

## The Canadian Federal Government and Normativity Transformations: Towards a Reconfiguration of Governmentality in Canada?

### Les transformations de normativité au gouvernement fédéral canadien : vers une reconfiguration de gouvernementalité au Canada ?

Christian Rouillard

Volume 13, numéro 1, 2016

URI : <https://id.erudit.org/iderudit/1038833ar>

DOI : <https://doi.org/10.7202/1038833ar>

[Aller au sommaire du numéro](#)

Éditeur(s)

Centre d'études en gouvernance de l'Université d'Ottawa

ISSN

1912-0362 (numérique)

[Découvrir la revue](#)

Citer cet article

Rouillard, C. (2016). The Canadian Federal Government and Normativity Transformations: Towards a Reconfiguration of Governmentality in Canada? *Revue Gouvernance / Governance Review*, 13(1), 71–99.  
<https://doi.org/10.7202/1038833ar>

Résumé de l'article

Depuis plusieurs décennies, le gouvernement fédéral canadien fait l'objet de nombreuses réformes administratives dont la nature, l'ampleur et les ressources varient considérablement. La fréquence de ces réformes a largement augmenté au cours des années 1990, et ce, malgré une période de grande stabilité politique. En utilisant un cadre heuristique axé sur la normativité-gouvernementalité, cet article se concentre sur la *Loi sur la modernisation de la fonction publique* (LMFP) pour mieux comprendre les effets de la transformation des normes sur les modes d'interactions et les relations de pouvoir entre les acteurs, institutions et groupes sociaux, et ce, dans le contexte de la fonction publique canadienne. Il remet en question la façon dont les transformations de normativité modifient les conditions de gouvernementalité au Canada. La thèse principale fait valoir que la flexibilité normative donnée aux gestionnaires (par la LMFP) dans le processus de dotation ne conduit pas à une augmentation réelle de leur marge de manoeuvre en raison de : 1) la (re)définition du mérite (*confusion factor*); 2) la mise en oeuvre concomitante de la *Loi sur la gestion des finances publiques* (facteur d'inertie); et 3) l'héritage des réformes administratives précédentes (facteur du pas en avant et pas en arrière).

# THE CANADIAN FEDERAL GOVERNMENT AND NORMATIVITY TRANSFORMATIONS: TOWARDS A RECONFIGURATION OF GOVERNMENTALITY IN CANADA?

By *Christian Rouillard*<sup>i</sup>

## **Abstract**

*For several decades, the Canadian federal government has been the subject of many administrative reforms whose nature, scale and resources vary considerably. The frequency of these reforms increased considerably during the 1990s, although political stability on the federal level was particularly high at the time. By using the normativity-governmentality dynamic as a heuristic model, this article focuses on the Public Service Modernization Act (PSMA) to better understand the effects of the transformation of norms on the modes of interactions and power relationships between actors, institutions and social groups in the Canadian public service context. It questions the way in which transformations in normativity change the conditions of governmentality in Canada. The main thesis of this paper argues that the normative flexibility given to managers (by the PSMA) in the staffing process does not lead to a real increase in their room to manoeuvre, due to: 1) the (re)definition of merit (confusion factor); 2) the concomitant implementation of the Financial Administration Act (inertia factor); and 3) the legacy of previous administrative reforms (the one-step-forward, one-step-back factor).*

## **Résumé**

*Depuis plusieurs décennies, le gouvernement fédéral canadien a fait l'objet de nombreuses réformes administratives dont la nature, l'ampleur et les ressources varient considérablement. La fréquence de ces réformes a considérablement augmenté au cours des années 1990 malgré une stabilité politique élevée pour la même période. En utilisant un cadre heuristique axé sur la normativité-gouvernementalité, cet article se concentre sur la Loi sur la modernisation de la fonction publique (LMFP) pour mieux comprendre les effets de la transformation des normes sur les modes d'interactions et les relations de pouvoir entre les acteurs, institutions et groupes sociaux dans le contexte de la fonction publique canadienne. Il remet en question la façon dont les transformations de normativité modifient les conditions de gouvernementalité au Canada. La thèse principale fait valoir que la flexibilité normative donnée aux gestionnaires (par la LMFP) dans le processus de dotation ne conduit pas à une augmentation réelle de leur marge de manœuvre en raison de : 1) la (re)définition du mérite (facteur de confusion); 2) la mise en œuvre concomitante de la Loi sur la gestion des finances publiques (facteur d'inertie); et 3) l'héritage des réformes administratives précédentes (facteur du pas en avant et pas en arrière).*

## Introduction

For several decades, the Canadian federal government has been the subject of many administrative reforms whose nature, scale and resources vary considerably. The frequency of these reforms increased considerably during the 1990s, although political stability on the federal level was particularly high at the time and the same political party (Liberal Party of Canada) remained in power during the period 1993-2006. Following the abandonment of the *Public Service 2000 reform* (1994) and the successive implementation of other reforms, *La Relève* (1997), the *Leadership Network* (1998), *Results for Canadians* and the introduction of a *Values and Ethics Code for the Public Service* (2003), the federal government adopted by legislative means the most ambitious administrative reform to date, the *Public Service Modernization Act* (PSMA) (2003a). As an indication of the complexity of this law and the many ramifications entailed in its nine parts, it was implemented gradually over two years until December 2005. Presented as “the most significant human resource management reform to have been undertaken in 35 years” (Canada 2003b), PSMA represents a major innovation, both in style (a law rather than a management framework) and in substance: it proposes a redefinition and reconfiguration of several components of federal governance, including labour relations, public finance administration and employment in the public service (PSMA 2003a).

By using the normativity-governmentality dynamic as a heuristic model, this critical study of the PSMA will lead to a better understanding of the effects of the transformation of norms on the modes of interactions and power relationships between actors, institutions and social groups in the Canadian public service context, and, go on to question the way in which transformations in normativity change the conditions of governmentality in Canada.<sup>1</sup> The main thesis of this paper argues that the normative flexibility given to managers (by the PSMA) in the staffing process does not lead to a real increase in their room to manoeuvre, due to: 1) the (re)definition of merit (confusion factor); 2) the concomitant implementation of the *Financial Administration Act* (inertia factor); and 3) the legacy of previous administrative reforms (the one-step-forward, one-step-back factor).

To this end, this paper will rely on critical management studies (CMS) and Foucauldian governmentality (Hudon and Rouillard 2015). The preferred methodological approach will be a textual analysis of primary sources (PSMA and other supporting documents). The first section of the paper provides a portrait of administrative reforms in recent decades and illustrates the dynamics of the one-step-forward, one-step-back factor that characterizes them. The second section examines major elements of the PSMA, focusing

---

<sup>1</sup> Schematically, the relationship can be expressed as follows: PSMA - normativity - governmentality. More specifically, PSEA - staffing - power relationships (HR managers and specialists).

on its third part, the *Public Service Employment Act* (PSEA), which introduces a (re)definition of merit and a new collective staffing process. The third and final section of the paper introduces *The Federal Accountability Act* (FedAA) and discusses its implications in achieving the managerial flexibility sought by the PSMA.

## **Canadian government reforms and the cult of the one-step-forward, one-step-back factor**

In recent decades, federal government has undergone many administrative reforms, some essentially stillborn, but several others whose effects are still felt today and, furthermore, are influencing the implementation of the *Public Service Modernization Act* (PSMA). Some even argue that the federal government is under a quasi-permanent reform process, as illustrated by the many commissions of inquiry, numerous reports and various management frameworks created and implemented since the founding work of the Royal Commission on Government Organization (Glassco), in the early 1960s. Without blurring the distinctive elements and features that are proper to some of these administrative reforms, some constituent elements demonstrate a certain continuity, even redundancy, among the latter, in particular: the rise of managerial thought and the delegation of authority, decentralization of resources, rendering of accounts and its corollary, accountability, the primacy of organizational cultures and, finally, the increased powers of officers of Parliament, including the Auditor General of Canada (AG). Therefore, the Canadian experience is characterized more by the quest for a new point of equilibrium between the precepts of managerialism and the imperatives of public administration, including the notions of fairness, representativeness and citizenship. Some suggest that the pragmatism and moderation of Canadian government reforms perhaps make Canada a distinct model of public administration (Gow 2004). There is no doubt that the frequency of administrative reforms in Canada is particularly high.

