

Press Clippings for the period of November 22nd to 28th 2016 / Revue de presse pour la période du 22 au 28 novembre 2016

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Phoenix pay debacle spotlight: Should it belong to the bureaucrat or her boss?

Kathryn May, The Ottawa Citizen, November 26 2016

The unprecedented visibility of a senior bureaucrat holding regular briefings on the failings of the Phoenix pay system has cast a spotlight on a unique tension: Who should be publicly taking the heat for the federal payroll debacle, the public service or the politicians?

Marie Lemay, deputy minister of Public Services and Procurement Canada, has been the face of the bungled Phoenix pay system since July when the department first revealed that its Phoenix errors and delays had affected about 82,000 public servants.

Rarely has a senior bureaucrat been so consistently in the spotlight on a contentious file. She has held 10 technical briefings every payday since then on the problems of Phoenix and how the government is fixing them.

NDP MP Erin Weir argues Public Services Minister Judy Foote should be front-and-centre and accuses her of “hiding” behind her deputy. He says Lemay’s profile will set a precedent for other ministers to dodge accountability for problems in their departments.

“I do think the minister is ducking political accountability, which is very important in a parliamentary system, and responsible government is all about ministers taking responsibility for what happens in their departments,” Weir said in an interview.

“If the government is able to get away with it in this case, it will be tempted to put forward deputy ministers to shield cabinet ministers from scrutiny on controversial issues. I think it is unfair to the public service to use deputy ministers in that way and unfair to citizens for the elected representatives to not come forward and be accountable.”

At the centre of the debate is who should be accountable when a massive government-wide project that involved so many players goes off the rails. Lemay has said Phoenix likely had “multiple points of failure.” Many are hoping auditor general Michael Ferguson will address where to lay blame when he completes his investigation next year.

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Michel Vermette, chief executive officer of the Association of Professional Executives of the Public Service of Canada (APEX), said the Phoenix crisis shows how “democracy is messy” with large, complex projects managed across departments where “no one has absolute control.”

“The issue with horizontal accountability is that it is difficult in a parliamentary democracy where public servants’ accountabilities are to their ministers and ultimately to Parliament,” said Vermette. “In a huge horizontal exercise like Phoenix, there is likely no one person accountable.”

Public servants are rarely in the limelight, but Vermette argued Lemay’s visibility shows “laudable leadership” and that Foote must have confidence in her to do it.

Lemay, however, inherited the Phoenix disaster, becoming deputy minister days before the switch was flicked for the rollout of the payroll system to a second batch of departments.

The Phoenix rollout was the last stage of the \$300-million “pay modernization” plan launched by the previous Conservative government. Its planning and implementation was largely done under Lemay’s three predecessors.

Some say making Lemay front-and-centre sends a clear message to the public service of the government’s displeasure with the mismanagement of the internal project.

“This is a case of the politicians distancing themselves from a mess created by public servants,” said one longtime bureaucrat.

By the time Foote became minister, Phoenix was built and she relied on advice from bureaucrats that the system was ready and public servants were trained to use it. The department has now conceded it may have underestimated the training and readiness to proceed with the new system.

Foote has also apologized for the fiasco, which she has repeatedly called “unacceptable.” She takes strong exception to the NDP’s suggestions that she dodged responsibility.

“She has made herself available to the media for questions after every technical briefing,” said Annie Trepanier, a spokesperson for Foote.

Last week, Foote made her third trip to the Miramichi, N.B., pay centre to assure staff will get whatever help they need.



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Foote will be on the hot seat next week when she appears at the government operations committee to update MPs on Phoenix. It's her first appearance since the department missed its Oct. 31 deadline to clear the backlog. It still has about 18,000 cases to resolve.

Foote has taken a number of steps to fix Phoenix, which will cost an extra \$50 million by the end of the year. It hired 250 additional compensation advisers, opened a new call centre, added four satellite offices and repaid out-of-pocket expenses for public servants facing financial difficulty because of pay problems.

Deputy ministers are answerable and accountable for the management of their departments, and are no strangers to being on the hot seat when grilled at parliamentary committees. Bureaucrats have also been brought out as technical experts to field questions on crises such as SARS and H1N1.

