Anthropology of a Scandal *

During the ongoing political crisis surrounding the so-called SNC-Lavalin scandal, Canadians have been subjected for months to a bewildering array of acronyms and alpha-numeric gobbledygook requiring advance degrees in Law and Political Science to decipher. A brief summary of events will illustrate my point:

Since the fall of 2018, a series of informal communications ensued between top-level public servants and advisors in the PMO, and the offices of the then Attorney General/Minister of Justice, to try to persuade the latter to agree to a DPA in order to help SNC-Lavalin avoid criminal prosecution. The AG/MJ refused and then was allegedly demoted by the Prime Minister as a reprisal for her defiance.

Now, what the hell is a DPA? A deferred prosecution agreement (DPA) refers to legislation, enacted in June 2018 through provisions in the omnibus budget implementation Bill C-74, that amended the Criminal Code of Canada [(R.S.C., 1985, c. C-46) Part XXII.1, Para 715.3]. Through a DPA, sentencing and remediation agreements are negotiated, under the supervision of a judge, between federal prosecuting authorities and a corporation charged with a criminal offence, usually in the context of fraud and/or corruption. SNC-L quickly took advantage of this new "get-out-of-jail-free card" to lobby the PMO, the DPP and all relevant parties to prevent said corporation from being prosecuted.

This is an excerpt from the Hon. Judy Wilson-Raybould's deposition before the House of Commons' Standing Committee on Justice and Human Rights, on February 27th 2019:
"Mr. Chin said that SNC had been informed that the PPS — or by the PPSC — that it cannot enter into a DPA, and Ben again detailed the reasons why they were told that they were not getting a DPA."

So, in a nutshell, what JWR argued before the SCJ&HR was that, in her role as AG, she was continuously pressured for months by the PMO, the CPC&SC, and others to allow a DPA in the case of SNC-L –which she considered to be undue political interference with the independence of the Judiciary following the "Shawcross Doctrine" –as the DPP and/or the PPSC had already rejected the appeal to apply a DPA solution.
Clear… as mud.

In connexion to this scandal, many esoteric terms and expressions have surfaced in the last few months which most Canadians are not familiar with, such as "cabinet confidentiality", "parliamentary privilege", "solicitor-client confidentiality" and "Potlatch Principles".

I believe that we are witnessing a fundamental misalignment occurring between the traditions of Western legal/political culture –personified in all the actors connected to the PMO, and other indigenous and non-Western traditions –personified in Ms. Judy Wilson-Raybould. The latter, in her role as Attorney General claimed to adhere to ancestral principles of honesty, equality and consensus decision-making derived from her indigenous upbringing; whereas all actors attached to the PMO declared they followed the guiding principles of parliamentary democracy enshrined in normal legal practice. Again and again the PMO justified their actions by the need to: (1) save jobs (SNC-L arguing 9,000 jobs were in eminent danger of disappearing if the firm was found guilty in the courts), and to (2) avoid interprovincial conflicts (as Quebec was in the middle of an election). The line between legality and pragmatism appear normally blurred in Western-style political practice; whereas Indigenous concepts of Truth-saying and Equality appear to be more solidly-rooted and inviolable.

Again, the purported attempt by the Liberal government to arrive at "gender equity" and "gender parity" appears to have been understood differently by the former Attorney General, who saw herself as **truly equal** in all matters to the various male interveners confronting her –including the Prime Minister himself.

It might be fruitful for anthropologists to attempt a thorough analysis of all these contradictions, as well as perhaps asking what is hidden behind all the legalisms and under the parliamentary alphabet soup with regard to the Canadian public's right to know. In the years to come, it might also be interesting to track the recourse to DPA's by major multinational corporations as compared to small and medium-sized enterprises –especially those owned by First Nations' entrepreneurs.

*** Written by ©Pascual Delgado, April 9th 2019**.