

Press Clippings for the period of August 2nd to 8th, 2016 / Revue de presse pour la période du 2 au 8 août 2016

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Transférer un détenu lié au djihadisme? Trop risqué, disent des gardiens

Philippe Teisceira-Lessard, La Presse, le 4 août 2016

Une attaque visant à libérer un détenu aux sympathies djihadistes pendant son transfert entre Montréal et Gatineau : c'est le scénario que craignaient deux gardiens de prison qui ont refusé de prendre le volant d'un fourgon cellulaire ce printemps, selon un rapport obtenu par *La Presse*.

Cet incident révèle que les agents correctionnels du Québec s'estiment mal préparés à l'augmentation actuelle du nombre de causes de terrorisme devant les tribunaux, a expliqué le président de leur syndicat.

Les procureurs fédéraux et les employés responsables de la sécurité des palais de justice émettent eux aussi des préoccupations à ce sujet. Un spectateur régulier d'un procès pour terrorisme fait d'ailleurs face à la justice depuis l'automne, accusé d'avoir « intimidé une personne associée au système judiciaire ».

Le 9 mars dernier, Ismaël Habib, accusé d'avoir tenté de rejoindre un groupe terroriste à l'étranger, devait être transporté entre deux établissements de détention.

Mais à 7 h 45, le matin même, les agents carcéraux ont refusé la tâche confiée, craignant « une interception du fourgon cellulaire dans le but d'aider l'un des détenus [Habib] à s'évader », indique un rapport de la CNESST (ex-CSST).

Les employés souhaitaient que leur véhicule soit escorté par la police, mais les autorités carcérales ont refusé, leur fiche d'analyse indiquant que le risque ne justifiait pas une telle mesure.

Au coeur des inquiétudes des deux gardiens de prison : la mention par Radio-Canada et *Le Droit* du transfert imminent de Habib de Gatineau vers Montréal.



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« Comme les médias auraient mentionné qu'il devait être transporté à Montréal pour comparution le matin même », les agents carcéraux craignaient qu'un tiers « puisse tenter d'intercepter le fourgon cellulaire », peut-on lire dans le rapport de la CNESST.

Une ordonnance de non-publication nous empêche d'exposer les faits exacts reprochés à Ismaël Habib. Ce printemps, il devait se défendre contre des accusations de terrorisme à Montréal et d'autres de violence conjugale à Gatineau.

Les agents carcéraux impliqués ont exercé leur droit de refuser de travailler parce qu'ils craignaient sincèrement pour leur vie, selon leur représentant. « Le Ministère doit revoir la sécurité, doit s'y attabler », a affirmé en entrevue Mathieu Lavoie, président du syndicat des agents correctionnels provinciaux.

« Quand on parle de terrorisme ou d'accusations de terrorisme, on n'a souvent pas toute l'information. Et on doit reconnaître qu'on s'expose à des risques. Le refus qui a été fait, c'était dans ce sens-là », a-t-il ajouté. « On considère qu'on doit avoir les ressources nécessaires pour effectuer les transports de façon sécuritaire. »

« Pas de danger »

La CNESST a finalement ordonné aux deux agents carcéraux de reprendre le travail. « Il n'existe pas de danger justifiant [les employés] à refuser d'exécuter leur travail », a tranché l'inspectrice Nancy Lemoine.

M^{me} Lemoine a notamment interrogé Jacques Potvin, un policier de la Gendarmerie royale du Canada (GRC) affecté à l'équipe de la sécurité nationale. « Il ne voyait aucun danger à le déplacer d'un lieu à l'autre », a relaté l'inspectrice dans son rapport. « Il confirme que, selon les informations en leur possession, le prévenu n'a effectivement aucun lien avec une organisation criminelle au Canada. »

Malgré ce revers, le président syndical Mathieu Lavoie maintient ses inquiétudes : « On a des déplacements à faire et on ne doit pas s'exposer à des risques », a-t-il dit. « C'est la responsabilité de l'employeur de s'assurer d'avoir les ressources nécessaires pour ce genre de transports-là. »

Nouvelles formations

Du côté du ministère de la Sécurité publique, on assure mettre tout en oeuvre pour s'adapter à la réalité.

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« Les gestionnaires du renseignement des Services correctionnels du Québec ont reçu ou sont en voie de recevoir la formation de coordonnateur d'information sur la menace terroriste organisée par la Gendarmerie royale du Canada », a affirmé par courriel la relationniste Alexandra Paré. « Ces gestionnaires du renseignement ont aussi reçu récemment une formation du Centre de prévention de la radicalisation menant à la violence. »

Tous les nouveaux agents correctionnels seront aussi formés à cette réalité, a continué le Ministère, puisque « depuis l'hiver 2015 », leur formation inclut « un volet sur le terrorisme et la radicalisation menant à la violence ».

D'autres professions préoccupées

Les agents carcéraux ne sont pas les seuls acteurs du système judiciaire à avoir des préoccupations au sujet du nombre plus élevé de causes terroristes actuellement devant les tribunaux.

Frank Perales, président du syndicat des constables spéciaux qui assurent la sécurité des palais de justice, a affirmé « qu'il y a un manque » sur le plan de la préparation de ses membres à l'enjeu du terrorisme. « On est très bien formés en cas de prise d'otage », mais pas sur le terrorisme, a-t-il dit. M. Perales a toutefois spécifié qu'aucune demande en ce sens n'avait été formulée auprès de l'employeur.

Du côté de l'Association des juristes de justice, qui représente les procureurs fédéraux et notamment les procureurs antiterroristes, on indique ne pas avoir enregistré de crainte de la part des membres sur ce sujet. « Mais c'est toujours une préoccupation, parce que c'est important que nos membres se sentent en sécurité », a indiqué le directeur des communications Nicolas McCarthy.

Ce dernier a notamment évoqué le fait que les adresses personnelles des procureurs fédéraux se trouvent sur leur permis de conduire - souvent exigé par des commerçants ou d'autres institutions - alors que les procureurs de la Couronne provinciale de l'Ontario bénéficient d'un permis de conduire où figure l'adresse d'un palais de justice.

Des causes de terrorisme devant la justice québécoise

ISMAËL HABIB > L'homme de 28 ans est accusé d'avoir tenté de quitter le Canada pour participer aux activités d'un groupe terroriste l'hiver dernier, ainsi que d'avoir fait une fausse déclaration en vue d'obtenir un passeport. Les détails de la cause font l'objet d'une ordonnance de non-publication. L'homme est le fils d'une Québécoise et d'un réfugié afghan. « Il y a des gens qui jouent dans la tête de nos enfants. C'est au gouvernement de les arrêter et de les

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renvoyer dans leur pays », a affirmé ce dernier à La Presse. En parallèle, Habib fait aussi l'objet d'accusations de violence conjugale.

EL MAHDI JAMALI ET SABRINE DJAERMANE > Le jeune couple du collège de Maisonneuve est accusé d'avoir tenté de quitter le Canada en vue de commettre un acte terroriste à l'étranger, de possession d'une substance explosive dans un but criminel, d'avoir facilité un acte terroriste et d'avoir commis un acte au profit ou sous la direction d'un groupe terroriste. Ils ont plaidé non coupable et risquent la prison à vie. Ils ont été arrêtés le 14 avril 2015 par la Gendarmerie royale du Canada (GRC), « par mesure préventive ».

UN ADO MONTRÉALAIS > Un adolescent montréalais a été jugé coupable, à la fin de 2015, d'avoir commis un vol à main armée dans un dépanneur afin de financer un voyage pour rejoindre le groupe État islamique. L'année précédente, il avait aussi tenté d'acheter un billet d'avion vers la Turquie avec la carte de crédit de son père. L'adolescent était en contact avec Martin Couture-Rouleau, auteur de l'attentat de Saint-Jean-sur-Richelieu.

MEROUANE GHALMI > L'an dernier, le jeune homme est devenu le premier Québécois à accepter de porter un bracelet électronique parce que les autorités craignaient qu'il commette un acte terroriste. La GRC pouvait ainsi suivre ses déplacements à la trace. Selon un document judiciaire rendu public en mars dernier, Ghalmi était à la frontière syrienne, en 2013, lorsque les autorités turques lui ont mis la main au collet et l'ont renvoyé au Canada. La police prétend qu'il comptait rejoindre un groupe djihadiste.

DANIEL MINTA DARKO > L'homme de Dollard-des-Ormeaux a aussi accepté de porter un bracelet électronique, un mois après Merouane Gahlmi. « La GRC avait des raisons de craindre qu'il commette une infraction de terrorisme », a expliqué la procureure antiterroriste fédérale Lyne Décarie. Il a aussi accepté une interdiction de posséder un cellulaire et de communiquer par les réseaux sociaux avec des personnes en Syrie, en Turquie ou en Malaisie. Merouane Gahlmi et Darko ont l'interdiction de communiquer entre eux.

Public servants could face tax complications after pay system issues

Michelle Zilio, The Globe and Mail, August 4 2016

Accountants are warning that the coming tax season could be a nightmare for the tens of thousands of public servants who were paid improperly as a result of problems with the federal government's new Phoenix compensation system.



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More than 80,000 federal workers – nearly one-third of the public service – have missed paycheques, or been overpaid or underpaid since Phoenix launched in February, raising concerns about the potential tax-time complications for those affected.