The last time senior bureaucrats were put in the spotlight like Lemay was during the HRDC "billion-dollar boondoggle," when an audit exposed a lack of oversight on a job creation program run by the then Human Resources Development Canada. That was a political scandal that politicians largely blamed on bureaucratic mismanagement.

The anonymity of public servants is one of the traditional principles behind an impartial public service. The idea is public servants privately give their political bosses honest and open advice, and, in exchange, ministers protect the anonymity of their bureaucrats by accepting responsibility for their department's decisions.

But the University of Moncton's Donald Savoie said anonymity is a "horse that left the barn" years ago with access-to-information laws, more oversight and audit.

As deputy minister, he said Lemay is obliged to answer questions as long as she doesn't criticize the Liberal or previous government's policy or decisions and stays away from political debate.

Rather, he argues the Phoenix blunders show how diffuse accountability has become and that the governance of large government-wide projects will have to be rethought. It also shows the pitfalls of government trying to act like business, he said.

"Trying to grab the person and individual responsible for running the system is like grabbing smoke," Savoie said.

"It is very difficult to hold people accountable when there are so many hands in the soup. There are departments, central agencies, private contractors. ... Good luck to you trying to hold all those hands accountable."



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Phoenix Falling - Public servant on leave in Paris overpaid \$30,000 — and counting

'I think seven months is more than enough time for them to fix this'

Ashley Burke, CBC News, November 24 2016

A senior science advisor on leave from Fisheries and Oceans Canada says he's been overpaid as much as \$30,000 due to the fouled-up Phoenix pay system — yet the call centre only has a record of him owing a small fraction of that amount.

For the past six months, Michael Ott says he's been getting paid for a job that he's not even in the country to do.

Ott moved overseas at the end of May for a three-year posting with an international agency. His wife and two sons arrived in July.

Despite the job change, his Canadian paycheques have continued to erroneously show up in his bank account every payday.

"It shouldn't take six months for them to fix this," Ott told CBC News from his family's apartment in Paris.

Since the federal government rolled out its new Phoenix pay system in February, more than 80,000 public servants have been underpaid, overpaid or not paid at all. As of the most recent payday, 18,000 cases that are complicated and for the most part pre-date Phoenix remained unsolved.

While some public servants are racking up debt and maxing out credit cards to get by, Ott has been putting aside every penny the federal government is mistakenly paying him.

Agents at the Phoenix call centre keep telling him he only owes \$6,000, he said. That's \$24,000 less than Ott calculates he's been overpaid.

"I'm more worried about the fact that in six weeks, if I haven't paid it back, it's going to be a mess on my tax return," said Ott. "Especially since I've left the country."

- [CBC Ottawa's full Phoenix Falling coverage](#)
- [Most federal payroll claims still taking too long to process, deputy minister says](#)
- [Phoenix by the numbers: costs, staffing, case backlog](#)



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Between 70 to 80 per cent of the time, public servants are not getting their pay issues resolved within the government's 20-day service standard, according to Marie Lemay, the deputy minister in charge of Phoenix.

That percentage rings true for Ott, who said his director's executive assistant in Ottawa flagged his problem early this past summer. Ott also called the Phoenix call centre three times to tell the government to stop paying him.

For the past month, however, his case has gone nowhere.

'No accountability'

The government set up a call centre in Toronto to pick up the phones and triage issues so that employees at the Pay Centre in Miramichi and four new satellite offices can focus on processing cases.

It's the only number public servants can dial to flag their pay issues to the government.

But Ott said he learned on Tuesday that the call centre doesn't have access to any of his records, or even notes on his past phone calls.

'There's no accountability, there's no traceability'- *Michael Ott, public servant on leave*

"It is shocking to me that a system would be set up such that the call centre has no access to the information they themselves enter into the system and send along to Phoenix," said Ott.

Ott said the call centre doesn't have any information that can help him understand what's happening with his case, and doesn't appear to be tracking his efforts to fix the problem.

"There's no accountability, there's no traceability," he said.

