland noted that the Municipal Conflict of Interest Act was a “blunt instrument” with respect to the penalties to be imposed upon those convicted of contravening the Act (Grewal, 2012). While such harsh penalties may be consistent with a law and order approach, several have suggested that a range of penalties commensurate with the nature of the breach is needed. We concur that the severity of the punishment associated with breach of the Act may not be consistent with public notions of justice, and are likely to prompt the form of defensive responses witnessed in the Mayor’s case. However, we are also mindful of the need for sufficiently stiff penalties, if they are to serve as a deterrent.

It would be useful to have a public debate about innovative, fair, and effective ways of removing rogue politicians who refuse to do the honourable thing and resign. To that end, there appears to be a high level of public support for legislative change in this regard. A survey conducted in September of 2014 indicated that four-fifths of Torontonians support “a recall mechanism for voters so they can remove a duly elected mayor at any point during their term if people are unhappy with his or her conduct” (Jacobs, 2014: 3).

With regard to city councillors we provide one suggestion here to start the debate. Currently, rules governing the integrity and conduct of municipal politicians operate at the level of the individual. Individuals are responsible for being aware of and abiding by official codes of conduct, as well as informal social codes. When breaches occur, in general it is incumbent upon the individual politician to either make recompense or resign as necessary. While this system has generally worked in the past, more recent examples involving conflict of interest (Ford), and inappropriate use of public funds (Brampton Mayor Susan Fennell, London Mayor Joe Fontana, Federal Minister of International Cooperation Bev Oda) suggest that the system is ‘broken’ (Gurney, 2014).

We suggest adopting remedies that retain principles promoting honourable behaviour, while providing an option for more formal remedies. This would involve a twofold approach. First, similar to the Sarbanes-Oxley Act of 2002 (Pub.L. 107–204, 116 Stat. 745, enacted July 30, 2002, United States federal law), which sought to enhance private sector accountability by stipulating that CEOs and CFOs would be liable for signing off on fraudulent or misleading financial statements (s. 906), politicians would similarly be required to sign a statement when they take their oath of office. This letter would state that they agree to resign if they fail to govern themselves in accordance with the Municipal Conflict of Interest Act, or the City’s code of conduct policies (whether they have read them or not, thereby removing the alibi of ignorance of the law). Once an alleged breach has been substantiated by the Integrity Commissioner, individuals would be ‘advised’ to follow their oath letter and step down accordingly. While they may continue to profess innocence, they would still show responsibility by following their signed statement. This process then would still encourage and provide for individual politicians to act honourably. However, it would still leave the onus upon the individual.

The second part would follow principles governing minority governments at senior levels. Failing individual accountability in response to a confirmed breach, City Council would have the opportunity to exercise a ‘vote of confidence’ on the transgressing member (this reflects the principle that the governing party must always have the confidence of the House). A ‘negative’ vote (lack of confidence) would then trigger the execution of the signed oath letter,

legally removing the member from office until the next election (similar to the government falling in a system of responsible government). In this way, Council would share responsibility to act with due diligence (self regulation to protect the integrity of Council). However, to avoid potential ‘abuses’ of this power, some form of super-majority (e.g. two-thirds) would be needed to invoke such sanctions. If we use Toronto City Council’s votes to remove Rob Ford’s mayoral powers as an example, he would have been deemed to lose the confidence of Council (38 against, 5 in support), and Council would then have been in a legal position to have him removed from office without the need for provincial government intervention.

Having said all this, it would still be our preference not to have to rely upon such formal legal remedies. Rather, we hope that future politicians will govern themselves accordingly with both formal and informal codes of conduct. However, we recognize that Ford, Fennell, Fontana, and Oda have established precedents for shirking honourable conduct, thereby making it easier for other politicians to avoid accountability.

Democracy is a work in progress. Struggles for fair, open and accountable government have gone on for centuries (Grayling, 2007) and will continue for as long as civilization exists. The past three centuries, in the Anglo-Canadian tradition, have seen the rise of the universal franchise, the development of more effective institutions of governance, the erosion of patronage, the struggle for human rights and equality, and the grappling with ethics issues in politics. It is an exciting time to witness our political evolution, even with the Ford tragedy continuing to unfold. As they say at the Toronto International Film Festival, “We’ll get through this.”

### **Epilogue**

On September 12, 2014, Rob Ford withdrew his name from the list of candidates for mayor because he had received a diagnosis of cancer several days earlier. However, he submitted his name to run for the City Council seat that he held prior to his election for mayor. Also on September 12, Rob Ford’s older brother, Doug Ford, an incumbent city counselor, submitted his name to run for mayor in place of his brother, who had been elected October 25, 2010.

In the Toronto civic election of October 27, 2014, John Tory was elected mayor with 40.3 per cent of the popular vote. Doug Ford was second with 33.9 per cent, and Olivia Chow was third with 23.3 per cent. Voter turnout was the highest in recent history -- 64.3 per cent – well above the 50.6 per cent turnout in the 2010 civic election. Rob Ford was again elected to City Council, gaining 58.8 per cent of the vote in his ward.

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