Since the late 1980s, it even seems that the life cycle of administrative reforms has shortened considerably, to the point where management frameworks and other policy documents follow each other on an almost annual basis. With the publication of *Public Service 2000* (PS2000) in 1989, the Conservative government of the time embarked on a reform dynamic aimed at establishing this point of balance between public administration and managerialism. PS2000 was therefore in line with a perspective of renewal of thinking and management practices through a major cultural shift, implicitly assuming that the change in attitudes would result in a subsequent change in behaviour. This reform quickly took on the appearance of a stillborn project since its implementation never enjoyed political support nor the organizational resources necessary for a project of this magnitude. Beyond this first reason, sufficient in itself to explain its failure, PS2000

also had to deal in the early nineties with additional difficulties, notably recurring reductions in operating budgets, freezing of salaries, organizational changes in government structure and the deathblow, the election of a new Liberal government in November 1993, which, in turn, resulted in new organizational changes in the structure of the federal government.

A few months later, the Liberal government launched the *Program Review*, whose official objective was to regain the confidence of Canadians and financial markets by rethinking the role of the Canadian state, that is, identifying the fundamental roles and responsibilities of the federal government, as well as appropriating financial and other resources necessary to ensure a “modern government at an affordable price,” as they say. Although this evaluation exercise and foresight never produced a public debate or even a single mention during the election campaign of 1993, it led to a plan for permanent reduction in program expenditures of \$29 billion, and a reduction of 45,000 equivalent-to-full-time jobs (EFT) over a three-year period, representing 25 percent of the federal public service at the time. Not surprisingly, a balanced budget was achieved for the first time in years at the end of this period, during *Budget Plan 1998*.

With this reengineering of the central government, around the same time the Liberal government introduced a new administrative reform project named *La Relève* (1997). What followed was a large-scale consultation, linking 24 major conferences in which more than 15,000 federal officials participated from different ministries and organizations from all regions. *La Relève* recommended breaking with previous reforms, particularly PS2000, through a willing commitment towards action, initiatives and achievements. However, the preferred means came first and foremost through a unique and convergent organizational culture (like PS2000), as well as through an increase in training activities and development through a greater flexibility and simplicity in management integrated with human resources (HR), combined with multifactorial strategic HR planning (recruitment and staffing, job classification, evaluation and performance monitoring, etc.). In short, no innovative measures, but rather a renewed sensitivity to the elements of management and the administrative dimensions that are traditionally the subject of debate within the Canadian federal government.

The following year, in 1998, the Liberal government put forward the *Leadership Network*, a horizontal organization whose mandate was to develop networks of leaders across the public service<sup>2</sup> to assist and support the implementation of the still ongoing *La Relève* reform. To this end, the *Leadership Network* developed several guides and working papers,

---

<sup>2</sup> Initially under the Treasury Board of Canada Secretariat (TBS), the *Leadership Network* became part of the Public Service Alliance of Canada (PSAC) in 2003.

including leadership development “tools” (evaluation methods, courses, workshops, etc.), as well as influential profiles of leadership skills for assistant deputy ministers and executive directors. A few months later, in keeping with *La Relève* and the *Leadership Network*, the *Office of Values and Ethics*, a centre of expertise and leadership in values and ethics for public servants, was created.<sup>3</sup> The *Office of Values and Ethics* in turn developed many “tools” to support the dissemination of values and ethics considered necessary for good governance, in the sense of the OECD expression, including guides, pamphlets, frequently asked questions (FAQs), case studies and discussion groups. Similarly, it built an inventory of best practices in the Canadian federal public sector, particularly in the following departments and organizations: the Royal Canadian Mounted Police (RCMP); Human Resources and Social Development Canada (HRSDC); and Public Works and Government Services Canada (PWGSC).<sup>4</sup> A few years later, in 2003, the federal government launched with great pomp and maximum visibility,<sup>5</sup> the *Values and Ethics Code for the Public Service*. The Code has since then been an integral part of the conditions of employment and employability in the public service. Based on the idea that no rule is sufficient in itself to ensure responsibility, honesty and fairness in the public service, the Code aims to be the ideal means for a continuing dialogue throughout the public service to support managers and non-managers in their decisions and actions.

From the beginning of the third millennium, in 2000, the Liberal government lay down a new management framework, namely: *Results for Canadians: a management framework for the government of Canada*. Extending the role of the Board of Management attached to the Treasury Board and its Secretariat in 1997, *Results for Canadians* reflects the federal government’s commitment to the following dimensions of public management: the focus on citizens (including the identities of citizens, clients and taxpayers), values (respect for democracy, professional, ethical and human values); results (results-based management (RBM)); judicious spending (efficiency and control of spending). Less pretentious in tone than some previous administrative reforms, *Results for Canadians* is not based on a desire for radical change, but rather on a desire for the integration of management practices that are considered exemplary as well as priorities regarding change.

Six priority initiatives are identified in the management of change within the government of Canada, namely: the provision of services focused on citizens, government online (e-

---

<sup>3</sup> As with the *Leadership Network* before it, the *Office of Values and Ethics* was first under the Treasury Board of Canada Secretariat (TBS), before joining the Public Service Alliance of Canada (PSAC) in 2003.

<sup>4</sup> Although they were then cited as examples, all these organizations were subsequently tarnished by the “scandals” that have marked Canadian government in recent years, particularly the sponsorship program scandal.

<sup>5</sup> To ensure that the launching of the Code of Values and Ethics did not go unnoticed in the public service, it was initially distributed to all staff with their pay stubs. Moreover, its size was that of a normal wallet, allowing all government officials to always have it in their pocket to be consulted, it was hoped, on a regular basis.

government); the modern auditing function; improving reports to Parliament; program integrity; and the creation of an exemplary workplace. It was then expected that administrative reform should result in partnerships between the Board of Management (Treasury Board) and relevant ministries and agencies to implement these priority initiatives, in that it was already suggested that the complete implementation of this management framework would require modernizing the legal and regulatory framework of public service. *Results for Canadians* even recognizes that the modernization of public management is an iterative process, rather than a one-time response, which must take place in the long term, as explained by the following quote:

*The management framework and work program presented in this document are not a miracle solution. Efforts must continue. [...], we see no end to the adjustments that government managers will have to continue to make in order to serve Canadians properly. This management program is adaptable and long-term (Canada 2000).*

Although this incremental and continual vision of change seems to reflect a certain tradition of moderation and pragmatism of the Canadian political and administrative elite (Gow 2004), we must not lose sight of the long-term effects of the *Program Review* that are still being felt today, nor the occasional deviations caused by the emphasis on creativity and the results of these administrative reforms at the expense of compliance with processes and fairness. While a dynamic of prudence, moderation and pragmatism suggest that administrative reforms are all aimed in the same direction and that their effects, mostly positive, are all cumulative; a dynamic of the one-step-forward, one-step-back factor suggests instead that the chosen direction is not linear, that the approach suffers from occasional contradictions and that the nature and extent of the results remain, at least in part, uncertain, even unsatisfactory. Senior government seems sensitive to this critical reading, insofar as the Clerk of the Privy Council concluded in his annual report that the search for balance between control and innovation had not brought the expected results.

*[W]e have also lost our rigour. We eliminated some departmental controls while reducing central supervision. We are not concerned with ensuring that new employees have at their disposal all the necessary training to properly perform their duties. We have not developed the necessary information systems to properly manage operational and financial performance. In our effort to better serve Canadians, we have perhaps at times lost sight of the essential. We must now restore the right balance. We must restore rigour without suppressing creativity (Canada 2004: 4).*

In perfect agreement with a continuous view of change, as well as confirming the hypothesis made in *Results for Canadians*, the Liberal government under Chrétien was

preparing to adopt and then implement the administrative reform originally presented as the “most significant human resource management reform to have been undertaken in 35 years” (Canada 2003c).

## **Significant reform? The *Public Service Modernization Act* (PSMA)**

The *Public Service Modernization Act* (PSMA) is the administrative reform launched in 2003 by the third Liberal government of Jean Chrétien (2000-2004), although its initial implementation, spread over two years, took place under the Liberal government of Paul Martin (2004-2006) and continued under the Conservative government of Stephen Harper (2006-2015). Given the fact that federal government human resource management (HRM) practices are too complicated and rigid to meet the challenges connected with the complexity of the global socio-political environment, and the rapidity of changes at work together there, the PSMA was initially presented as “the most significant human resource management reform to have been undertaken for 35 years” (Canada 2003a). The reason is quite simple: the PSMA replaces a framework, now considered obsolete, adopted 35 years earlier, in 1968.

The ambitious PSMA touches on a large number of subjects and is divided into nine parts.<sup>6</sup> In perfect keeping with *Results for Canadians* which announces, in barely concealed terms, the imminent arrival of an administrative reform of a legal nature in 2000, the PSMA is based on the following assumptions:

1. Incremental changes are insufficient to maintain the capacity of the public service to implement the agenda of the federal government; and,
2. legislative reform will result in a cultural change.