Ott added he's lost confidence that any of issues are actually being passed on to the pay advisors who can solve his problem. He doesn't want to pay back the government until they stop paying him — otherwise, he'll have to keep writing cheque after cheque to pay back the correct amount.

"With how messed up Phoenix is, it's just going to be another level of complication for me to pay more than once," said Ott, noting he's confident pay advisors do know the true amount he's overpaid.



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"I want this done before the T4s get printed."

CRA anticipating Phoenix issues

The Canada Revenue Agency (CRA) has been gearing up to deal with workers who have been underpaid or overpaid due to Phoenix pay problems.

At the most recent technical briefing about the government's efforts to resolve pay issues on Nov. 16, the CRA said it's working with Public Services and Procurement Canada (PSPC) "to mitigate any impact on employees."

"I would like to reassure federal public service employees that the CRA has put significant effort in anticipating the potential impacts that could arise from Phoenix payroll errors," said Randy Hewlett, acting director general for the Income Tax Rulings Directorate.

The CRA has launched a Phoenix hotline for any questions public servants have about their taxes. The agency has also posted answers to frequently asked questions online.

PSPC is expected to provide an update on the Phoenix pay issues as early as next week.

«Avec Phénix, nous sommes frustrés», soutient Scott Brison

Paul Gaboury, *Le Droit*, le 18 novembre 2016

Avec Phénix, le gouvernement fédéral « a appris » des leçons sur la manière de gérer et de faire confiance à l'expertise de ses propres employés pour des projets en technologie de l'information.

Le président du Conseil du Trésor, Scott Brison, a été chaudement applaudi, vendredi, à la fin de son allocution « historique » prononcée devant près de 400 délégués présents à l'assemblée générale annuelle (AGA) de l'Institut professionnel de la fonction publique du Canada, à Gatineau.

C'était la première fois qu'un président du Conseil du Trésor prononçait une allocution devant le syndicat, qui compte 55 000 membres, incluant les informaticiens fédéraux.

Le ministre Brison en a profité pour tendre la main aux fonctionnaires, les invitant à être des « partenaires » des changements entrepris par le gouvernement libéral au sein de la fonction

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publique. Il a promis de ne plus répéter les mêmes erreurs, comme celles commises lors de la mise en oeuvre de Phénix, un projet initié par le gouvernement Harper.

« Avec Phénix, c'est une situation complètement inacceptable. Nous sommes frustrés. L'ancien gouvernement voulait faire des économies. Mais il faut maintenant dépenser beaucoup d'argent pour régler les problèmes. Dans les projets en technologie de l'information, il y a souvent des imprévus », a souligné le ministre Brison.

« Nous avons appris que, dans de tels projets, il faut maintenir le système en place, en parallèle, tant que nous n'avons pas l'assurance que le nouveau système fonctionne. Il y a aussi beaucoup d'expertise dans la fonction publique que nous devons renforcer. Nous apprécions grandement votre aide dans ce dossier », a-t-il expliqué aux délégués.

Négociations

Au sujet des présentes négociations, le ministre Brison a rappelé que le gouvernement et les syndicats ne pouvaient toujours être d'accord sur tous les points. Plusieurs lois antisyndicales du gouvernement Harper ont été abrogées, et il a dit qu'il comptait rétablir les liens avec les fonctionnaires. À la fin de son discours de 30 minutes, le ministre Brison a été salué avec une ovation debout des délégués syndicaux présents.

« Même si c'est un bon départ, il nous reste encore beaucoup de travail à faire, comme protéger nos congés de maladie et obtenir une augmentation salariale équitable à nos membres à la table », a par la suite souligné Debi Daviau, présidente de l'Institut professionnel, lors de son discours inaugural devant l'AGA.

« Nous voulons une entente d'ici la fin de l'année. Nous avons averti les politiciens que nous allons pousser pour y arriver avec la même détermination que nous avons démontrée lors de la dernière élection ».