“You’re going to have people pay tax on money that they didn’t receive, or you’re going to have people not paying taxes on money they did receive, and so it’s going to be a nightmare not only for the Phoenix people to clean up but also for the Revenue Canada tax people to review,” Ottawa accountant Charles Ghadban said. “It could be quite enormous, the effect of all of this.”

[Background: System glitch leaves 80,000 public servants waiting for pay](#)

The government has said it hopes to resolve all the Phoenix pay problems by the end of October, months ahead of the 2017 tax season. Another Ottawa accountant, Don Scott, said the government will have to stick to that deadline if it wants to avoid issuing incorrect T4s and creating further problems.

“If it all gets cleaned up properly and everybody’s happy by the end of the calendar year, there should be no issue. If it drags on into 2017, then that’s potentially going to create some tax-reporting issues for a number of the public servants,” Mr. Scott said.

The government could use a special tax form, called a T1198, to avoid confusion, according to Mr. Ghadban. He said the form has been used in recent years and ensures the public servant pays the correct amount of tax for the salary they were supposed to receive.

“Revenue Canada receives the T1198, which basically tells them how much money they [the public servant] should have received over the particular year and with that form, they can calculate the amount of taxes that should have been applied rather than what was actually applied,” Mr. Ghadban said. “Each respective department would have to go through their employee list and determine what their salary should have been and make the adjustment on that form.”

The Public Service Alliance of Canada (PSAC) said it is concerned about the potential tax problems the Phoenix fiasco could create for its members. It’s particularly worried about overpayments, which have been reported by public servants. For instance, PSAC vice-president Chris Aylward said he’s heard of overpayments in the amount of \$5,000, but after the \$2,000 in tax deductions, the affected public servant is left with \$3,000 in their pocket. The union is concerned that if the government demands that overpayment back before the public servant receives their tax return, they may not be able to make the full repayment.

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“You only had the \$3,000 net amount in your pocket. Well they’re [the government] actually recovering the entire \$5,000,” Mr. Aylward said. “Our members don’t have \$2,000 sitting around to say, ‘Okay, here you go, I’ll just get it back from the CRA [Canada Revenue Agency] next year.’”

PSAC, the Professional Institute of the Public Service of Canada and Canadian Association of Professional Employees told *The Globe and Mail* that they expect the government to cover public servants’ accounting costs stemming from Phoenix problems. The government has said it is working with the Treasury Board and public-service unions to compensate public servants for damages incurred, including missed bill payments, but it’s not clear if accounting services would be covered.

Accountants recommend that public servants keep track of every pay stub so they can determine what they were supposed to be paid and what they were actually paid at tax time.

Unions criticize Foote’s performance throughout Phoenix fiasco, claim she’s ‘disingenuous’ on what she knew

'She could have listened to our warnings that were given that this simply is not going to work, and she chose not to do that,' says PSAC vice-president.

Rachel Aiello, *The Hill Times*, August 8 2016

The two biggest federal public service unions say Public Services Minister Judy Foote has been inaccessible throughout the Phoenix fiasco pay system and that she’s being “disingenuous” about how much she knew about the issues facing the payroll program that has affected more than 80,000 public servants.

The Public Service Alliance of Canada (PSAC) and the Professional Institute of the Public Service of Canada (PIPSC) told *The Hill Times* they have not been able to meet with Ms. Foote (Bonavista-Burin-Trinity, N.L.) for months. Combined, the unions represent more than 225,000 federal employees.

“We’ve been relegated, if you will, to the deputy minister [Marie Lemay], but no lack of trying on our part,” said PIPSC president Debi Daviau.

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PSAC national executive vice-president Chris Aylward said that back in June he was told the minister would meet with him, but that meeting has not yet been scheduled.

“We’re dismayed with the minister’s involvement on this,” Mr. Aylward said.

Phoenix is the government’s new enterprise-wide payroll system that has left more than 80,000 of the federal government’s 300,000 employees with problems with their paycheques, most of whom won’t see their issues resolved for months. The government says it should be resolved by the end of October.

Ms. Foote has previously told *The Hill Times* she wants to fix the problem as soon as possible, but has said that she was told the new computerized pay system was ready when it was not. “I was told things were ready to go. ... People who have been working on this since 2009 assured me we didn’t have to worry,” Ms. Foote told CBC News Network’s *Power & Politics* on July 28.

Ms. Daviau said this claim was “disingenuous” because PIPSC had written directly to the minister expressing a number of concerns with Phoenix’s issues.

“The minister’s response to us expressing our concerns in writing was to have us meet with the deputy minister so you would think that that would then result in the deputy minister bringing additional details to the minister,” said Ms. Daviau. “So I actually find it difficult to believe that the minister was not aware that such broad concerns had been expressed about the readiness to move to the next phase. ... It would appear that she is not present at all if she’s unaware of these concerns that were broadly voiced.”

The system was first set to launch last July ahead of the election call, and then again in October, both times the department—specifically associate assistant deputy minister of accounting, banking and compensation Rosanna Di Paola, who had been its main point of contact—listened and agreed with PSAC’s suggestion to wait, but attempts to halt it rolling out in February were unsuccessful, as were pleas from both PSAC and PIPSC (whose members at this point started to experience pay issues) in April when the remaining users were migrated over.

“Foote was appointed in [November], which was prior to the rollout of Phoenix. ... She was the minister when it was rolled out and she could have slowed it down as we had requested. She could

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have listened to our warnings that were given that this simply is not going to work, and she chose not to do that,” said Mr. Aylward.

Ms. Lemay has only been in the deputy minister position since April 11. She told reporters two weeks ago that top bureaucrats responsible for the Phoenix pay system couldn’t recall if they had briefed Ms. Foote on the problems flagged. As well, during the House Government Operations and Estimates Committee emergency meeting on Phoenix on July 28, department officials confirmed there would have been no immediate consequence to holding off.

Ms. Foote did not appear at that meeting, despite being in town. Liberal MPs on the committee blocked a motion inviting her to testify. Instead, Ms. Lemay, Ms. Di Paola, and associate deputy minister Gavin Liddy testified.

“So where is the minister on this? The minister can say they’re doing everything humanly possible to fix this, which is good, but her absence and her lack of visibility on this file is very upsetting and it’s not very encouraging at all,” Mr. Aylward said.

Ms. Daviau also appeared in a later panel at the emergency meeting, but sat through the officials’ testimony. She said she detected “protectionism” over the decisions made and is now questioning whether the department is capable or objective enough to evaluate what went wrong, as they have promised to do, in addition to having the auditor general look into the Phoenix rollout.

The government says the department underestimated how long it would take to train staff on the new Phoenix computerized pay system. In the process of transitioning to Phoenix, PSAC estimates the number of government pay advisers was reduced from 2,700 to around 300.

As well, at the time Phoenix went live, there was already a backlog of more than 40,000 files that had to be dealt with, which PSAC said it had also warned the government about. The new automated payroll program replaces a 40-year-old payment system for all government employees.

Last week, former federal Liberal public works minister Don Boudria told *The Hill Times* that when he was in cabinet he would receive a dozen oral briefings some days, and with the number of files within the department, it would be impossible to keep the minister up to speed on everything.

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“If you gave a one-minute briefing on every issue to the minister every day, the minister would never sleep,” he said, adding though that it’d be a different story if it was something kept from the minister intentionally.

The department’s timeline projects the bulk of pay issues won’t be resolved until Halloween. The top priority is dealing with those not getting paid at all. The government can now deal with those people within three days and they should be paid in the next pay period. The government says it will take four to six weeks to address those who are leaving the government, on or about to go on maternity leave, or long-term disability leave. The government will deal with the bulk of public servants with issues like overpay, underpay, entitlement or extra duty pay on a sliding scale, depending on the issue, between the end of September and Oct. 31.

Despite the department’s promise to conduct weekly updates on the Phoenix system, a briefing was not held last week.

“I think what’s going wrong is a disconnect between officials responsible for the implementation of Phoenix and the actual government who is making decisions, and so ill-informed decisions have been taken that are impossible to reverse and they are struggling with their resolution to these complex issues,” Ms. Daviau said.

The unions say its members are not getting their issues addressed any faster, and some are expanding. As an example, Mr. Aylward said there are members who are not getting paid, meaning neither are their benefit premiums, resulting in lost medical coverage.

Ms. Daviau said the government seems committed to the problem, but PIPSC members are “finding it absolutely unacceptable and completely insufficient.” She says she’s started to hear about how the pay problems have had a chilling effect on people’s spending, even among those without pay issues because they feel it could eventually be them, and this is trickling down to local economies, including Ottawa’s.

The Phoenix system was projected to save the government \$67.2-million a year, but it’s costing the government between \$15-million and \$20-million to address the problem and it’s expected to increase as time goes on. In the week between the last two briefings, an additional 589 cases of pay problems among workers were reported.

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New last week, PIPSC has begun offering assistance to students caught up in the pay fiasco. The students are non-unionized workers, meaning they don't have the same support or backing as most public servants trying to get paid. The union says it will offer advice on how to pursue resolving Phoenix cases and refer critical cases to the government.

HR department still suspending policy requiring long-term contract workers to become permanent

Union decries decision, questions government's 'bullshit' rationale.

Marco Vigliotti, The Hill Times, August 3 2016

At least one government department is continuing to opt out of a federal policy requiring contract (or term) workers to become permanent employees after three consecutive years of work, despite the apparent end of Harper-era cost-cutting initiatives.