From a managerial point of view, the PSMA thus distinguishes between the capacity (political) for the development of public policies, not considered problematic, and the capacity (administrative) for implementation of these policies, considered inadequate and incapable of growing without a large-scale legislative change. The second assumption illustrates the instrumental understanding of the organizational culture that the PSMA implicitly extended, according to which culture is a managerial variable

---

<sup>6</sup> The nine parts of the PSMA are as follows: Part 1: new *Public Service Labour Relations Act* (PSLRA); Part 2: amendments to the *Financial Administration Act* (FAA); Part 3: new *Public Service Employment Act* (PSEA); Part 4: amendments to the *Canadian Centre for Management Development Act* which becomes the *Canada School of Public Service Act*; Part 5: transitional; Part 6: consequential amendments; Part 7: coordinating amendments; Part 8: repeals; Part 9: coming into force.



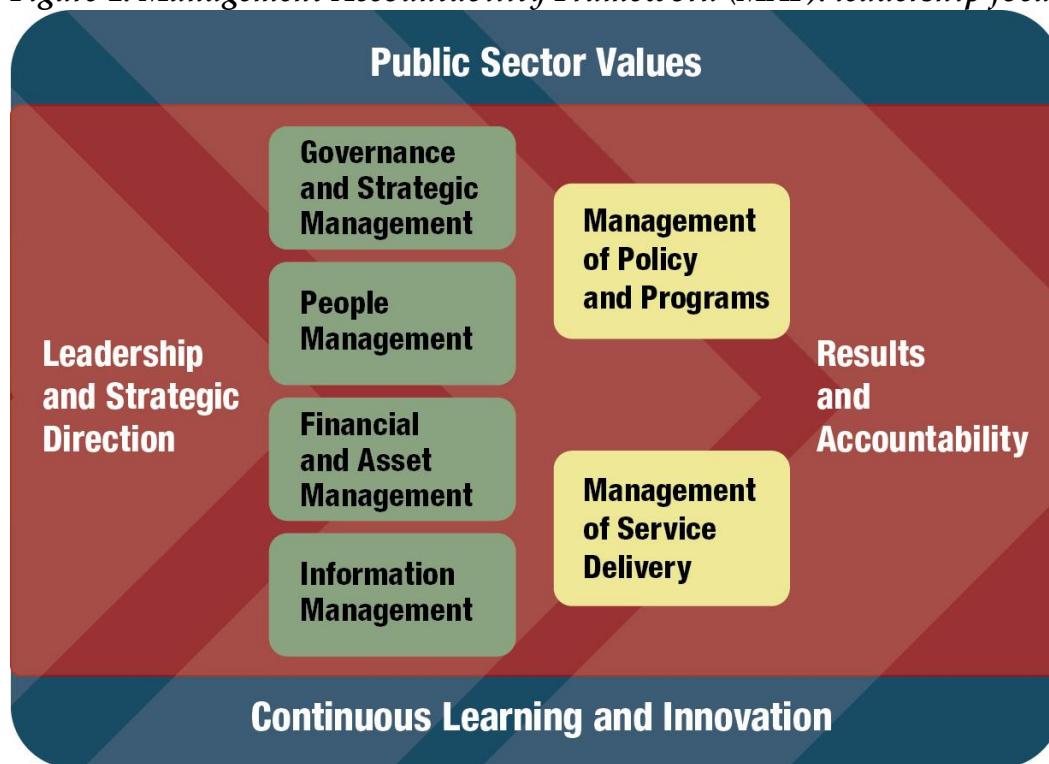
subject to planning and capable of being managed, rather than an anthropological phenomenon beyond individual and collective control.

To put it somewhat simply, the main objectives of this law affect staffing actions, the use of staffing, labour relations and training. To support departments and public bodies in the implementation of the PSMA, they must be able to count on concerted action by the Public Service Alliance of Canada (PSAC), the Public Service Commission of Canada (PSC), the Canada School of Public Service (CSPS) and the Treasury Board of Canada Secretariat (TBS). For example, the CSPS developed a number of training products and services offered to managers, human resource professionals and collective bargaining agents, including classroom courses, online modules, lectures and special events, as well as consulting services in training. In the same perspective of support (and control) of ministries and government agencies, the central agencies have developed various implementation “tools” such as the Management Accountability Framework (MAF), the Staffing Management Accountability Framework (SMAF) and a toolkit for integrated planning of human resources and related activities. Among these, the MAF occupies a privileged place in that it provides, in a schematic manner, the expectations, indicators and measures with regard to public governance (Figure 1). The MAF unites several managerial reform elements from *Results for Canadians*, particularly the modernization of the auditing function, the modernization of human resources, the improvement of services and online government. Aiming at integration of previous management frameworks and seeking to enhance their overall consistency, the MAF focuses first and foremost on leadership because it “creates conditions conducive to good governance.”<sup>7</sup>

---

<sup>7</sup> Although it argues that the principal quality of the MAF is its simplicity, namely ten expectations, indicators and related measures, the Treasury Board Secretariat, as the Board of Management, must develop models, guidelines and related tools to support the interpretation and implementation of MAF.

Figure 1: Management Accountability Framework (MAF): leadership focus on excellence



Source: Treasury Board of Canada (2014). <http://www.tbs-sct.gc.ca/hgw-cgf/oversight-surveillance/maf-crg/index-eng.asp>

However, this understanding of leadership seems paradoxical: its practical exercise refers, through the empowerment (intra- and inter-hierarchical) and accountability that it combines, to a tacit acquiescence to senior management's vision of "leader", to issues, goals and objectives, as well as the values, beliefs and interests that are implicit in them. While the leader is supposed to be the antinomy of a disciple, an assistant or subordinate, consensual leadership appears rather as the privileged exercise of individual enslavement and subjugation to the hierarchy. Similarly, insofar as the presence of the leader implies that of the disciple, assistant or subordinate, that leadership does not entail a questioning of hierarchical structure of the organization, but the crystallization of the asymmetric nature of intra- and inter-hierarchical power relationships (Rouillard 2003b). That being said, the MAF aims no less at illustrating the continuity between the PSMA and the *Results for Canadians* management framework than it does to provide parameters and a guide for the progressive and contextual implementation of the PSMA.

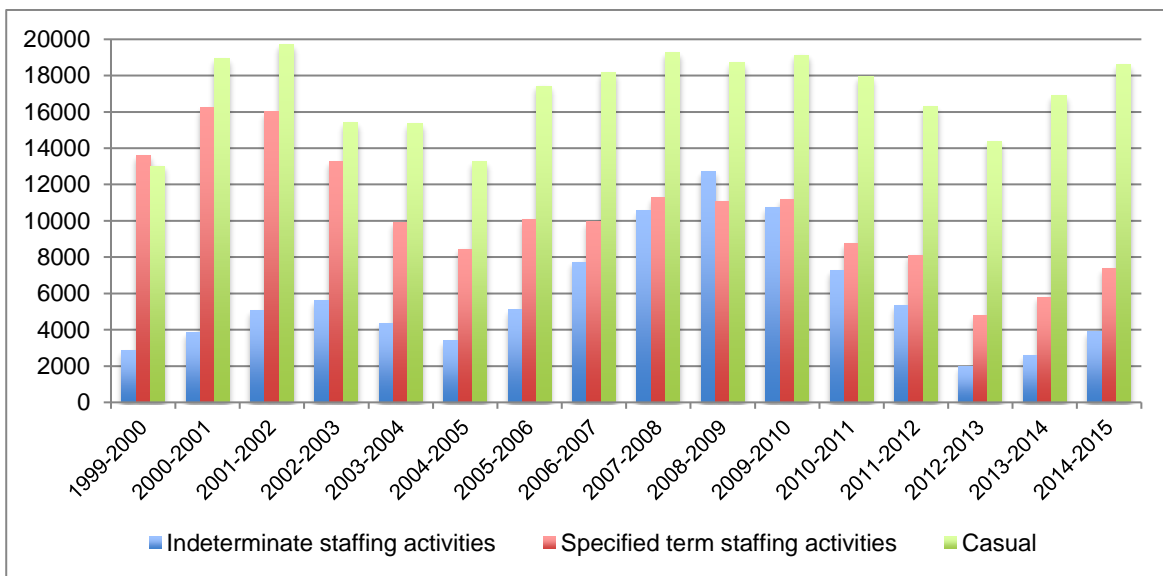
## The Public Service Employment Act (PSEA)

Among the PSMA's main objectives was maintaining a non-partisan public service, that is, where appointments are based on merit. The principles of political impartiality and merit were enshrined in the *Civil Service Act*, adopted in 1918, and constituting, as

elsewhere in the world, the foundations of a professional, permanent and non-partisan civil service. Part 3 of the PSMA, the *Public Service Employment Act* (PSEA) clearly intends to reaffirm inalienable principles, while allowing the establishment of a more flexible and modern staffing plan to help departments to attract competent people and, beyond, “to achieve results in the interest of Canadians.”