Au sujet de Phénix, la présidente Daviau a rappelé que les informaticiens membres du syndicat n'avaient pas été impliqués dans le fiasco, mais qu'« ils sont prêts et en mesure d'aider » pour trouver des solutions. « Le gouvernement ne devrait jamais être dépendant des entreprises comme Bell, IBM ou Microsoft pour développer des services fondamentaux. Il doit investir dans la fonction publique et les services publics s'il veut faire des progrès réels », a indiqué M^{me} Daviau.

Lors de l'AGA, qui se poursuit samedi, les délégués devront notamment se prononcer sur une proposition, appuyée par l'exécutif, pour augmenter de la cotisation des membres de 10 \$ par mois. Cette hausse, a plaidé la présidente Daviau, est « essentielle » et « notre meilleure chance



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de programmer la réussite » en raison des nombreux défis auxquels le syndicat fait face. Sans cette hausse de cotisation, les réserves de l'Institut seront épuisées à la fin de 2017.

Autant d'employés, plus d'embauches

Paul Gaboury, Le Droit, le 22 novembre 2016

Même si l'effectif de la fonction publique est demeuré stable à 197 280 (+ 1 %), un total de 45 965 nominations ont été effectuées en 2015-2016, incluant l'embauche d'étudiants et de personnel occasionnel, ce qui représente une hausse de 12 % par rapport à l'année précédente.

Dans son rapport annuel 2015-2016 déposé mardi, la Commission de la fonction publique du Canada (CFP) révèle que le nombre d'embauches à des postes à durée déterminée a connu la plus forte progression, en hausse de 27,6 %.

Les nominations à des postes permanents (à période indéterminée) s'élevaient à 4 533 en 2015-2016, en hausse de 16,1 %. Leur nombre est d'ailleurs en augmentation constante depuis les quatre dernières années, après avoir atteint un creux de 1 979 en 2012-2013, première année du programme de compressions budgétaires sous les conservateurs.

En même temps, le nombre d'embauches à des postes contractuels a atteint 20 187, en hausse de 8,5 %.

C'est le plus grand nombre enregistré depuis 2001.

En 2015-2016, plus de 20 291 des 45 965 embauches ont été faites dans la région de la capitale nationale.

Environ 25 % des personnes embauchées dans la région d'Ottawa-Gatineau viennent d'une autre région, proportion qui est en progression depuis les trois dernières années.

Depuis cinq ans, 43 % de tous les postes à pourvoir étaient bilingues. De plus, 63 % de tous les postes bilingues se trouvaient dans la région d'Ottawa-Gatineau.

Sur les 197 280 travailleurs à l'emploi de la fonction publique, on compte maintenant 169 662 (86 %) employés à période indéterminée, 13 462 (6,8 %) employés à durée déterminée, 9347 (4,7 %) employés occasionnels et 4 809 (4,7 %) étudiants.

L'embauche d'étudiants a augmenté de 6,3 %.

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Lawyers worried over sex-offender program closure

Bill Graveland, the Hamilton Spectator, November 23 2016

Criminal trial lawyers in Alberta are worried the public could be at risk if a treatment program for sex offenders is shut down.

The Criminal Trial Lawyers Association in Edmonton and the Criminal Defence Lawyers Association in Calgary say they've been told the Alberta government will end the Phoenix program by next March.

The program is offered in a secure, 19-bed facility operated out of Alberta Hospital Edmonton and provides intensive therapy to convicted sex offenders serving provincial jail sentences.

Ian Savage with the Calgary lawyers association said the treatment involves 35 hours of therapy a week, while a potential replacement program operated by Alberta Health Services would offer six hours.

"It's essentially world-renowned and quite successful, particularly with the numbers that matter. The recidivism rate is extremely low compared to other similar programs," said Savage.

The lawyers say the program has reported recidivism rates as low as 3.3 per cent in 120 offenders who received treatment and were tracked over a three-year period.

"If you can have a program that reduces the risk of a certain subset of criminal sexual behaviour and reduces the risk of that repeating, then obviously the public is saved that additional harm," said Savage.

"If you don't treat these individuals, they'll be struggling without the appropriate support in the community and, more importantly, the self-taught tools from the programming to deal with their urges."

Savage said Phoenix is to be replaced by a different program under Alberta Health Services and is to be based at the Calgary Correctional Centre.