A spokesperson for Employment and Social Development Canada confirmed that the department doesn't "automatically make term employees permanent," hinting at a desire for greater freedom in assessing long-term plans.

"ESDC is committed to maintaining fairness to its indeterminate workforce while maintaining flexibility in planning for future needs," Josh Bueckert said in an emailed statement, using another term for permanent employees.

The union representing public sector scientists and other professionals expressed outrage at the continuing suspension of the policy and the reasoning offered by the department.

"That's bullshit," said Steve Hindle, vice-president of the Professional Institute of the Public Service of Canada, in a phone interview.

"They need flexibility? They're are going to hire a term [employee] for three years, continuous, and say that doesn't indicate that they have an ongoing need for that position? Are they not capable of managing their operation?"

In 2002, the federal government introduced a policy requiring term workers who have been in the same department for three years without a break of 60 days or more to be made permanent employees, according to information provided by PIPSC.

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A Canadian Human Rights Tribunal ruling in 2008 mandated changes to the policy to reflect that maternity and parental leave does not constitute a break in the three-year window. Some departments, however, chose to opt out of the policy after the then-Conservative government of Stephen Harper instituted a scheme in 2012, known as the Deficit Reduction Action Plan, to trim the federal deficit after stimulus spending during the late-2000s recession pushed the government into the red, according to Mr. Hindle.

According to PIPSC, departments can opt out of the term employment policy if they can prove that “implementing the policy will result in workforce adjustments in their department,” such as producing excess workers. By opting out, the departments are serving notice that they will stop counting days towards the three-year window.

The union said that at the time three departments served notice they were exercising the opt-out clause: Environment Canada, Public Works and Government Services, and ESDC, then known as Human Resources and Skills Development Canada.

When asked whether changes were being considered, Mr. Bueckert said ESDC would “continually assess our policies and programs and adjust as needed,” adding that “staffing mechanisms” continue to be available to managers who wish to hire term employees on an indeterminate basis. He also noted that term employees are able to apply for all internal job competitions.

Public Works, now known as Public Services and Procurement Canada, stopped calculating days for term employees on July 7, 2011, though it resumed counting as of April 4, 2016 after lifting the suspension of the policy that month, department spokesperson Pierre-Alain Bujold said in an emailed statement.

“Employees who meet the requirements of the Term Employment Policy...can begin accumulating time towards indeterminate appointment again,” he said.

Environment Canada did not respond to questions about whether it is continuing to opt out of the term employment policy before press time.

The Treasury Board Secretariat, which functions as the manager and employer of the public service, also failed to respond prior to deadline.

Mr. Hindle said the union agreed with the decision to suspend the policy while the Conservatives pursued cost-cutting measures that eliminated permanent positions. Instead of bringing aboard term workers on a full-time basis, departments should re-staff indeterminate employees who’ve had their positions slashed to take advantage of their experience and expertise, he said.

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But with the public service cuts tapering off and the Liberal government coming in last fall, it didn't make sense that the department was continuing to opt out of the policy, said Mr. Hindle, who argued that it ran counter to the concept of a professional public service.

"The idea should be to have a workforce that is indeterminate that can be redeployed to other activities, that can work on other programs," he said.

Another pressing consideration for term employees is what comes of the time they accrued prior to their departments opting out of the policy.

Mr. Hindle said he hasn't been told if an employee who had been working in a contract position before their department opted out would be able to carry that over and apply that time to the three-year window.

He expressed concern that the decision shows the government had "overextended" itself on what it promised the public service and how efficiently it could reach these goals.

He added that the union hasn't had many discussions with the Liberals since they assumed power in what he attributed to the hefty slate of issues on the government's plate.

In the lead-up to the 2015 election, the Liberals promised if elected to rehabilitate the government's relationship with the public service that they say turned soured under the watch of a Conservative government that cut jobs, publicly clashed with unions, and was criticized for muzzling public sector scientists and curtailing collective bargaining rights.

Once in power, the Liberals set upon courting federal bureaucrats.

The government vowed to dismantle Harper-era legislation that made it more difficult for federal public servants to strike by expanding the meaning of an essential service in what Treasury Board President Scott Brison (Kings-Hants, N.S.) hailed as an "important step in rebuilding the relationship with Canada's public service."

In another nod, the Liberal government afforded public scientists and diplomats more freedom to discuss their work with the media.

The government has signalled that it could grow the public service after years of Conservative cuts, with its initial budget delivered last spring earmarking billions of dollars for federal infrastructure projects, among other initiatives. It also pledged nearly \$1 billion extra for the Canada Revenue Agency to improve and speed up service, bolster collections, and crack down on tax cheats.

But cracks are being beginning to surface in the Liberals' relationship with federal workers.

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Earlier this month, Crown corporation Canada Post threatened to lock out its employees as negotiations with the Canadian Union of Postal Employees on a new contract stalled, only to later relent and extend talks for another 30 days.

Then there's the debacle with the Phoenix pay system. Some 80,000 public servants are experiencing pay issues because of the new system.

Anti-terrorism law: Why the Liberals aren't living up to vow to amend it

Lawrence Martin, The Globe and Mail, Aug 2 2016

New Democrat MP Randall Garrison is putting together a bill aimed at repealing anti-terrorism measures brought in by the Conservative government a year ago. Mr. Garrison says the Liberal government is moving too slowly on its [election promise](#) to soften the security legislation, commonly known as Bill C-51, that gave the spooks all kinds of new powers.

Our New Democrats have been considerably muted as a result of the October election. So it's good to hear them – they should be getting some inspiration from the likes of Bernie Sanders – holding up the values of the left.

Any move by them to salvage civil liberties, however, won't get far. In due time there will probably be a few amendments to C-51. But they are likely to be minor in nature, like the timid change the Liberals have introduced thus far – the appointment of a parliamentary oversight committee to monitor and scrutinize spy activities. It has the claws of a kitten.

Justin Trudeau did not want to be seen as being soft on terror when the Harper government brought in C-51, which was in response to consecutive terror incidents on domestic soil. The Liberals backed the bill and sought cover with the promise of amendments. But given the climate of the times, given the recent spate of terrorist atrocities, they now feel a new need to be cautious.

What if, an insider explained, the Liberals brought in big-time amendments to defang C-51 and there was a subsequent terrorist act on Canadian soil: "How would we look then?"

There's another timing problem. The Liberals don't want to do anything until the U.S. election is over. If Donald Trump becomes president (a doubtful prospect), all hell breaks loose. Security policy, border policy, immigration policy south of the border would be overhauled. Ottawa

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would have to respond in a manner considerably different than it would if Hillary Clinton wins the Nov. 8 vote.

Politically speaking, the Liberals, because of all the global terror, are under little public pressure to move quickly. When C-51 was first introduced, there was a civil liberties outcry. Rather than just gathering intelligence, C-51 gave our spy agency (the Canadian Security Intelligence Service) powers to make arrests on suspicion that someone might carry out a terrorist act. "Suspicion" is a word of considerable latitude. The spooks were given powers to apprehend anyone engaging in an act that is deemed to promote terrorism. "Promote" is a rather flexible term as well. CSIS was given powers to disrupt gatherings whereas previously it had only a monitoring function.

Reaction on the left was heated: "We're creating a new parallel police force." "Anyone can be locked up without judicial recourse." "Police state here we come." But you don't hear much of that any more. For example, the Canadian Civil Liberties Association, in conjunction with the Canadian Journalists for Free Expression, is trying to get Canadians to raise their voices through a parliamentary e-petition. They are getting very little response.

The NDP has been steadfast in its opposition to C-51, its point being that you can have tough anti-terrorism laws which do not infringe on the Charter of Rights and Freedoms. Among the Liberals' promises of change to C-51 was one that would ensure that CSIS warrants did not contravene the Charter. The Liberals promised a wide range of public consultations on the legislation. But such consultations have yet to begin. The Liberals promised to review petitions by Canadians who find themselves on a no-fly list. But that promise has been diluted.

The parliamentary oversight body is supposed to fill a glaring omission in the Anti-Terrorism Act (it was inexcusable that the Conservatives were so opposed to oversight). But the committee is severely handcuffed. The government can cite national security to deny it information it is seeking. And the committee doesn't report to Parliament but to the Prime Minister; he is then free to censor or do with its report as he wishes.

It's symptomatic of the Liberal approach to C-51, which is to tinker. But on the anti-terrorism law, that may be all that the people want.

L'exception québécoise jugée fragile

Le processus de nomination des juges laisse beaucoup de place à l'interprétation, selon l'opposition

Marie Vastel, Le Devoir, le 3 août 2016



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Le Québec aura-t-il son mot à dire quant au choix de juges à la Cour suprême, en vertu du nouveau processus de Justin Trudeau ? L'opposition, à Québec comme à Ottawa, craint que non et dénonce le peu de garanties offertes par le gouvernement fédéral. Mais Philippe Couillard de son côté ne s'inquiète pas outre mesure, invitant le premier ministre à ce que le Québec et le Canada travaillent « *ensemble* » le temps venu.

La question pourrait ne pas se poser avant le départ prévu du juge Richard Wagner en 2032, qui sera le premier magistrat québécois à atteindre l'âge de la retraite obligatoire de 75 ans. Mais d'ores et déjà, les politiciens québécois des deux collines parlementaires espéraient qu'Ottawa s'engage, noir sur blanc, à choisir de concert avec Québec les prochains juges qui représenteront la province au plus haut tribunal du pays.