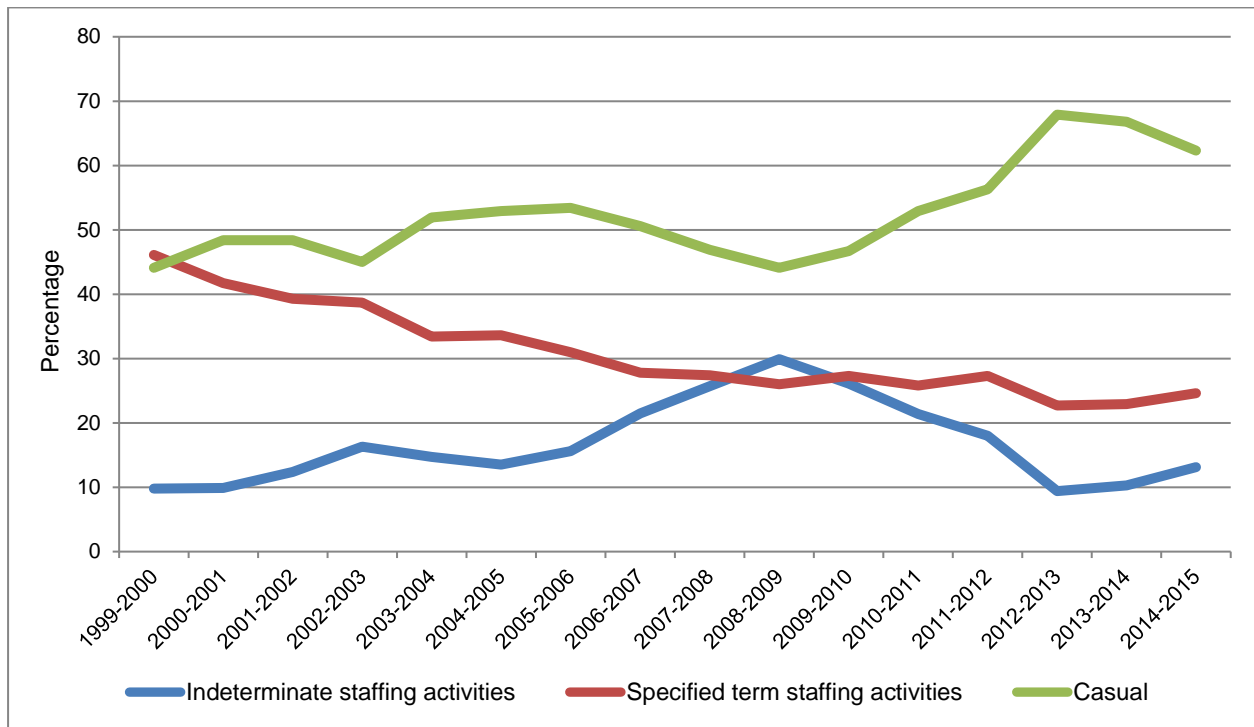
To this end, the PSEA offers a (re)definition of merit by embedding it for the first time in the law itself, rather than, as before, leaving it to the courts to give it concrete meaning in the light of jurisprudence. According to the federal government, it is a re-appropriation of the original meaning of merit, namely: “to ensure that appointments are based on skills; the person selected must have the qualifications required for the post. In the establishment of merit, legitimate considerations of operational requirements and administrative needs are also taken into account” (Canada 2007a). The principle of merit does not apply to all positions in the Canadian federal public service, casual jobs not being subject to the same staffing actions as jobs of indefinite duration and fixed-term positions. As the data in Figures 2 and 3 demonstrate, casual jobs today represent more than two-thirds of the jobs in the Canadian government, their proportion having increased significantly in the last 15 years.

**Figure 2: Overall hiring activities to the Canadian public service, number**



Source: Public Service Commission, Annual Reports (1999-2000 to 2014-2015) <http://www.psc-cfp.gc.ca/arp-rpa/2015/index-eng.htm>

**Figure 3: Overall hiring activities to the Canadian public service, percentage**



Source: Public Service Commission, Annual Reports (1999-2000 to 2014-2015) <http://www.psc-cfp.gc.ca/arp-rpa/2015/index-eng.htm>

That said, the new (re)definition of merit is divided into three stages: 1. essential qualifications, 2. asset qualifications, and 3. requirements or operational and organizational needs. As an important element of this (re)definition, each of these categories should not only reflect present needs but also can, even must, reflect future ones. While the essential qualifications, as the word suggests, refer to the core competencies that the candidate must possess to meet the job requirements, asset qualifications are qualities related to the person that are not considered essential to the performance of duties, “but rather qualities that, now or in future, could benefit the organization or could allow the person to better discharge his functions” (Canada 2006c). The components of the third and last category, sometimes split into two to distinguish operational requirements from organizational needs, are intrinsically linked to the functions to be performed, such as the ability to travel, work shifts, etc...

As is usually the case with a list, especially a legal text, the order of categories that (re)define merit is obviously not neutral, ranging from the most basic and restrictive (essential qualifications) to the most flexible and speculative (operational requirements

and organizational needs), passing through those that overlap (asset qualifications). However, the apparent rigour of the first category is perhaps not as pronounced as legislators might wish. In fact, in the staffing process, the list of essential qualifications will more often than not be accompanied by a description or an illustration of these essential qualifications, in order to give them concrete meaning and relevance for the post to be filled. The Public Service Commission of Canada (PSC) also gives the following example to illustrate the process: “A manager has established that ‘analytical capability’ is an essential qualification. He or she has added two more elements that more precisely define this qualification: ‘can quickly discern the main aspects of a problem or situation’ and ‘understands the relationship between the elements’” (Canada 2007b). But as long as the meaning of the essential qualifications is “clearly established and noted from the outset” (*Ibid.*), they can be the subjects of an overall assessment; in other words, the manager may decide that only one of two elements among the essential qualifications is sufficient. The restrictive nature of the essential qualifications is therefore itself flexible, in light of the manager’s ability to use (or not) additional defining elements and afterwards make an overall assessment (or not). Obviously, this tactical flexibility can be combined with the strategic one put forward by the PSC itself in its guidelines and implementation guides, in which the following advice is included:

*Limit the list of essential qualifications to those that are crucial for the post to be filled and use the skills that constitute an asset to bring flexibility to the composition of the team or consolidate the strengths identified in the candidate pool. For example, the manager may determine that the ability to give lectures is a qualification that constitutes an asset if it is added to the team’s skills or if the organization can take advantage of it in the future (*Ibid.*).*

With the implementation of the PSEA under the PSMA, respect for the principle of merit seems to rest on the match between certain elements of some asset qualifications and some elements of all the essential qualifications, as well as on the match between the latter and operational requirements and organizational needs ... and all this not only in regard to the present situation, but also the anticipated one (present and future needs). Despite the desire to more clearly mark out the conceptual parameters of merit in the context of staffing, it is clear that the evaluation methods still have a fundamental role to play with respect to the principle of merit.<sup>8</sup> In this sense, the challenges and issues raised by traditional assessment methods, particularly with regard to the establishment of essential qualifications, and the evaluation and weighting of personal qualities, are still fully present with this (re)definition of the principle of merit. In 2001, a report of the

---

<sup>8</sup> The PSC has also developed several guides on methods of evaluation, as well as a series of documents on the assessment of skills, including profiles of generic skills and a profile of key leadership skills.

Working Group on Merit of the Public Service Commission Advisory Council (PSCAC) sounded the alarm and suggested, with some candour, “further promoting the message that subjectivity is an integral part of the decision-making process, whether we like it or not” (Canada 2001).

The principle of merit thus (re)defined must now be implemented beginning with the individual appointment process, advertised or not advertised, in which the statement of merit criteria replaces the traditional statement of qualities. As the term suggests, there is neither a notice of a job opportunity, nor a solicitation of nominations in a non-advertised process. Obviously, appointments arising from a non-advertised process should be based on the principles of impartiality and merit. The manager must also ensure that the process respects the values of justice, transparency and accessibility of the PSC, which, furthermore, has established a non-exhaustive list of situations in which a non-advertised process may be used.<sup>9</sup> Table 1 summarizes the main differences between an advertised individual process and a non-advertised individual process.