Health Minister Sarah Hoffman wouldn't say whether the program is ending. She said it sounds like it has been successful and Alberta Health Services should be given a chance to build on that success if it can.

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"I don't make decisions about specific programs," she said Tuesday. "Public safety is a very high priority. I won't support anything that compromises that."

Chris Hay, Alberta director of the John Howard Society, said he heard suggestions of a closure last year and thought the Phoenix program had already been cancelled.

He said the reviews were positive.

"I've heard anecdotally through people who work in the business over the years that the Phoenix program has been quite successful. Everyone has said it's a shame because it has really good success rates," said Hay.

He also said less preparation for sex offenders before they are released into the general public could be problematic.

"It's probably not going to be enough relative to what we had before," Hay said.

"I get that it's money. I get that it's political. I get that there's a lot of reasons why we start and stop programs. But my gut, and just even logic, would kind of dictate to me that probably won't be successful."

Savage said the two criminal lawyer associations expressed their concerns in a recent meeting with the justice minister but, instead of expanding Phoenix, he said the government is "penny pinching."

Judges' defiance of victim surcharge sparks debate on limits of judicial role

Sean Fine, The Globe and Mail, November 27 2016

He was one of the first judges to rebel. When the Conservative government of Stephen Harper made a "victim surcharge" mandatory three years ago for all convicted criminals, Ontario Court Justice Colin Westman refused to demand payment from the poor. The charge was \$100 for each summary offence, and \$200 for the more serious indictable ones. "A tax on broken souls," he called it, and imposed minuscule \$1 fines, and a 30-cent victim surcharge.

The rebels have won. This fall, the Liberals introduced legislation to give judges back the authority to exempt impoverished offenders from the surcharge. And Justice Minister Jody



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Wilson-Raybould, in a speech last month explaining why she was proud to have done so, quoted Justice Westman's stinging description of the mandatory charge.

Justice Westman, reflecting on this rare episode in Canadian history at his favourite lunchtime spot near the courthouse in downtown Kitchener – Exclamation Restaurant – said he never even considered whether his response was legally justifiable.

[Read more: New legislation will empower judges to waive victim surcharge](#)

"I can be honest and say I didn't ponder the legal implications of it. I react emotionally to things, and it was just morally wrong." He said he assumed that if he was wrong in law, a higher court would correct him.

Legislators make laws, and judges apply them. They can strike laws down that run afoul of the Constitution. But what made the episode so unusual is that scores of judges – Justice Westman was not alone – evaded the law as written. Some refused to order the surcharge, others gave 10, 25, even 99 years to pay, and an Ottawa judge even ruled the surcharge unconstitutional without asking the prosecution for its view. (A higher court threw that ruling out.)

But did Justice Westman and the other upstart judges do the right thing? Are the right thing and the lawful thing sometimes not the same thing? When governments and judges clash, fiercely independent jurists such as Justice Westman evoke a long-running debate over the limits of the judicial role.

"I don't think judges can go off on a frolic of their own," Robert Armstrong, a retired Ontario appeal court judge, said in an interview. "If a judge finds a law that he or she thinks is unjust or unfair, and decides that he or she isn't going to apply it, ultimately, you end up with judges doing what makes them feel good." There are exceptions – judges improperly did the bidding of apartheid regimes in South Africa and the Nazis in Germany – but "this is not one of those situations."

"The surtax was a tax to help broken souls, quite frankly," said Conservative justice critic Rob Nicholson, who was justice minister when the mandatory surcharge was introduced in Parliament. "I go back to the basics: that we all have a role to play. The role of judges is to apply the law. Our role as Parliamentarians is to make the law."

Others, such as Gerald Seniuk, a retired chief judge of the Saskatchewan Provincial Court, see more room in the judicial tradition of independence to confront government action they oppose.



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“What happens when a trial judge cannot find a remedy either in the letter of the law or in the constitutional framework guiding the law – must a judge then remain inert?” he said in an e-mail. “Sometimes, the only reason a judge can then give is that in the face of such an injustice, he or she must be presumed to have some inherent jurisdiction to follow an informed judicial conscience and to provide relief.”