Justin Trudeau annonçait mardi qu'un comité consultatif indépendant éplucherait dorénavant les candidatures aux postes de juge à la Cour suprême, en vue de fournir une courte liste — non contraignante — au premier ministre. Les candidats retenus devront être bilingues et le comité devra tenir compte de la parité de même que de la « *diversité de la société canadienne* ». Le temps venu, « *la composition du comité consultatif sera ajustée pour tenir compte de la tradition juridique particulière du Québec* », stipule le document publié par le bureau du premier ministre. Sans offrir plus de détails.

Le premier ministre Philippe Couillard y voit « *une autre manifestation bienvenue de l'asymétrie qui permet au Québec de prendre toute sa place au sein de la fédération canadienne* ». Il note, dans une lettre ouverte transmise au *Devoir* (voir page A 7), que « *le gouvernement du Québec devra avoir un rôle déterminant à jouer dans le processus consultatif qui mènera à la recommandation des trois juges pour le Québec. [...] La porte est maintenant ouverte pour une discussion et une collaboration* ». M. Couillard avait réitéré, à la suite de l'affaire du juge Marc Nadon, que le Québec devait avoir « *son mot à dire* ».

« Flou alarmant »

Or, sa réponse au fédéral mardi n'est « *vraiment pas suffisante* », selon Simon Jolin-Barrette, député de la CAQ, qui juge que la lettre du premier ministre québécois ne contient « *que de bonnes intentions* » plutôt que d'exiger des garanties écrites. « *Le gouvernement Couillard ne demande rien à Ottawa* », a déploré le député, qui a déposé un projet de loi réclamant que l'Assemblée nationale dresse une liste de trois candidats à la Cour suprême à proposer au fédéral.

Le processus de M. Trudeau est « *déplorable* » pour le Québec selon lui, car la ministre québécoise de la Justice ne pourra donner que « *son avis* », et ce, une fois que la courte liste de

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candidats aura été soumise à Justin Trudeau. « *Ce mécanisme tend à minimiser le rôle qu'aurait pu et aurait dû jouer le Québec* », a renchéri le député péquiste Stéphane Bergeron.

La proposition libérale est d'un « *flou alarmant* », acquiesce le chef du NPD, Thomas Mulcair. Son homologue bloquiste Rhéal Fortin estime qu'Ottawa devrait « *démontrer sa bonne volonté* » et certifier « *clairement* » que le Québec sera invité à soumettre ses choix de candidats. « *On pourrait établir des règles de cette nature dès maintenant qui rassureraient tout le monde, mais surtout permettraient au gouvernement du Québec de se préparer en conséquence.* »

Les Maritimes inquiètes

Pour commencer, le comité devra trouver un remplaçant au juge Thomas Cromwell — qui représente les Maritimes sur le banc de la Cour suprême et qui quittera son poste le 1er septembre. Les prétendants peuvent envoyer leur candidature jusqu'au 24 août. Un nouveau juge sera nommé cet automne. Le comité recevra des candidatures de partout au pays et préparera une liste de trois ou cinq noms « *y compris des candidats du Canada atlantique* ».

Une phrase qui dérange, dans l'Est. « *Ce n'est pas difficile d'être déçu, quand on sait que la tradition veut qu'il y ait une représentation régionale au plus haut tribunal du pays. On ne dirait pas que le choix sera basé sur la région* », a déploré Andrew Parsons, ministre de la Justice de Terre-Neuve-et-Labrador, à la CBC. Il est « *possible* » que ce ne soit pas le cas, a confirmé la ministre fédérale Judy Wilson-Raybould à la CBC.

Les conservateurs en ont fait leur principale critique mardi, leur porte-parole Rob Nicholson sommant M. Trudeau « *de respecter la convention de longue date* » qui veut qu'au moins un juge de la Cour suprême vienne de l'Atlantique.

Thomas Mulcair reproche de son côté aux libéraux d'avoir réformé le processus de nomination d'une « *institution qui affecte les droits de l'ensemble des Canadiens [...] sans avoir procédé à la moindre consultation, avec l'un ou l'autre des partis d'opposition* ».

Les parlementaires ne seront pas non plus consultés en amont sur le choix des juges. Le mandat du comité ne stipule pas qu'il doive recueillir l'avis des partis d'opposition. C'est plutôt la ministre, une fois qu'elle aura la courte liste de candidats en main, qui consultera ses homologues de l'opposition tout comme ses homologues provinciaux. Le candidat choisi par le premier ministre sera ensuite interrogé par un professeur de droit, en présence de sénateurs et députés, y compris du Bloc québécois et du Parti vert. Thomas Mulcair déplore cette « *inclusion après coup* ».



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Le député libéral de Québec Joël Lightbound rétorque que son gouvernement a voulu « *retirer la partisanerie de tout le processus de nomination* ».

Les candidats devront par ailleurs démontrer — quitte à subir un test pour le prouver — qu'ils savent « *lire des documents et comprendre un plaidoyer* » en anglais comme en français. Une bonne nouvelle, de l'avis de Québec et de la bâtonnière du Québec, Claudia Prémont. Mais ce critère devrait être carrément enchâssé dans la Loi sur la Cour suprême selon Me Prémont, le NPD et la CAQ, afin d'éviter qu'un futur gouvernement revienne sur cette décision.

Certains rétorquent au Canada anglais que d'illustres candidats se retrouveraient exclus d'emblée. M. Mulcair leur réplique que ces gens n'avaient qu'à inclure le bilinguisme à leurs priorités de perfectionnement professionnel. « *Ça fait partie de la compétence, pour être un juge au plus haut tribunal* », a-t-il argué en rappelant que la Loi sur les langues officielles existe depuis près de 50 ans et que les aspirants candidats ont eu le temps d'apprendre s'ils le voulaient une seconde langue.

Why Canada has a new way to choose Supreme Court judges

RT. Hon Prime Minister of Canada, Justin Trudeau, The Globe and Mail, Aug 2 2016

The appointment of a Supreme Court of Canada justice is one of the most important decisions a prime minister makes.

Parliamentarians are responsible for shaping the laws that define the conduct of our citizens, but when there is disagreement about the application of those laws, it is up to our courts – and ultimately, the Supreme Court – to ensure that those laws are applied fairly and in accordance with our Constitution.

The top court's decisions affect us all – they influence our economy, our cultural mores and our definition of our individual and collective rights and responsibilities.

[INVESTIGATION: The secret short list that provoked the rift between Chief Justice and PMO](#)

The nine women and men who sit on the Supreme Court bench must be jurists of the highest calibre, they must be functionally bilingual and they must also represent the diversity of our great country. As the current Chief Justice, Beverley McLachlin, once said: "If we are to fully

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meet the challenges of judging in a diverse society, we must work toward a bench that better mirrors the people it judges.”

She is right: A diverse bench brings different and valuable perspectives to the decision-making process, whether informed by gender, ethnicity, personal history or the myriad other things that make us who we are.

Throughout our history, we have most often found, and been served by, the very best within our legal community. But the process used to appoint Supreme Court justices is opaque, outdated, and in need of an overhaul.

[GLOBE ARCHIVES: Stephen Harper's courts: How the judiciary has been remade](#)

That is why, today, our government is [announcing](#) a new Supreme Court appointment process that is open, transparent and will set a higher standard for accountability.

First, we have opened the application process so that any Canadian lawyer or judge who fits the criteria can apply through the Office of the Commissioner for Federal Judicial Affairs.

Gone are the days of governments – Liberal and Conservative alike – nominating Supreme Court justices through a secretive backroom process. Canadians deserve better. From now on, an independent and non-partisan advisory board will be given the task of identifying suitable candidates.

The board will be chaired by former prime minister Kim Campbell and will consist of seven members. Four will be designated by independent professional organizations: the Canadian Judicial Council, the Canadian Bar Association, the Federation of Law Societies and the Council of Canadian Law Deans; and the remaining three will be prominent Canadians, at least two of whom will be from outside the legal community, appointed by the Minister of Justice.

In future, when one of the three Quebec seats is to be filled, the composition of the advisory board will be adjusted to account for Quebec's unique legal tradition.

Second, we have committed to an unprecedented level of transparency. The members of the advisory board, the assessment criteria, the questionnaire that all applicants must answer and certain answers provided to the questionnaire by the Prime Minister's eventual nominee, will all be made public to Canadians.

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Finally, members of Parliament will have the opportunity to actively participate in the appointment process and directly engage with the nominee – before she or he is appointed to the Supreme Court.

The Minister of Justice will appear before a House of Commons committee to explain the new selection process. Then, once the shortlist of candidates has been compiled by the advisory board, the minister will consult the Chief Justice of Canada, the applicable provincial and territorial attorneys-general, members of the House's justice and human rights committee, the Senate's legal and constitutional affairs committee, and the Opposition justice critics.

Once the nominee has been announced, participating MPs will be given a week to prepare for a special justice and human-rights committee hearing, where the Minister of Justice and the chair of the appointments committee will explain why the nominee was selected. To further meet our commitment to transparency, we will invite the members of the House and Senate committees, and representatives of all parties with seats in the House, to take part in a Q&A session with the nominee, moderated by a law professor.