**Table 1: Differences between individual advertised process and individual non-advertised process**

Advertised process	Non-advertised process
The manager recruiter informs persons in the selection area of a possibility of employment	The manager does not solicit candidates for a possibility of employment
The people have the ability of applying	N/A
Candidates demonstrate that they meet the merit criteria	The manager assesses the person on the basis of the merit criteria
No criterion established concerning the time of announcing the process	The manager must respect the criteria determined by the deputy head with regard to non-advertised processes
N/A	The manager must write a justification indicating how the non-advertised process meets the established criteria and respects the values relating to appointments

Source: Canada (2006a).

<sup>9</sup> The PSC has retained the following situations: appointment from a pool, where the positions are not advertised; appointment for a IPPP; position requires highly specialized skills; labour shortage; remote work location; process subsequent to a classification decision concerning a home post; appointment of an employee for a specified period in case of emergency; appointments as part of a fair employment program (Canada 2006a).

Beyond this distinction between the advertised process and the non-advertised process, the PSEA (2005) introduces a distinction between an individual staffing process and a collective staffing process. While the first was previously the rule, even the only type of staffing process,<sup>10</sup> the second falls within the very nature of the PSMA, namely the search for flexibility. As its name suggests, a collective staffing process is not intended to fill a single position (individual staffing process), but rather to fill several positions within an organization, a ministry or a region or even in several organizations, departments or regions. The magnitude and complexity of the collective dimension may vary considerably from one staffing process to another, but the simplest collective staffing process necessarily represents a greater challenge than the most complex individual staffing process.

Presented in the PSEA as a strategic approach in that it allows efforts and resources to be combined – in short, managerial skill, to fill several positions through the same activities – the collective staffing process entails major consequences with regard to respecting the principles of impartiality and merit. The relative importance of essential qualifications, asset qualifications, operational requirements and organizational needs is affected by the need to limit the elements of the first category to a strict minimum, that is, the lowest common denominator of positions to be filled so that the process is truly collective and, furthermore, will allow a greater number of jobs to be covered. Several skills and qualities shift from the first category (essential qualifications) to the second (asset qualifications), which becomes a sort of shopping list to which the various characteristics, abilities and skills required for all positions to be filled are added. The logic is simple: because the essential qualifications are obligatory and all potential candidates must meet them, it becomes imperative to increase the importance of asset qualifications, since they are only distinguishing elements that combine with the essential qualifications: they need not be systematically and completely possessed by potential candidates. Table 2 outlines the main steps in a collective staffing process and serves to illustrate the main differences with the traditional individual staffing process.

---

<sup>10</sup> There may be an argument to advance to the effect that the previous rating system, with its list of candidates ordered according to exam results, was also based on a pool of potential candidates and, as such, constituted a partially collective staffing process.

**Table 2: Differences between an individual staffing process and a collective staffing process**

Individual process	Collective process
The manager makes the staffing based on its needs	The deputy head or the sub-delegate of the organization or organizations partners approve the creation of several pools and resource allocation to create and manage them
The manager recruiter informs merit criteria, the selection area and the choice of appointment process (advertised or not advertised, internal or external)	A group of manager determines the merit criteria, the selection area and other parameters such as the choice of the process (advertised or not advertised, internal or external), the type of pool assessed, the validity period and the pool size, in forecasting current and future positions
A manager solicits candidates by means of an advertised process	A manager or a group of managers use the pool as a source of potential candidates, who have been assessed in accordance with some or all the pool's merit criteria
A manager determines the process of evaluation and assesses the candidates	A group of manager determines the evaluation process for each criterion and does the evaluation on behalf of all the managers who use the pool. Once a merit criterion is assessed for the pool, it cannot be assessed again.
Candidates are evaluated once on the basis of the established merit criteria for the job	The candidates initially demonstrate their ability to satisfy the merit criteria that make them eligible for the pool of the collective staffing process. They must perhaps also demonstrate their ability to satisfy unevaluated merit criteria for pool eligibility, but which are required for a particular position

Source: Canada (2006c)

It therefore seems that the PSMA's quest for flexibility and the (re)definition of merit that it proposes are producing new pressures to limit and narrow the normative constraints arising from the essential qualifications to the benefit of asset qualifications, operational



requirements and organizational needs both present and future. If this logic is required by the manager in an advertised individual staffing process, it follows that it is even more necessary in a collective staffing process.

However, unlike an individual process which allows the manager to use tactical flexibility with regard to the elements included in each essential qualification, the collective staffing process is outside the tactical control of managers. In fact, the complexity of a process aimed at filling several positions in different organizations, departments or regions results in new normative constraints with regard to merit criteria, the selection area, the type of pool assessed,<sup>11</sup> its size and validity period, etc. Paradoxically, these additional normative constraints illustrate the bureaucratization dynamic inherent in the activities of individual and collective staffing when they reach a certain size and a certain level of complexity. No matter the emphasis the PSMA puts on flexibility and its willingness to debureaucratize staffing activities in the Canadian government, the systematic use of the collective staffing process leads *de facto* to the appearance and development of procedural and normative rigidities without ensuring compliance with the principle of merit. Indeed, since the category of essential qualifications is reduced to its simplest form in the context of a collective staffing process, where are the indicators for managerial arbitrariness that seem to allow for tactical flexibility resulting from the increased importance of asset qualifications?

The accrued flexibility of the staffing process and the (re)definition of the principle of merit by the PSEA together result in the new primacy of integrated human resource (HR) planning to support staffing decisions. The PSC message also could not be more clear: “integrated planning of human resources and activities of the organization is the basic component from which there can be developed a staffing strategy that promotes the use a collective staff process” (Canada 2006c).

The establishment of essential qualifications, asset qualifications, operational requirements and organizational needs obviously cannot be left to the whim and personal preferences of the manager of a staffing process, but must rely on elements of the integrated HR plan, including the activities plan, the fair employment plan, the succession plan and training plan. Furthermore, this integrated plan may also take into account, as much as possible, emergency situations, unforeseen and exceptional circumstances.<sup>12</sup> Ultimately, the potential flexibility offered by the PSEA is conditioned

---

<sup>11</sup> The PSEA distinguishes between four pool types, namely: the pool of candidates fully assessed, the pool of qualified candidates, the pool of candidates partially assessed, the directory of candidates. According to this list, the complexity related to the creation and management of each type of pool is decreasing.

<sup>12</sup> The expectations for integrated HR planning appear particularly numerous and important. Beyond the elements already mentioned, the integrated HR plan and activities “can also help the manager to formulate strategies for human

by HR planning skills, which should be integrated not only with government priorities, the missions of organizations, their strategic plans and their budgetary resources, but it must also be rigorous, comprehensive, up-to-date and, in addition, reflect the current and future needs of departments and public bodies. To this end, the Public Service Alliance of Canada (PSAC) offers and develops many integrated planning guides and other staffing toolkits, including the six guiding principles<sup>13</sup> and the five-step process of integrated HR planning:

- determine the operational objectives of the organization;
- analyze resources to ensure they meet current and future needs;
- measure gaps regarding staffing;
- establish priorities and adopt strategies for bridging the gaps and getting the necessary resources;
- evaluate the results (of the efforts of the organization) and make the adjustments required (Canada 2007c).

The approach reproduces the classic stages of the process of rational decision-making which is aimed at, and has been for decades now, supporting managers in carrying out their responsibilities. Criticisms traditionally levelled against this process are sufficiently known to not require repeating here. For our part, it is important to emphasize that the integrated HR planning conveyed by the AFPC is not based on any evidence that would justify even moderate enthusiasm towards the opportunity of developing this nevertheless crucial capability. In these circumstances, it seems that the potential flexibility resulting from the PSEA's (re)definition of merit is destined to remain a dead letter for the foreseeable future. This broader definition of merit, which takes into account essential qualifications, asset qualifications, operational requirements and organizational needs both present and future, is more a factor of confusion for the implementation of the PSMA than a vehicle for increased flexibility in individual and collective staffing activities. Of course, the implementation of the PSMA is not acontextual: it is combined with those of other legislative initiatives, including the *Federal Accountability Act* (FedAA), whose importance for all government activities can hardly be overestimated.

---

resource planning and other activities by: identifying the organization's current and future needs; analyzing human resources so as to foresee needs; assessing gaps; establishing priorities" (Canada, 2006a, 2006b, 2006c).

<sup>13</sup> The six basic principles are: planning takes place at all levels; planning is driven by information; planning helps identify risks and challenges; planning is transparent, value-based and well-communicated; regular reports on integrated planning; planning efforts are closely monitored, measured and evaluated.

## **The Federal Accountability Act (FedAA) or the triad “naming, shaming and blaming”**

The ambitious and voluminous *Federal Accountability Act* (FedAA) represents the first legislative initiative of the new Conservative government elected in January 2006. It is the conservative response to the sponsorship program “scandal” and two reports of the Commission of Inquiry into the Sponsorship Program and Advertising Activities (Gomery Commission). Basically, the main objectives of the FedAA are to increase accountability and transparency within the federal government or, as the political discourse suggests, to allow a culture of “entitlement” to become a culture of integrity and to “change the way we do things in Ottawa.”