The Conservatives said too many judges were waiving the surcharge; they doubled the existing charge and made it obligatory in the fall of 2013. Soon after, an unemployed teenage robber came before Justice Westman, who made a stunning declaration in open court: “It’s embarrassing to be part of a system that can impose those kinds of laws.”

He admits he was legally wrong to have denounced the government in his courtroom. But added: “I would say it again. Every once in a while, you have to stand up in life and make a statement on behalf of others that can cause a bit of a tempest.” No one from the administration of justice took him to task, he said – not even when he spoke to The Globe and Mail and went on television to explain his views. And no one complained to the Ontario Judicial Council about him.

Justice Westman, a married father of two who, at 73, is a year and a half from mandatory retirement, speaks of one “broken soul:” a homeless man in his early 20s, suffering from anxiety and depression, who pleaded guilty in his court to a minor crime — Justice Westman cannot remember what, perhaps a small theft — and who described a life looking for his next meal and place to bed down, on the move constantly between Kitchener, London and Niagara Falls because he did not get along with other street people.

“If we have a duty to be stewards of nature, we certainly have a duty to be stewards of our fellow human beings,” he said. (Justice Westman is a man of faith who told the committee that interviewed him for the job of judge in 1990 that the sum of his religion is “do unto others ...”)

“I try to give them words of encouragement. I say, ‘I’m here not because of what I did but because of what I was given. ... so much of life is a gift: who you’re born to, in what country. That’s the reason we owe them something, because we were not all made equal in terms of being able to function in society.’”

The mandatory surcharge law allowed judges to set a fine instead of the \$100 or \$200 charge, with an automatic victim surcharge of 30 per cent of the fine. Hence Justice Westman’s solution: a \$1 fine, and 30-cent surcharge. What his heart told him to do, Quebec Court Justice Patrick Healy, a former McGill law professor, did with his head: a 10,000-word ruling in *R v. Cloud* in February, 2014, in which he concluded that a \$5 fine and \$1.50 victim surcharge was



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the appropriate, just and lawful approach. But then the Quebec Court of Appeal overturned his ruling, saying that “neutralizing the surcharge” was not a valid objective.

This fall, Ms. Wilson-Raybould promoted that same Justice Healy to the Court of Appeal – Quebec’s highest court – and restored judges’ discretion over the surcharge. In the clash between government and judges, chalk one up for the rebels.

Federal government has 'made good' on promise to unmuzzle scientists

Collette Derworiz, Calgary Herald, November 21 2016

One year after government scientists were effectively unmuzzled, the federal science minister says they’ve come a long way with the policy but there’s still a change in culture taking place in the departments.

The commitment by the Trudeau government last fall included appointing a chief science officer, allowing scientists to speak freely about their work and considering more science in government decisions.

“Our first act as government was to reinstate the long-form census because we need the evidence,” Science Minister Kirsty Duncan said in an interview last week after speaking on the issue to the [Canadian Science Policy Conference](#) in Ottawa. “Our second act was to unmuzzle our scientists.”

Prior to the Liberals gaining power, [concerns were raised by federal government scientists](#) across every department that they couldn’t speak openly about their work.

It included a policy under the Conservative government that they must get pre-approval from their minister’s office before speaking to journalists.

The requirement was immediately lifted by the Trudeau government, but there have still been examples in the past year of the cumbersome pre-approval process.

Scientists in some departments, such as Natural Resources Canada and Fisheries and Oceans Canada, have been able to speak immediately when a journalist calls.

In other federal departments, including Parks Canada, they are still being required to go through an approval process that can take days or even weeks.

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One example in February saw a reporter accidentally receive a list of scripted questions and answers for a Banff National Park scientist from a national communications officer before he was allowed to speak on a research paper that he co-authored.

Duncan said they made the official changes to the [government's policy on communications](#) in the spring.

"In May, we made good on our promise and put in place a new policy that allows communicators, including scientists, to speak in an official capacity without [being designated](#) — that's a real change from the previous government," she said. "It means scientists can speak in an official capacity where they have direct responsibility and expertise on science and technical matters related to their work.