For more than 140 years, Canadians have looked to their Supreme Court to provide wise counsel – to protect our rights while holding us each accountable to our responsibilities. And our court has served us well.

The changes our government announces today respect the court's central role in the administration of justice, while at the same time offering the kind of rigorous review that such an important decision demands.

By making the appointment process more open and transparent, Canadians can be reassured that all members of the Supreme Court are both fully qualified and fully accountable to those they serve.

The appointment of a Supreme Court justice is one of the most important decisions a prime minister makes. It is time we made that decision together.

Justin Trudeau announces new Supreme Court justices selection process

Kim Campbell tasked as chair of new non-partisan advisory board
CBC News, August 2 2016

The way Supreme Court of Canada justices are selected is about to change.

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On Tuesday, Prime Minister Justin Trudeau announced the application process will be open so any qualified Canadian lawyer or judge who is functionally bilingual and "representative of the diversity of our great country" can apply for the top court.

Former prime minister Kim Campbell will chair the new independent advisory board that will recommend candidates.

Trudeau announced the board will review applicants and will submit a short list of three to five individuals for consideration. However, their recommendations are non-binding.

The short list will then be reviewed by a list of interested parties, including the chief justice of Canada, provincial and territorial attorneys general, relevant cabinet ministers, opposition justice critics and some House of Commons committees.

[Vacant spot on bench as of Sept. 1](#)

Applicants will have to take a questionnaire, and some answers from the prime minister's eventual nominee will be made public.

The prime minister also announced Justice Minister Jody Wilson-Raybould and Campbell will appear before Parliament to discuss the selection process. Then, a number of MPs and senators from different parties will have a chance to question the eventual nominee before they are officially appointed.

The application period ends Aug. 24, just before [Justice Thomas Cromwell retires at the start of September.](#)

Besides Campbell, the seven-member advisory board includes:

- Camille Cameron, dean of the Schulich School of Law at Dalhousie University and chair of the Canadian Council of Law Deans.
- Jeff Hirsch, president of the Federation of Law Societies of Canada and partner with a Winnipeg law firm.
- Stephen Kakfwi, former premier of the Northwest Territories and president of the Dene Nation.
- Lili-Anna Pereša, president and executive director of Centraide of Greater Montreal.
- Richard J. Scott, former chief justice of the Manitoba Court of Appeal, and current counsel, arbitrator and mediator at a Winnipeg law firm.
- Susan Ursel, senior partner with a Toronto firm and chair of the Canadian component of the African Legal Research Team.

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Four members were nominated by independent professional organizations and the other three were nominated by the justice minister.

Past dust-ups

The way Canada's top judges are appointed came under fire under the previous Conservative government, when then Prime Minister Stephen Harper tapped Marc Nadon, a semi-retired Federal Court of Appeal judge, for one of three slots reserved for judges from Quebec on the top court.

In a 6-1 ruling, the Supreme Court quashed Nadon's appointment, arguing it was against the Quebec-specific provisions in Supreme Court Act.

The court also said the government needs a constitutional amendment to change the criteria for judges on the Supreme Court.

Canada's MMIW inquiry begins with a glimmer of hope

Their fight no longer feels futile, say family members at the inquiry's launch. 'It's a beautiful day and we must rejoice in life.'

Shannon Proudfoot, Maclean's, August 3 2016

The collective mood at the unveiling of the national inquiry into missing and murdered Indigenous women and girls was pensive, solemn and gentle, but above all, buoyed by a certain brightness of spirit. Plenty of families are still waiting warily to see what exactly comes of it, but at the Canadian Museum of History, where the five-member commission was announced Wednesday morning, many people used the same word in taking the emotional measure of the room: hopeful.

Claudette Commanda, an Algonquin elder who offered the opening prayer, began things by chiding the audience for falling into reverent silence simply because they heard the word "elder." She spoke of the "momentous occasion" to finally confront this "national tragedy and disgrace," but her overall tone and message was one of gratitude and quiet joy. "It's a beautiful day and we must rejoice in life," Commanda said.

So against that prevailing mood, it was particularly arresting when Jody Wilson-Raybould was, for just a moment, overcome by her own emotions. She spoke slowly and thoughtfully, pausing to acknowledge the totem poles soaring above and six Pacific Coast big houses standing sentry

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behind her in the museum's Grand Hall. "I am incredibly proud to be here, certainly as the minister of justice and the attorney general of Canada, but proud to be here also as a Kwakwaka'wakw woman from the west coast of British Columbia," she said.

It was when she spoke of the need to identify the root causes of the vastly disproportionate violence toward indigenous women and girls that the justice minister came undone a little. There was a long, quiet pause as she collected herself. "We know that the inquiry cannot undo the injustices that Indigenous peoples have suffered over decades," she said, looking directly at the audience of mourning families and advocates in front of her. "But we can review what's happened in the past, reflect on our present circumstances and chart a path moving forward."

She ended her remarks where she started, gesturing at the formidable big houses behind her—one of them from her home territory—which for her represent the resilience and strength of the people who lived within them. "It is that strength, the culture, the traditions and our languages that are going to assist in healing, that are going to chart the path to a future where Indigenous peoples can finally see their face in the mirror of our constitution," she said.

In the audience, Bernie Williams (a member of the Haida nation, her traditional name is Gulkittjaad) and a friend had their drums with them. They debated for some time whether the drums belonged there, before deciding they did. Williams works in Vancouver's Downtown Eastside, where her mother and two of her sisters were killed. Periodically when one of the speakers said something that grabbed her—such as when Minister of Indigenous and Northern Affairs Carolyn Bennett mentioned that each province and territory had signed on, so the commission could work without obstacles—Williams pounded on her drum three times. "It's a heartbeat. We were always taught that the drum is like the heartbeat of Mother Earth," she said afterward, thumping one hand on her chest. "We are very, very happy that this is happening for us. And it's been a long time, but the sad thing about it is it's still going on—nothing has changed."

On the other side of the audience, Charlotte and Abigail Carleton, Inuit throat singers who live in Ottawa, were sitting next to each other, quietly figuring out what they were going to perform. Just before they were called up, Charlotte, 24, sensing the mood in the room, thought of the right song. "Indigenous people are really resilient and strong. We go through much and come out better," she said from the stage, alongside her 21-year-old sister. "This song we believe is appropriate—it's called The River. And just like water, we push through things. We're very agile and we adapt to things."

Another set of sisters, Sharon and Gloria Johnson, were also sitting side-by-side nearby. Their youngest sister, Sandra Kaye Johnson, was both with them and absent. She smiled out from the

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front of their purple T-shirts as a teenager, and from the back, as a toddler clutching her favourite doll, Nicole. Her photo was inscribed with Sept. 26, 1973—her birthdate—and Feb. 13, 1992, the cold, snowy day when she was raped, murdered and left in Thunder Bay's McIntyre River. "I always feel like she's with me, like she's walking with me in spirit," said Sharon. "I feel like that every day, even if I'm not wearing this T-shirt."

Sandra was happy and outgoing: a powwow dancer from the time she could walk and a lover of heavy metal music who was learning to play drums for her brother's band. Sharon and Gloria have spent the years since her death attending vigils and planning memorial walks. More than anything, they just wanted people to take notice that this was happening—to them and other families like theirs. It often felt futile, but in the last few years, they started to hear more talk about missing and murdered women like Sandra. Their fight no longer feels pointless. "Being here today for me was important because it feels good to know that our work wasn't all for nothing," Sharon said. "Even if we never find out what happened to our little sister."

Femmes autochtones disparues – Une enquête pour réparer toutes les autres

Marie Vastel, Le Devoir, le 4 août 2016

Les communautés autochtones l'attendaient depuis des années. La voilà arrivée, cette commission d'enquête sur la violence faite aux femmes autochtones. Mais sitôt annoncé, son mandat en a déçu plusieurs qui auraient souhaité des pouvoirs contraignants pour panser les plaies qu'ils traînent depuis longtemps. Et des garanties que les recommandations seront toutes mises en oeuvre par le fédéral, qui a évité de se commettre.

« La commission n'est pas une cour pénale, elle ne peut pas établir qu'un acte criminel a été commis, a consenti la ministre des Affaires autochtones Carolyn Bennett en présentant les responsabilités confiées quelques minutes plus tôt aux cinq commissaires qui chapeauteront l'enquête nationale. Mais si [on découvre] des choses qui sont inquiétantes, ce peut être référé aux processus appropriés », a-t-elle ajouté.

La commission d'enquête se penchera sur les causes systémiques de la violence faite aux femmes autochtones. Police, services à l'enfance et médecins légistes seront notamment scrutés. L'enquête pourra transmettre de nouvelles informations qui seraient révélées au fil des audiences aux autorités provinciales, qui pourront choisir de rouvrir ou non une enquête. Les commissaires pourront également référer des cas d'inconduite policière aux autorités

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responsables ou recommander des mesures correctives aux corps policiers. Mais l'avis de la commission ne sera pas contraignant.

Ce qui préoccupe l'Association des femmes autochtones du Canada (AFAC), qui entendait depuis des années des familles de victimes réclamer que certaines enquêtes soient rouvertes. Des cas classés comme des suicides ou des surdoses, alors que certains indices laissent pourtant entendre qu'il s'agissait de meurtres. Ou d'autres qui semblent n'avoir tout simplement pas fait l'objet d'une réelle enquête. Le mandat de l'enquête ne garantit pas que ces cas aient droit à un second regard.