With a length of nearly 300 pages (and 317 articles), the FedAA changes several fundamental laws affecting the functioning of federal politico-administrative institutions, the Criminal Code and the *Income Tax Act*, just as much as it creates new laws such as the *Director of Public Prosecutions Act*, the *Lobbying Act* and the *Conflict of Interest Act*.<sup>14</sup> To cover all government activities, the FedAA is divided into five main parts:

- Part 1 – Conflicts of Interest, Election Financing, Lobbying and Ministers’ Staff;
- Part 2 – Supporting Parliament;
- Part 3 – Office of the Director of Public Prosecutions, Administrative Transparency and Disclosure of Wrongdoing;
- Part 4 – Administrative Oversight and Accountability;
- Part 5 – Procurement and Contracting.

Although the global consequences of the FedAA on governmentality can’t be outlined without addressing all of its five parts, the subject of this text leads us to place special emphasis on Parts 1, 3 and 4, those which alter the requirements of the *Financial Administration Act* (FAA), particularly by making deputy ministers and leaders of organizations the “account administrators” directly accountable before parliamentary committees by proposing new penalties for fraud and, finally, changes in internal audit activities.

Despite the length and breadth of the elements it covers, nowhere does the FedAA suggest a definition of responsibility (it also contains no preamble). Insofar as one can identify, a recurring theme in the FAA, that of “intimidation” seems to stand out from the rest: each part of the Act introduces new disciplinary measures or control mechanisms to limit the decision-making power and the capacity to act of managers and other officials.

---

<sup>14</sup> The FedAA modified a total of more than 70 federal laws (Sutherland 2006b).

No ethic of human relationships or public service spirit is proposed (Sutherland 2006a); it is simply a case of reconfiguring existing institutions and creating new ones from them to strengthen the number, nature and magnitude of sanctions for which public office holders suspected of a breach of their administrative obligations are punishable. Fully in keeping with earlier managerialism and some reports of committees and commissions of inquiry,<sup>15</sup> the FedAA postulates that any significant contribution (positive or negative) to management or public policy refers to certain decisions and actions easily identifiable and, furthermore, that each of them can be directly attributed to certain individuals. In other words, any problematic situation can be broken down into a series of gestures or individual choices, facilitating the attribution of personal responsibility, which in turn makes individual sanctions relevant and necessary.

Of course, this a *posteriori* fragmentation of roles and responsibilities and, to some extent, this renewal of the politics/ administration dichotomy is not without certain problems. Not only does the magnitude of the political issues and the complexity of the administrative processes that public service managers have to contend with obscure the identification of their individual contribution in a particular case, but it is often impossible to determine the specific and direct effect, that is, the consequences arising from it that would be absent without their action (or inaction). The systematic allocation of personal responsibility, to which an individual sanction is attached, seems to equally underestimate the complexity of governance in a bureaucratic organization and to ignore the collective dimension on which decision making rests in that environment.

Notwithstanding these difficulties, the FedAA comes under this context of repression by creating new agents of Parliament having the powers of investigation and enforcement of the administrative apparatus, namely: the Director of Public Prosecutions, in charge of instituting prosecutions under federal law (including the new FAA provisions relating to fraud) and the Public Sector Integrity Commissioner, responsible for ensuring compliance with the *Public Servants Disclosure Protection Act*. Similarly, the FedAA strengthens the role of the Conflict of Interest and Ethics Commissioner, as well as the already considerable powers of the Auditor General. From among these legislative changes, we will take two to illustrate the perverse effects of the FedAA, namely: 1. the Public Sector Integrity Commissioner and the *Public Servants Disclosure Protection Act*, 2. the powers of the Auditor General.

---

<sup>15</sup> In particular, the Royal Commission on Financial Management and Accountability (Lambert Commission) in 1979, the Report of the Special Committee on Reform of the House of Commons (McGrath Report) in 1985 and two reports of the Commission of Inquiry into the Sponsorship Program and Advertising Activities (Gomery Commission) in 2005 and 2006.

## ***Public Servants Disclosure Protection Act***

The objective of granting legal protection to whistleblowers to avoid suffering retaliation is certainly commendable. After all, the Conservative government was trying to create a work environment responsive to the concerns, questions and criticisms of officials at all levels. In short, this was to allow the free expression of individual complaints in relation to acts that undermine the quality of governance within the federal bureaucracy. The main measures to this end in the FedAA can be summarized as follows:

- A public sector integrity commissioner with the power to enforce the *Public Servants Disclosure Protection Act*;
- A new independent tribunal with powers to order remedies and disciplinary measures;
- Better protection for all Canadians who disclose wrongdoing in government;
- More public information on wrongdoing.

The use of a law to signal the disclosure of wrongdoing and, additionally, trying to provide adequate protection for whistleblowers is an approach that several central governments have adopted, including that of the United States, England, Australia and New Zealand. Even in Canada, we must understand that this section of the FedAA is not a legal first, but rather a modification, albeit substantial, to the law passed in 2004 by the previous Liberal government. However, are these new measures likely to achieve the goal of adequately protecting whistleblowers? Can they really improve the quality of Canadian government, often reduced to the efficiency, effectiveness and economy of program management and public policy? It seems not.

The main challenge in disclosing wrongdoing derives from collective ambiguity and the dwindling organizational trust that, invariably, goes with it. In fact, disclosure is by definition a circumvention of the formal hierarchical authority structure of the unit, office or organization to which the whistleblower belongs. It is because s/he does not believe s/he can count on the support of colleagues and superiors that s/he is compelled to expose the situation to a third party outside the organization, in this case the Public Sector Integrity Commissioner.

But the American, English, Australian and New Zealand experience illustrates the great difficulty of preserving the anonymity of the whistleblower and, furthermore, ensuring that s/he is not a victim of retaliation (Gobert and Punch 2000; Mesmer-Magnus and Viswesvaran 2005; Vinten 2003, 2004). That is exactly why the FedAA provides for the establishment of the Public Servants Disclosure Protection Tribunal. This court's mandate allows it, among other things, to order the taking of remedial measures for victims of

reprisals, as well as to order the taking of disciplinary action against the people who carried out these reprisals. However the retaliation has to be obvious, clear and unequivocal in order for the whistleblower to be able to prove his victimization. These reprisals must be able to be attributed to a single person or a single group (small) of individuals for the disciplinary action to be worthy of the name. If that is not already enough, it is also necessary that the causal relationship between disclosure and retaliation be able to be established clearly and convincingly in the eyes of the court, so that there will be subsequent compensation. In other words, not only must retaliation be proved, it still has to be proved that the reprisals were a direct consequence of the disclosure.

While, as previously mentioned, the act of disclosure increases collective ambiguity and reduces organizational trust, the burden of proof that the whistleblower must meet has meaning only in a (nearly) perfect information situation. In addition to the rare cases where the discloser has been the subject of harsh and inexplicable sanctions as retaliation for disclosure, such as a demotion or dismissal without justification, the nature of the latter is much more illusive, uncertain and latent than suggested by the legal rationality. In fact, these reprisals usually stem from a redefinition, implied and undeclared, of informal power relationships where the whistleblower feels ostracized, abandoned and gradually excluded from the group dynamic. The whistleblowers are often perceived by their colleagues, subordinates and immediate superiors as being intransigent and overly black-and-white individuals in the moral sense.

Similarly, a slowing down of the whistleblower's advancement in the hierarchy can always be explained, rightly or wrongly, by many factors other than the act of disclosure itself. Even in the case where a whistleblower's career has peaked, it remains difficult to prove that the only reason is the act of disclosure. The costs of disclosure for the whistleblower are high, multifaceted and, in part, intangible. No law, however ambitious and comprehensive it may be, can manage to adequately protect the whistleblower from these reprisals which, it must be understood, are also reflected in costs for the organization.

Indeed, organizational trust is essential for the proper functioning of any team, unit or administrative office. The abundant literature on downsizing and organizational decline has repeatedly stressed the primacy of trust as a performance vehicle (efficiency, effectiveness and economy). Inasmuch as the changes proposed by the FedAA to the *Public Servants Disclosure Protection Act* aim to increase the quality of governance by making "government more accountable," it is paradoxical that its implementation directly undermines the element of trust on which any collective action rests, including that within the complex bureaucracies that make up the Canadian government.