"They need to be able to work and share that information with Canadians. We know there is a culture change that needs to be made."

In August, Duncan said she and a colleague wrote a letter to all departments to remind them of that policy.

There are still some signs it has not been fully embraced.

Earlier this month, a veterinarian with the Canadian Food Inspection Agency couldn't do an interview after her talk at a Banff conference because she wasn't approved to speak to the media. A Banff National Park scientist, meanwhile, was able to speak freely.

Katie Gibbs, executive director of [Evidence for Democracy](#), said federal science policy has generally improved in the past year.

"It's been mixed results, with the balance on good," she said. "We've definitely made some progress ... the first thing they did was bring back the long-form census.

"There have been movements on the chief scientist file so that's good to see."

Gibbs said there's some work needed on science integrity policy and science communications.

"We've seen some movement on that, which has been great," she said, "but we're also hearing from government scientists that there is still a lot of confusion."

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A recent informal survey by Evidence for Democracy, which promotes science in decision making, showed about a third of federal government scientists believe there's more work to be done.

Outstanding issues appear to be at a management level, said Gibbs.

Still, Duncan said she's heard from many scientists that it's improving.

"People really feel the change in culture and they are really grateful for the change in policy," she said. "This takes time. It really is a big culture change."

Labour relations board upholds firing of civil servant who forged 16 doctor notes

Andrew Duffy, the Ottawa Citizen, November 21 2016

A Canada Revenue Agency employee fired after forging 16 doctor notes to cover her absences while drunk or hung over has lost a legal bid to regain her job.

Mary Ann McNulty argued that the government had abridged her human rights by failing to accommodate her disability: alcoholism.

But in a decision released Monday, the federal labour relations board said the CRA could not have discriminated against her because she kept her alcohol problem hidden from managers.

"It is both hard to envision and difficult to comprehend the grievor's (McNulty's) suggestion that the CRA should have accommodated her when it appears from the evidence before me that she had been resolute in concealing her disability and in thwarting any attempt at accommodation," wrote John Jaworski, a labour relations adjudicator.

"It could not have accommodated someone who did not identify a need for one and who indeed steadfastly frustrated its attempts to help her."

Jaworski concluded that McNulty did not present enough evidence to establish a direct connection between her alcohol problem and the action that triggered her dismissal: the forging of 16 medical certificates between May 2013 and March 2014.

Fake medical notes are widely available on the Internet and present an increasing challenge to employers trying to police sick leave.



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McNulty had been with the CRA for 25 years and was working as a senior program officer when she was fired in June 2014 for falsifying medical notes.

She grieved her termination and took an appeal to the Public Service Labour Relations and Employment Board last year.

The labour relations board heard that McNulty's manager, Marlene Sylvest, became concerned by her absenteeism in 2012 and early 2013. She had missed about 50 days of work, and sometimes failed to notify her that she wouldn't be in the office, Sylvest testified.

In February 2013, McNulty received an "administrative conditions letter" that reminded her of the need to inform supervisors of absences and provide medical notes for sick leave of more than one day.

Sylvest met with McNulty and asked if there was anything wrong; McNulty insisted there were "no issues".

The frequent absences continued, however, and Sylvest testified that she would regularly have to ask for a doctor's note from McNulty, who would often say she forgot it at home or couldn't find it. She would sometimes bring them in weeks later.

A subsequent fitness-to-work evaluation agreed to by McNulty concluded that she had no workplace limitations.

Still, McNulty continued to call in sick and submitted 16 medical certificates that covered more than 50 paid and unpaid sick days between May 2013 and March 2014.

Sylvest said she became suspicious when McNulty presented two certificates from physiotherapists in Embrun. The CRA's internal affairs division was called in to investigate, and it quickly concluded the medical notes were fraudulent.

One day before she was supposed to meet with CRA investigators, McNulty confessed to Sylvest that she was suffering from alcoholism and had forged the notes because she had been too drunk to go to a doctor. "You would not want me to drive drunk," she told another senior manager that same day.