Justice

Les commissaires « les redirigeront vers les services provinciaux pour les victimes, qui ne nous ont pas bien servi, a déploré la présidente de l'AFAC Dawn Lavell-Harvard. Les familles ne cherchent pas des services de soutien psychologique, mais à obtenir justice ».

Des familles comme celle de Bridget Tolley, dont la mère a été happée et tuée par la Sûreté du Québec à Kitigan Zibi et qui a vu l'enquête confiée à ce même corps policier. Le mandat de la commission la déçoit. « Plusieurs familles veulent que nos dossiers soient rouverts et étudiés à nouveau. C'est ce qu'on demande depuis 15 ans », a-t-elle déploré en peinant à essuyer ses larmes, les mains encombrées par l'énorme portrait de sa mère Gladys qu'elle transportait en guise de cri du coeur. Le fardeau est lourd et Mme Tolley n'a plus la force de réclamer justice. « Je ne veux plus faire ça, c'est trop dur. C'est dur pour le coeur », a-t-elle gémi.

L'AFAC s'inquiète aussi que l'aide psychologique ne soit offerte aux proches de victimes que le temps de leur témoignage à la commission. Et l'association déplore comme d'autres que le fédéral n'ait su garantir que les recommandations seraient bel et bien mises en oeuvre.

Une réflexion tablettée ?

Car ce n'est pas tout, pour Ottawa, de lancer l'enquête tant réclamée. « Qu'on ne fasse pas juste une enquête et qu'on laisse ça sur une tablette, a souhaité Vivian Michel, de Femmes autochtones du Québec. Il va en ressortir j'espère des recommandations, qui pourront mener par la suite à un plan d'action pour enrayer cette problématique. »

Le chef national de l'Assemblée des Premières nations Perry Bellegarde invite les chefs du pays à avoir la même exigence. « Assurez-vous que peu importe ce qui ressort au terme de ces deux ans, que ce soit réellement mis en oeuvre », leur a-t-il lancé.



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La ministre Bennett n'a pas offert de garanties. D'abord faudra-t-il voir les recommandations. « J'ai confiance que la qualité du travail de la commission mènera à des gestes concrets que nous pourront mettre en place », s'est-elle contentée d'avancer.

Québec confiant

Même son de cloche chez son homologue provincial, Geoffrey Kelley. « En principe oui », Québec promet d'instaurer les recommandations dont pourrait accoucher la commission. « Ça aiderait de les lire avant de m'engager », a cependant noté à son tour le ministre québécois des Affaires autochtones. Pourquoi ne pas promettre d'entrée de jeu de suivre les conseils de cette enquête et ainsi rassurer les communautés ? « Il faut laisser la commission faire son oeuvre », a-t-il fait valoir.

Québec avait refusé de lancer une enquête provinciale dans la foulée des révélations faisant état d'agressions physiques et sexuelles de femmes autochtones par des policiers de la Sûreté du Québec à Val-d'Or. M. Kelley maintient qu'il faut commencer par l'enquête fédérale. Québec ordonnera-t-il aux corps policiers d'ajuster leur comportement, si la commission le recommande, ou de rouvrir des enquêtes ? « Ce ne sont pas les politiciens qui donnent les ordres d'enquête, c'est la police. Mais toute information pertinente sera transférée au corps policier, c'est évident. »

Encore mercredi, le Centre d'amitié autochtone de Val d'or réclamait l'ouverture d'une « enquête indépendante » de la part du gouvernement du Québec.

L'émotion était palpable lors de la cérémonie où le gouvernement a officiellement confié l'enquête aux cinq commissaires : la juge Marion Buller, la militante Michèle Audette, la professeure Marilyn Poitras et les avocats Qajaq Robinson et Brian Eyolfson. Malgré leurs préoccupations, les femmes autochtones réunies étaient soulagées et optimistes de voir enfin l'enquête prendre forme.

La ministre de la Justice, Jody Wilson-Raybould — première autochtone à occuper ce poste —, était visiblement elle aussi très émue. « Nous savons que l'enquête ne peut réparer les injustices que les Autochtones ont subies pendant des décennies, mais nous pouvons examiner ce qui est arrivé dans le passé, réfléchir à notre situation actuelle et définir une feuille de route pour l'avenir », a-t-elle dit en peinant à contenir son émotion.

L'enquête débutera le 1er septembre et les commissaires doivent faire un rapport final avant le 31 décembre 2018. Le budget de 40 millions de dollars a été revu à la hausse, l'enveloppe se chiffant désormais à 53,8 millions. À cela s'ajoutent 16,17 millions pour créer des groupes de

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liaison pour les familles qui fourniront les informations policières ou judiciaires sur les dossiers de leurs proches.

Femmes autochtones tuées ou disparues: l'enquête lancée mercredi

La Presse Canadienne, le 2 août 2016

La ministre fédérale des Affaires autochtones, Carolyn Bennett, devait rencontrer mardi soir des familles de femmes des Premières Nations assassinées ou disparues, avant de mettre formellement sur les rails, mercredi, la commission d'enquête nationale.

Cette annonce devrait mettre un terme au rôle du gouvernement fédéral dans la définition du cadre de référence de la commission; ce sera ensuite aux commissaires de prendre la relève et d'amorcer leurs travaux.

On s'attend à ce qu'Ottawa annonce mercredi la nomination de cinq commissaires.

La présidente de l'organisation à but non lucratif Femmes autochtones du Québec, Viviane Michel, espère qu'il y aura des membres des Premières Nations ayant «une expertise juridique» parmi eux.

«Ce sont les meilleures personnes pour connaître et comprendre la problématique», a-t-elle soutenu, mardi soir, alors qu'elle était interviewée par *La Presse canadienne*.

Mme Michel a ajouté que si des commissaires provenant des Premières Nations ont bel et bien été sélectionnés, les travaux se dérouleront plus rondement.

«(Dans une telle éventualité), on n'aura pas à faire l'éducation de gens qui ne connaissent absolument rien aux réalités des peuples autochtones», a-t-elle expliqué.

La commission d'enquête aura le pouvoir d'assigner des témoins et de les contraindre à déposer des preuves.

À terme, Viviane Michel aimerait que des recommandations soient formulées pour provoquer «des changements dans le système judiciaire - ce qui inclut la police - et aussi sur le plan de la protection de la jeunesse».

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Le gouvernement fédéral a réservé pour l'instant 40 millions \$ sur deux ans pour les travaux de cette commission, mais la ministre Bennett a déjà indiqué que ce budget pourrait évoluer.

Les consultations préalables ont permis de dégager certains grands axes pour les travaux de la commission: les pratiques policières, le système judiciaire, le rôle du colonialisme et des pensionnats pour Autochtones, de même que la pauvreté endémique dans plusieurs communautés des Premières Nations.

En plus de Mme Bennett, le processus de définition des paramètres de l'enquête a été dirigé par deux autres ministres fédérales: Jody Wilson-Raybould, ministre de la Justice et procureure générale, et Patty Hajdu, ministre de la Condition féminine. Un comité a rencontré notamment des survivantes, des proches des victimes, des organisations et collectivités autochtones, les provinces et territoires, ainsi que des organismes de première ligne.

La mise en place de cette commission est réclamée depuis belle lurette par de multiples acteurs issus des Premières Nations.

M^{me} Michel estime que l'attente n'aura pas été vaine. «Il n'arrive rien pour rien», a-t-elle déclaré, philosophe.

Elle a précisé qu'en attendant la création de la commission, «beaucoup de sensibilisation» a pu être effectuée si bien que, de nos jours, «les gens connaissent mieux la problématique» des femmes autochtones ayant été assassinées ou portées disparues.

Missing, murdered Indigenous women inquiry launch coming next week

Trudeau government faces criticism inquiry will 'lack teeth' after draft terms of reference leaked to CBC

Connie Walker, CBC News, July 29 2016

Details of a long-awaited national inquiry into missing and murdered Indigenous women and girls are expected to be released Wednesday, sources tell CBC News.

Indigenous Affairs Minister Carolyn Bennett said last week that an announcement was "very close." Sources who spoke to CBC News on condition of anonymity said they have been told the announcement will come Aug. 3.

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The Liberal government is facing criticism that the inquiry will "[lack teeth](#)" after a draft of the terms of reference was obtained by CBC News last week.

- [MMIW: New unsolved cases added to CBC's database](#)
- **INTERACTIVE | [Missing and Murdered: The Unsolved Cases of Indigenous Women and Girls](#)**
- [MMIW national inquiry to focus on violence prevention not police investigations](#)

[According to the draft document](#), the inquiry would largely focus on violence prevention.

It says commissioners will be given the broad mandate to identify systemic causes of violence and recommend "concrete action" to help end violence against Indigenous women and girls.

Families and advocates expressed disappointment the document makes no specific mention of police investigations, an issue that came up at all 17 pre-inquiry consultations held earlier this year.

"One of the big things that families were concerned with were the investigations and the conduct of the investigations. So one of my clients would tell me they think that it is missing," said Toronto lawyer Christa Big Canoe.

The document also directs commissioners not to interfere with ongoing criminal investigations and discourages them from recommending civil or criminal liability of a person or organization.

While the draft doesn't explicitly state the need to examine the role of police, Bennett told [The Canadian Press](#) a national inquiry would review "the uneven application of justice," including police conduct.