In other words, there is a *trade-off* between, on the one hand, the possibility of recovering public funds wasted on wrongdoing and, on the other hand, the certainty of increasing the collective ambiguity and diminishing organizational trust. In simple economic terms, the potential reduction of a cost factor (wrongdoing) results in an actual increase of another cost factor (organizational trust). Obviously, the theoretical visibility of the first cost factor is much higher than the second: the waste of public funds is a variable that can be subjected to quantitative assessment, while organizational trust is a variable that defies any quantification or monetization effort. The emphasis on the first cost factor is not surprising: as is often the case in program evaluation, not all relevant elements are addressed, but only the most visible ones or the easiest to assess. Finally, it should perhaps be remembered that even among supporters of a law on disclosure of wrongdoing (Thomas 2005), many believe that a process of internal reporting, whereby a unit, an office or an organization can take the necessary measures to correct the problem and avoid its repetition, is always preferable to the crisis that external disclosure inevitably creates.

## **The increase in powers of the Auditor General**

The Auditor General sees his power increased by the FedAA in order to “track the funds” used by the “beneficiary” (within the meaning of the *Federal Administration Act*). It now includes, under funding agreements with beneficiaries, provisions to facilitate the audits conducted by the Auditor General. As is the case since the modification of the *Auditor General Act* in 1977, these audits include performance management (formerly known as value for money or VFM) which particularly looks at the assessment of efficiency and economy. The role of the Auditor General is therefore radically different from that of external auditors in the private sector, where the latter are limited to a certification audit, that is, to ensure that the financial statements properly reflect the financial organization’s situation.

In the public sector, the Auditor General has always conducted a second type of audit, the compliance audit, whose objective is to ensure that financial transactions are authorized by law or regulation, so that they conform to the will of the legislature, as stated in the relevant law. Certification and conformity audits, both traditional roles of the Auditor General in Canada, are not subject to any debate or controversy among experts. That is not the case for performance management, which is defined as follows in the FedAA:

*The auditor general may, with respect to any recipient, inquire into its use of funds received from Her Majesty in right of Canada and inquire into whether: (a) the recipient has failed to fulfil its obligations under any funding agreement; (b) money*

*the recipient has received under any funding agreement has been used without due regard to economy and efficiency; (c) the recipient has failed to establish satisfactory procedures to measure and report on the effectiveness of its activities in relation to the objectives for which it received funding under any funding agreement; (d) the recipient has failed to faithfully and properly maintain accounts and essential records in relation to any amount it has received under any funding agreement; or (e) money the recipient has received under any funding agreement has been expended without due regard to the environmental effects of those expenditures in the context of sustainable development (section 307).*

The inclusion of performance management in the mandate of the Auditor General has transformed him into a genuine political actor who also enjoys a moral authority and managerial credibility the political community can only dream about. If the principle of economy is relatively easy to assess, though it still relies in part on value judgments, the principle of efficiency is far more complex: unlike what section 307 implicitly assumes, efficiency is not necessarily the *modus operandi* of all administrative activity. Efficiency is not synonymous with rationality, but rather a value, polysemic moreover, among several other possible values. It is also more than just a simple technical ratio, more than the supposedly neutral and ultimate purpose of public administration. Efficiency is rather an expression of the implicit and undeclared hierarchization of values favoured by performance management which, ultimately, is always partial and subjective. The development of performance criteria implies the exclusion of certain others (whole), their respective weighting is not required in itself (subjectivity) and, finally, the temporal dimension considered is always problematic because it influences the results of the evaluation (reductionism). Simply put, we evaluate what we can, in light of particular cognitive, time, material and financial limitations, but never everything that might be relevant.

It is important to understand that, despite the technocratic claims of performance management, its implementation remains irreducibly political (Sutherland 2003; Power 1997). Although the Auditor General's reports never emphasize it, there is always a negotiation, therefore a political balance of power, between it and public organizations to determine the evaluation criteria and references on which management performance is based. Similarly, there is a second negotiation, a second political balance of power, once the results are known to try to reach a common interpretation, which is not always possible. In the latter case, media treatment and public opinion both tend systematically to favour the point of view of the Auditor General, to the detriment of that expressed by the public organization subject to the audit.



The influence of the Auditor General within the public debate is therefore enormous, each report being considered the definitive answer to the question or politico-administrative issue it raises. Any increase or strengthening of the Auditor General's powers will therefore, in turn, expand his political influence in the public arena and weaken, rather than support, the power of elected officials. This distinction is fundamental: an increase in the powers of the Auditor General (or any other agent of Parliament) is not synonymous with an increase in the capability for democratic control of government by elected officials. These are two distinct capabilities. Once again, to increase the second, it requires that the various parliamentary committees, by which elected officials exercise control over government, liberate themselves from the particularly partisan dynamics that characterize them. For that to happen, party discipline can hardly remain as rigid as it is now. But even in making the bold assumption that political parties are sensitive to this problem, this is a challenge that goes beyond mere Canadian federal political culture. In fact, meeting the challenge is based on at least three elements:

1. a significant increase in the number of elected federal officials, so that members (all parties) enjoy greater collective autonomy from the government;
2. a decrease in the rate of turnover of elected federal officials to increase experience and expertise, and therefore the collective capability of backbenchers; and
3. a majority coalition government made up of different political parties which, in turn, implies a change in our voting system.

It must be conceded that none of these elements is likely to be adopted in the foreseeable future and that nothing in the FedAA is concerned with them. Quite the contrary, it implicitly confuses the capability of 'agents' of Parliament and the capability of 'members' of Parliament. Thus, while the Auditor General is appointed for a period of ten years, and all agents of Parliament are appointed for a period of seven to ten years, federal MPs elected in 2004 remained at their posts for only nineteen months at the time of the 2006 general election. To the same extent, MPs elected (or re-elected) in 2006 had to go through another general election thirty-three months later in 2008. Yet again, those elected (or re-elected) in the 2008 general election had to go through another general election roughly thirty-three months later in 2011. In other words, even though it does not directly impact the mandate of elected officials, the FedAA strengthens the powers of the various agents of Parliament, beginning with the Auditor General. To the extent that citizens can exercise democratic control, already imperfect and limited, only over elected officials, and not the agents of Parliament, it is very difficult to see how increasing the powers of the latter permits an improvement in the democratic governance of federal political and administrative institutions. Quite the contrary, one might wonder if the main perverse effect of the FedAA is not actually that of crystallizing the technocratic

power of these independent and unelected institutional actors and, moreover, to accentuate the “managerialization” of political issues. For all these reasons, the FedAA does not accompany the implementation of the PSMA in support of it, but rather represents a factor of inertia: its inherently repressive nature appears even antinomic to the quest for flexibility sought by the PSMA. From a metaphorical point of view, the FedAA is to resistance, blockage and repression what the PSMA is to innovation, flexibility and responsiveness.

## **Conclusion: confusion, inertia and the one-step-forward, one-step-back factor**

For several years now, administrative reforms have been emphasizing the partial abandonment of normative and regulatory constraints to increase the autonomy of public managers and other officials and, furthermore, to increase the organizational performance (efficiency, effectiveness and economy) of public bureaucracies. Under managerialism, these reforms focus on values and ethics to limit and support government decisions and actions, instead of codified rules on which the latter traditionally hinge. Of course, the implementation of this instrumentalization of values and ethics is subject to, the same way as other components of managerialism, trajectories differentiated in time and space. One constant, however, remains: tensions, complementary to some, irreconcilable for others, between, on the one hand, respect for the process and the democratic ideal of the traditional government, and on the other hand, emphasis on achieving results and the efficiency imperative of the new public management.

Among the American and British experiences, the case of the Canadian government is particularly interesting: the dynamic of the one-step-forward, one-step-back factor that characterizes its administrative reformism results in the search for new areas of convergence for the requirements of traditional government and the precepts of managerialism. For Canadian administrative reformism, it is, in fact, not so much a matter of substituting one discourse for another, but trying to reconcile managerial rationality with legal rationality. However, this tradition of moderation and pragmatism, according to some, is not always smooth and trouble free. The recent history of the Canadian federal government demonstrates the shortening of the life cycle of administrative reforms, these having succeeded one other at a frenetic pace during the 1990s, in a burst of imperfect continuity and unavowed redundancy. Among these, the reengineering of the 1995-1998 period, planned in the Program Review of 1994, represents a pivotal event and, furthermore, an important part of the legacy that now influences the implementation of any new administrative reform.