[5 commissioners, but no Inuk woman?](#)

The draft document also says five commissioners would be appointed but doesn't name them.

Inuit leader Rebecca Kudloo, president of Pauktuutit Inuit Women of Canada, said last Friday that she had seen a list of the chosen commissioners and blasted Ottawa for not including an Inuk woman among them.

"Once again a non-Inuk will be speaking for us," Kudloo said.

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"I cannot understand how in 2016 we are still not being included in our own right as full participants in these historic opportunities. To us, this does not feel like it is 2016 for all women in Canada."

When the first phase of the national inquiry was announced [last December](#), Liberal ministers pledged the process would include families of missing and murdered Indigenous women.

Some 17 pre-inquiry consultations were held across the country to hear from families and community leaders to help design the second phase of the inquiry.

'It's all rumoured on Facebook'

But some families now say they feel shut out of the process. They're frustrated with the lack of communication from the government about delays and the details of the inquiry.

"It's all rumoured on Facebook and social media. And we heard it through a back door, through somebody knowing somebody who knew something," said Mag Cywink, who lost her sister Sonya in 1994, [in an interview](#) with CBC News.

"Almost every Aboriginal person here ... we went and voted for [Prime Minister Justin Trudeau]. Now, I think it was a mistake," said Joyce Gabriel, whose 20-year-old daughter, Rocelyn, froze to death in Portage la Prairie, Man., in 2014.

Minister Bennett said last week she would consult with families before the official inquiry announcement is made.

According to the draft document, the inquiry will aim to hear from the people directly affected.

It will travel to Indigenous communities across the country to gather statements in what is described as an "informal" and "culturally sensitive" probe.

Bennett had hoped the government would be in a position to announce the launch of an inquiry [in the spring](#), and the date of the announcement has been a source of speculation for weeks.

Negotiations with the provinces and territories on the focus and scope of the inquiry were still being worked out as recently as last week.

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Sensitive federal data to stay in Canada under new cloud computing strategy

The Canadian Press, CTV News, August 1 2016

A federal proposal for the use of cloud computing makes it clear that the most sensitive data the government keeps about Canadians won't be allowed to leave the country.

Only information the government deems "unclassified" -- meaning it's unauthorized release carries little, if any material or physical harm to the government or individual Canadians -- will be allowed to cross the border, bound for cloud computing servers in other countries, under the government's newly released cloud computing strategy.

When data does leave the country, it must be encrypted, says the strategy that has been in development for more than a year.

RELATED STORIES

- [Federal data centre problems didn't put information at risk: Shared Services Canada](#)
- [Oracle buying 'cloud' business software provider NetSuite](#)
- [Microsoft betting its future on the cloud](#)

Sensitive personal information on Canadians like social insurance numbers and top secret government data will remain on cloud servers in the country so the federal government maintains "sovereign control over its data," the strategy says.

The government's central information technology department is already buying up cloud space capable of handling unclassified data, the document says. By this time next year, Shared Services Canada is expected to have bought more cloud space capable of handling more sensitive data, but not information deemed secret or top secret.

The strategy is the result of consultations that began more than two years ago and included more than 60 industry organizations.

The federal government has for years looked at expanding its use of cloud computing as part of an overall push to cut down on the money it spends on its data centres and computer systems.

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Rather than paying to build digital infrastructure like servers cloud computing lets governments, businesses and individuals rent digital space on systems owned by providers like Microsoft, Google and Amazon, among others.

The government will only pay for the cloud computing that it needs, the document says.

The strategy leaves it up to departments to decide what mix of cloud computing they use. That will allow federal departments and agencies to choose what the document calls a "right cloud strategy" that includes use of secure public clouds that are available to the public and private sector, private clouds that would be available only to the federal government, and the government's existing systems.

Federal government's Canada.ca one-website project proving costly — and confusing

Vito Pilioci, The Ottawa Citizen, Aug 1 2016

The government's bid to unify all of its departments under a Canada.ca web address is increasing workloads and pushing at least one federal department over budget, raising questions about the implementation of the project.

The move, spearheaded by the Conservatives in 2013, was touted as a key part of the federal government's technological transformation — and as a way to reduce costs.

However, documents obtained by the Citizen under the Access to Information Act suggest there have been problems.

In an August 2014 presentation called The shift to Canada.ca: Implications and resources requirements, Fisheries and Oceans Canada officials released a summary stating that in the 2014-15 fiscal year the initiative would push the department over budget by as much as \$579,000.

That shortfall more than doubles when estimates for 2015-16 are taken into account. According to the document, the switch to the Canada.ca website would force a budgetary shortfall of as much as \$1.3 million.

The document cites increased staffing as the reason for the increased spending because much of the content on the existing Fisheries and Oceans website has to be rewritten for Canada.ca.

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Fisheries and Oceans is only one of the more than 90 federal departments and agencies moving information, forms and applications to Canada.ca.

It's unknown how many are experiencing budgetary shortfalls similar to those reported by Fisheries and Oceans. The entire exercise is overseen by Service Canada, which reports to Employment and Social Development Canada.

A spokeswoman for Service Canada said each department faces varying resource demands and costs as a result of the transition to Canada.ca.

"Departments are individually responsible for becoming compliant with the new Canada.ca website. The resources required for each department and agency to (come) on-board to Canada.ca will vary according to each institution's unique circumstances," said Evelyne Wildgoose Labrie, a spokeswoman for Employment and Social Development Canada.

She added that the spending each department incurs is not being tracked by the Treasury Board of Canada Secretariat and did not say whether any government department was tracking the information, leaving the full cost of the project — including potential over-runs across departments — unclear.

All departments have until December 2017 to switch over to the new Canada.ca website.

Service Canada is a separate entity from Shared Services Canada, a federal agency reporting to Public Works and Government Services Canada.

Shared Services Canada has been tasked with overseeing all of the government's technology renewal and has an annual budget in excess of \$1.4 billion and more than 5,500 employees. The government is reducing the number of federal data centres from 300 to fewer than 20, combining more than 100 email systems into one, and reducing the 3,000 overlapping computer networks that now exist to serve the 377,000 federal government employees working in more than 3,500 buildings across the country.

Shared Services Canada is also responsible for ensuring all federal employees are issued a new Canada.ca email address. However, it is not responsible for the Canada.ca website, which falls under Service Canada's mandate.

Andrée Grégoire, a spokesperson for Shared Services Canada, deferred all comment about the Canada.ca website to Service Canada.

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Josh Bueckert, another spokesman for Employment and Social Development Canada, said that while all of the technical aspects of Canada.ca are to be handled by Shared Services Canada, the content on that site is the responsibility of Service Canada.

“Shared Services Canada provides IT security services and other hardware and software solutions to enable departments to exchange information with citizens, businesses and employees,” he said in an emailed statement. “Canada.ca is a Government of Canada initiative led by Treasury Board of Canada Secretariat and Employment and Social Development Canada. Service Canada was chosen as the Principal Publisher given its mandate to provide a single point of access to a wide range of government services and benefits to Canadians.”

However, the relationship between the two agencies becomes more confusing due to the awarding of a \$9.2-million contract to Adobe Corp. on March 11, 2016, by Employment and Social Development Canada for “managed web services” pertaining to the Canada.ca website.

Simply put, it appears that Service Canada is paying Adobe for something that it should be receiving from Shared Services Canada.

A June 2014 tender notice that was posted to the federal government’s BuyandSell.gc.ca website describes the work as follows: “The MWS (managed web service) will be a fully hosted service that includes a content delivery network, analytics, and hosting environments. A single, common MWS and infrastructure for the entire GC (Government of Canada) public-facing website will enable departments and agencies to provide consistent quality, delivery, reliability and reporting of the collective web experience across the entire GC web domain, to improve information and service delivery to Canadians.”

Debi Daviau, president of the Professional Institute of the Public Service of Canada, the union representing more than 57,000 professional staff across the country, blamed a lack of co-ordination between Shared Services Canada and Service Canada for the issues facing the rollout of the Canada.ca website.

She likened the situation to ongoing crises in other large government projects, such as the Phoenix pay system and the Shared Services roll out of the Canada.ca email addresses.

She also alleged that the contract awarded to Adobe is a sure sign the government couldn’t handle the program itself and needed outside help to ensure it got done.

“We understand that Service Canada has always taken care of the ‘front end’ face of the government website portal. But it appears that there has been little planning and co-ordination between the organizations (Service Canada and Shared Services Canada) and that we are again

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seeing a heavy reliance on outsourcing to fix a problem,” she said. “The government’s (Canada.ca) email transformation plan and the Phoenix pay system are major examples of similar initiatives that are failing right before our eyes.”

Daviau suggested that with thousands of technically proficient professionals in its employ the federal government has all of the talent that it needs in-house to fix these issues.

“Overall, the question that begs to be asked and remains unanswered is, Why would the government of Canada put together an organization of 5500 public servants, Shared Services Canada, to create probably the largest IT service provider in the country only to turn around and buy all their services from other IT providers at higher cost?”

Shared Services Canada was created to reduce duplication, save money and simplify the government’s technology needs.

“Canadians work hard for their money and expect our government to manage taxpayers’ dollars responsibly,” said former Public Works and Status of Women minister Rona Ambrose when announcing the creation of Shared Services Canada in August 2011. “Shared Services Canada will have a mandate to streamline IT, save money, and end waste and duplication.”