The *Public Service Modernization Act* (PSMA) and its third part, the *Public Service Employment Act* (PSEA), introduce significant changes in standards and rules governing the staffing process in the Canadian federal public service. Seeking to significantly increase managerial flexibility while preserving the principle of merit, the PSEA rests on the creation of a process of collective staffing, combined with a (re)definition of merit in the light of four broad categories: essential qualifications, asset qualifications, operational requirements and organizational needs. According to the text of the law and supporting documents (interpretation guides and implementation tools), the potential flexibility in staffing actions actually seems to be considerably enhanced. However, a closer reading of the (re)definition of merit and an analysis that includes with it the implementation of the PSMA, still ongoing, and of the *Federal Accountability Act* (FedAA), as well as the legacy of administrative reforms from previous federal governments, puts things under a different light. While the first appears to be an element of confusion, the second is reflected by an inertia factor and the third is a one-step-forward, one-step-back factor. Although none is in itself an insurmountable obstacle to the implementation of the PSMA, the combined effect of these three factors represents a challenge or sizeable issue in the search for managerial flexibility.

To all this is added the need to develop a new capability with regard to integrated human resource planning. In fact, integrated HR planning is now becoming the main source of signs that circumscribe the merit principle, since the skills kept throughout the four categories of merit must be based on elements contained in this integrated plan. In other words, the notion of “best fit” illustrates the relationship (narrow) between merit capabilities and the integrated HR plan. HR professionals are therefore expected to become major players as the implementation of the PSMA continues, their expertise being both rare and essential within the Canadian government. In terms of power relationships, the managerial flexibility promised by the PSMA in the context of staffing does not result so much in an increase in the autonomy of managers but in a shift in their relative dependence. Although it was more narrowly circumscribed by rules and standards under the previous process (jobs with competition and jobs without), their autonomy is now limited by their new dependence on HR professionals, who are responsible for integrated HR planning.

The analysis presented in the preceding pages obviously does not include all the issues arising from implementation of the PSMA, nor can it identify all the issues and challenges. If the emphasis on Part 3 of the PSMA, the PSEA, serves to underscore the limitations inherent in the (re)definition of the principle of merit, the very foundation of a professional public service, permanent and non-partisan, only a comparative study of other parts of the PSMA, particularly the *Public Service Labour Relations Act* (PSLRA) and modifications to the *Financial Administration Act* (FAA), can enable a deeper

understanding of its consequences for federal governmentality in Canada. Likewise, the implementation of the PSMA inevitably continues to be influenced, or even packaged in some respects, by the concomitant implementation of the FedAA and its own consequences with regard to the new roles and powers of agents of Parliament, beginning with the Auditor General.

## References

- Canada. 1994. *Public Service 2000. Second annual report to the Prime Minister on the public service of Canada*. Ottawa, ON: Privy Council Office.
- Canada. 1997. *La Relève: un parti pris pour l'action*. Ottawa, ON: Ministère des Approvisionnement et Services.
- Canada. 2001. *Le mérite dans la fonction publique – document préparé par le Groupe de travail du CCCFP sur le mérite*. Ottawa, ON: Commission de la fonction publique du Canada. [http://www.pscac-cccfp.gc.ca/publications/rpt\\_merit/index\\_f.php](http://www.pscac-cccfp.gc.ca/publications/rpt_merit/index_f.php).
- Canada. 2003a. *Public Service Modernization Act*. Ottawa, ON, S.C. 2003, c. 22. <http://laws-lois.justice.gc.ca/eng/acts/P-33.4/> [Accessed 16-03-22].
- Canada. 2003b. *Brefpage technique sur la Loi*. [http://www.hrma-agrh.gc.ca/hrmm-mgrh/psma-lmfp/ti-rt/tb-bt\\_f.asp](http://www.hrma-agrh.gc.ca/hrmm-mgrh/psma-lmfp/ti-rt/tb-bt_f.asp) [Accessed 16-03-11].
- Canada. 2003c. *Frequently asked questions (FAQs)*. Ottawa, ON: Public Service Human Resources Management Agency of Canada. [http://www.hrma-agrh.gc.ca/veo-bve/faq/faq\\_e.asp#18](http://www.hrma-agrh.gc.ca/veo-bve/faq/faq_e.asp#18).
- Canada. 2004. *Onzième rapport annuel au Premier ministre sur la fonction publique du Canada*. Ottawa, ON: Bureau du Conseil privé.
- Canada. 2006a. *Description du processus de nomination indépendant non annoncé – février*. Ottawa, ON: Commission de la fonction publique du Canada.
- Canada. 2006b. *Description du processus de nomination indépendant annoncé – février*. Ottawa, ON: Commission de la fonction publique du Canada.
- Canada. 2006c. *Description du processus de dotation collective – février*. Ottawa, ON: Commission de la fonction publique du Canada.
- Canada. 2007a. *Modernisation de la gestion des ressources humaines – Dotation*. Ottawa, ON: Agence de la gestion des ressources humaines de la fonction publique du Canada. [http://www.hrma-agrh.gc.ca/hrmm-mgrh/psma-lmfp/gi-ig/fs-fr/staffing-dotation\\_f.asp](http://www.hrma-agrh.gc.ca/hrmm-mgrh/psma-lmfp/gi-ig/fs-fr/staffing-dotation_f.asp) [Accessed on 16-03-11].

- Canada. 2007b. *Série d'orientation – Évaluation, sélection et nomination*. Ottawa, ON: Commission de la fonction publique du Canada. [http://www.psc-cfp.gc.ca/psea-lefp/guides/assessment/guidance\\_f.htm](http://www.psc-cfp.gc.ca/psea-lefp/guides/assessment/guidance_f.htm) [Accessed on 11-03-16].
- Canada. 2007c. *Aperçu de la planification intégrée des ressources humaines*. Ottawa, ON: Agence de la fonction publique du Canada. <http://www.psagency-agencefp.gc.ca/hrmm-mgrh/psma-lmfp/centre/topics-sujets/hroverv> [Accessed on 16-03-11].
- Canada. 2014. Management Accountability Framework. Ottawa, ON: Secrétariat du Conseil du Trésor du Canada. Source: Treasury Board of Canada (2014). <http://www.tbs-sct.gc.ca/hgw-cgf/oversight-surveillance/maf-crg/index-eng.asp>, [Accessed on 16-03-11].
- Gobert, James and Maurice Punch. 2000. "Whistleblowers, the public interest, and the *Public Interest Disclosure Act of 1998*," *Modern Law Review*, 63(1): 25-54.
- Gow, James Iain. 2004. *Un modèle canadien d'administration publique?* Ottawa, ON: École de la fonction publique du Canada / Canada School of Public Service, 37 pages.
- Hudon, Pierre-André et Christian Rouillard. 2015. "Critical management studies (CMS) and public administration: Reinterpreting democratic governance using critical theory and poststructuralism," *Canadian Public Administration*, 58(4): 527-548.
- Mesmer-Magnus, Jessica R. and Chockalingam Viswesvaran. 2005. "Whistleblowing in organizations: an examination of correlates of whistleblowing intentions, actions, and retaliation ," *Journal of Business Ethics*, 62 : 277-297.
- Power, Michael. 1997. *The Audit Society: Rituals of Verification*. Oxford, UK: Oxford University Press.
- Public Service Commission, Annual Reports (1999-2000 to 2014-2015)*, <http://www.psc-cfp.gc.ca/arp-rpa/2015/index-eng.htm>.
- Rouillard, Christian. 2003. "Du cynisme au désabusement organisationnel : le nouveau management public en tant que facteur de confusion," *Choix*, IRPP, 9(6): 21-40.
- Rouillard, Christian *et al.* 2003 "Sur l'ambiguïté croissante du principe de carrière ou la redéfinition du contrat psychologique dans la fonction publique fédérale du Canada," dans *La nouvelle gestion des ressources humaines dans le secteur public : l'heure du premier bilan au niveau fédéral*. Collection droit public et sciences de l'administration. Liège: Belgium: Éditions du Céfal, p. 95-114.
- Sutherland, S.L. 2003. " 'Biggest scandal in Canadian history': HRDC Audit Starts Probity War," *Critical Perspectives on Accounting*, 14 (1/2): 187-224.

Sutherland, S.L. 2006a. "Gomery: prequel and sequel," *Revue gouvernance*, 3(1): 1-12.  
<http://revuegouvernance.ca>.

Sutherland, S.L. 2006b. "The Unaccountable *Federal Accountability Act*: Goodbye to Responsible Government?" *Revue gouvernance*, 3(2): 30-42.  
<http://www.revuegouvernance.ca>.

Thomas, Paul G. 2005. "Debating a whistleblower protection act for the employees of the Government of Canada," *Canadian Public Administration / Administration publique du Canada*, 48(2): 147-84.

Vinten, Gerald. 2003. "Whistleblowing: the UK experience part 1," *Management Decision*, 41(9): 935-943.

Vinten, Gerald. 2004. "Whistleblowing: the UK experience part 2," *Management Decision*, 42(1): 139-151.

---

<sup>i</sup> Christian Rouillard is a Full Professor at the School of Political Studies, University of Ottawa.