Earlier this year, however, the auditor general harshly criticized Shared Services Canada. In addition to criticisms that it was running late on the implementation of its major projects, a report from the auditor said the department had not done enough to clearly spell out what level of service or key responsibilities it is supposed to be providing to its partners.

Information on the rollout, structure and planning for the Canada.ca website, meanwhile, is difficult to find.

A briefing note provided to former Treasury Board of Canada Secretariat president Tony Clement on Dec. 2, 2013, contains a document called Public Opinion Research plan, ongoing user feedback on new Canada.ca website. When obtained by the Citizen, the entire document had been redacted. Government redacts, or blanks out, portions of documents that may breach a person’s privacy rights or are considered to be too sensitive for public consumption.

Tous les juges de la Cour suprême seront bilingues

La Presse canadienne, Le Devoir, le 2 août 2016

Le gouvernement du Canada annoncera mardi que dorénavant, un comité consultatif de sept membres recommandera des candidats pour accéder à la magistrature de la Cour suprême. Le



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processus se voulant transparent et indépendant prévoit aussi que tous les juges nommés à la Cour suprême devront être bilingues, selon ce qu'écrit le premier ministre Justin Trudeau dans une lettre publiée par divers médias d'information, mardi.

Le premier ministre du Canada fera ensuite son choix parmi ces candidats. Le processus entrera en vigueur bientôt, car le juge Thomas Cromwell prendra sa retraite le 1er septembre.

Dans sa lettre, Justin Trudeau ajoute que l'époque où les gouvernements, tant libéraux que conservateurs, nommaient des juges à la Cour suprême en coulisses et en secret est révolue.

Le comité consultatif sera dirigé par l'ex-première ministre progressiste-conservatrice du Canada, Kim Campbell, qui avait été préalablement ministre de la Justice de 1990 à 1993.

La seule personne issue du Québec qui devrait en faire partie est Lili-Anna Peresa, ingénieure en génie électrique diplômée de l'École Polytechnique de Montréal et présidente et directrice générale de Centraide du Grand Montréal depuis 2013. Mme Peresa détient aussi un diplôme d'études supérieures en gestion de l'Université McGill, ainsi qu'une maîtrise en sciences politiques de l'Université de la Sorbonne, à Paris.

On electoral reform, the Supreme Court may have the last word

John Ibbitson, The Globe and Mail, Aug 2 2016

In these dog days, thoughts keep returning to the question of electoral reform, and whether the 2015 election truly will be the last held under the old system of first-past-the-post.

The answer is: Probably not. But it could be the second last.

[ANALYSIS: Electoral reform, it's complicated](#)

As you may know, a parliamentary committee has until Dec. 1 to recommend an alternative to FPTP, which Liberals, New Democrats and Greens consider irredeemably flawed, because it permits parties that receive less than 50 per cent of the vote to form majority governments.

One central question is whether any alternative that the committee recommends should be subject to a referendum, as the Conservatives are demanding. Emmett Macfarlane, a political scientist at the University of Waterloo, laid out the case for a referendum [in these pages on Monday](#).

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But another question arises: Would the provinces have to approve any changes to how members of Parliament are elected?

Prof. Macfarlane believes the answer is no. But he agrees that the issue is contentious and electoral-reform legislation may face a legal challenge.

“There is definitely enough ambiguity that the courts would take a challenge seriously,” he said in an e-mail exchange Tuesday. Such a challenge could eventually end up before the Supreme Court of Canada, making it impossible to implement any changes to the electoral system in time for the next election.

In fact, the issue is sufficiently complex and contentious that Prime Minister Justin Trudeau may want to send the electoral-reform legislation, once it arrives, straight to the Supreme Court for a ruling, just to be sure.

[RELATED: Ottawa overhauls process for selecting Supreme Court justices](#)

That’s what Stephen Harper did when his plan to have senators elected for a fixed term was challenged. In that instance, the Court decided that changing the rules for senatorial appointments amounted to constitutional change that required provincial consent.

For Michael Pal, a law professor at the University of Ottawa, that ruling brought into question whether Parliament could unilaterally change how MPs are elected.

“Given the reference’s restrictions on Parliament’s authority to unilaterally amend the Constitution for matters relating to the House and Senate,” [he wrote earlier this year](#), “it is an open question whether electoral reform can proceed without provincial consent.”

Emmanuelle Richez disagrees. “A challenge would be unlikely to succeed,” the political scientist at the University of Windsor said Tuesday in an interview. Parliament has been tinkering with representation in the House of Commons since Confederation, she observed, most recently by increasing the number of seats in the House so that Alberta, British Columbia and Ontario are more fairly represented. Changing how MPs are elected would amount to the same thing.

Prof. Macfarlane takes the same position in a piece he has written for the Supreme Court Law Review that he kindly allowed me to see in advance. Giving the provinces a say in how MPs are elected “arguably undermines federalism itself,” he writes. Electoral reform would not change how the provinces are represented in the House, so their interests are not affected. And limiting Parliament’s powers to implement electoral reform “would only cement the degree to which the Canadian Constitution suffers from a paralysis.”

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Nonetheless, this argument has two sides. As lawyers Yaakov Roth and Jonathan Roth wrote in the Toronto Star in January: “Our constitutional framers dictated certain mechanisms for distributing political power. They did so for good reasons. To allow a one-off parliamentary majority to unilaterally alter these foundational rules of the political game would be fraught. As the chief justice of the United States recently observed: ‘Those who govern should be the last people to help decide who should govern.’”

Questions this big are usually decided by judges. We’ll have to wait and see what exactly the committee recommends, and what changes to the electoral system cabinet proposes. But whether or not the people have their say through a referendum, the Supreme Court may end up having the last word.

Justice minister hires academic who thinks Supreme Court erred on assisted dying

Joan Bryden, The Canadian Press, August 8 2016

Justice Minister Jody Wilson-Raybould has hired a new legal affairs adviser who once argued that the Supreme Court over-stepped its bounds when it struck down the ban on medically assisted dying.

Gregoire Webber is touted as a brilliant and highly respected legal scholar by fellow academics but his appointment has nevertheless raised some eyebrows given his past criticism of last year's landmark decision.

Shanaaz Gokool, president of Dying with Dignity Canada, says it raises another flag about the kind of advice Wilson-Raybould is relying upon when it comes to crafting laws governing the right of Canadians to seek medical help to end intolerable suffering.

Even before Webber's recent appointment, advocates of a permissive approach to assisted dying had complained that Wilson-Raybould was relying too heavily on advice from Justice Department officials who had spent years arguing in court against legalization of medically assisted death.

The minister introduced a restrictive new law last spring that allows assisted dying only for adults who are already near death.

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The new law was enacted in June but it already faces legal challenges and, within a year, Wilson-Raybould will have to deal with issues that weren't addressed in the legislation: advance directives, mature minors, people suffering solely from mental illness. Critics believe the new law will eventually be struck down because it doesn't comply with the Charter of Rights or the Supreme Court ruling.

The Supreme Court did not confine the right to medical assistance in dying to the terminally ill. It directed that the right should apply to all competent adults with "grievous and irremediable" medical conditions that are causing enduring suffering that they find intolerable.

In a posting last year to the U.K. Constitutional Law Association's blog, Webber, the Canada research chair in public law and philosophy of law at Queen's University, wrote that the top court's reasoning was "unimpressive." He accused the court of "failing to engage with the evidence before it" and said it erred in deciding that the criminal law prohibition on assisted dying was aimed strictly at protecting vulnerable people, not the preservation of life.

The ruling known as the Carter decision was one of three cases Webber cited in the blog post to argue more broadly that the Supreme Court is effectively rewriting Canada's Constitution, circumventing the formal amendment process that would require the approval of Parliament and at least seven provinces.

In doing so, he said: "the court is not only opposing legislative measures introduced by the government, but it is also proposing and enacting new measures. It is legislating."

While that's not necessarily a violation of the court's role, Webber wrote, "The point is rather this: if the court legislates in introducing new constitutional rights and duties, it is doing some of the governing, to which the question presents itself — who stands as the opposition to this governing?"

Given those views, Gokool said she'd like clarification about what role Webber will play on the assisted dying file in future.

"It just raises a flag of who's being relied upon to provide legal advice to the justice minister," Gokool said. "It doesn't seem from our perspective that the justice minister has gotten well-balanced legal advice."

Joanne Ghiz, a spokeswoman for Wilson-Raybould, said Webber is "a qualified legal expert and he will help the minister deliver on her mandate letter."

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"We are very proud of the calibre and diversity of experience and expertise in the individuals joining our team across government," she added.

University of Ottawa law professor Errol Mendes said Webber's past writings suggest a more conservative approach to judicial interpretation of the Constitution than the prevailing theory that it should be interpreted as "a living tree" that constantly evolves. But he said it would be unfair to lump Webber in with anti-court conservatives who rant against judge-made law; his views are "far more complex" and, in any event, more recent writings suggest his thinking has evolved.

"He is undoubtedly a brilliant and highly capable individual," Mendes said.

Similarly, University of Waterloo political scientist Emmett Macfarlane, who specializes in the impact of the Supreme Court and charter of rights on public policy, called Webber "an excellent choice" and "a well respected scholar."

"I think his record of critical analysis might demonstrate an openness on the part of the justice minister to consider different perspectives on various issues," Macfarlane said.