McNulty immediately enrolled in an alcohol treatment program at The Royal, where she had been successfully treated in 2005 for a similar problem. McNulty said she had remained sober for about eight years, but relapsed because of stress related to health issues among her family members.

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At a meeting in June 2014, McNulty was fired by her director general, who said she had “irreparably breached” her employer’s trust. She was angry and demanded to know how her termination squared with the agency’s oft-repeated promise to support employees with mental health and addiction problems.

At the labour relations board, government lawyer Joshua Alcock argued that McNulty’s fraudulent actions were deliberate, planned and repeated, and resulted in her obtaining paid sick leave valued at \$9,300.

McNulty’s counsel, Doug Hill, said she had shown remorse, had committed to a treatment plan, and should be reinstated to her job with a lesser penalty. He argued that she was a longstanding employee who should have been accommodated by the CRA rather than fired after disclosing her alcohol problem.

Adjudicator Jaworski said McNulty was fired for falsifying medical certificates, not for her alcohol-related absences. He called McNulty’s excuses for failing to submit valid medical certificates “meaningless and self-serving” because she lived within walking distance of her doctor’s office.

About 6,000 criminal cases could see charges stayed or withdrawn due to delays, Ontario Crown attorneys say

Keith Leslie, The National Post, November 21 2016

Ontario’s ministry of the attorney general is reviewing thousands of criminal charges that could be stayed or withdrawn because cases are taking too long to get to trial, but Crown attorneys say the government had made the situation worse.

The Supreme Court of Canada ruled last July in what is known as the Jordan decision that a reasonable delay to trial is 18 months for provincial cases and 30 months for cases before the superior court.

Last week, a first-degree murder charge against former Canadian Forces member Adam Picard was stayed on the grounds that his right to a speedy trial had been violated, four years after the charge was laid in Ottawa. On Friday, the attorney general’s office announced it would appeal the ruling.

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- [Ottawa man launches lawsuit after being jailed for alleged 'honour killing' threat that broke up his family](#)
- [Chris Selley: The wheels of justice grind too slow](#)
- [Christie Blatchford: Canada has fewer and fewer crimes, but the wheels of justice keep slowing down anyway](#)

The Ontario Crown Attorneys Association estimates there are about 6,000 criminal cases that could see charges stayed or withdrawn, and it blames a shortage of judges, prosecutors and court space.

Association president Kate Matthews said the group has been raising the alarm about the need for more resources in Crown attorney's offices for years, calling a crisis inevitable.

"Anyone working in the criminal justice system could see 'Jordan' coming, and yet the government did nothing with respect to the key reasons behind it," Matthews wrote in an open letter. "In the last few years, the government has effectively reduced the number of assistant Crown attorneys in trial offices."

Attorney General Yasir Naqvi said cases can be stayed or withdrawn after the accused completes an alternative or restorative justice program, like a domestic violence or drug treatment program, or if the accused enters a guilty plea or agrees to another resolution like a peace bond.

Naqvi said his officials are examining cases to make sure other serious charges aren't stayed or withdrawn because of delays in meeting the Supreme Court's deadline.

"Of course we need to work on the cases that are imminent, in the system right now, but I want to make sure to use this decision as an opportunity to bring reforms to the system so that justice is delivered on time, without any unreasonable delays," he said.

Progressive Conservative justice critic Randy Hillier said about 43 per cent of criminal cases in Ontario are stayed or withdrawn before trial.

"Ontario is without equal in its failings of the administration of justice," said Hillier. "We have the worst record in the country."

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Ontario Superior Court Justice Julianne Parfett attributed her decision to stay the proceedings against Picard “to the Crown’s heavy caseload and the Crown’s refusal to expedite the trial,” added Hillier.

“The justice system is either keeping innocent people behind bars or allowing criminals to walk free,” he said. “It doesn’t take a legal expert to see that our justice system is acting in the manner that frustrates and obstructs justice while also failing to protect society from dangerous offenders.”

Naqvi said the Supreme Court’s Jordan decision imposed new responsibilities on governments across the country.

“They basically have asked all levels of government and all of the partners within the criminal justice system to make sure the trials are getting done in a reasonable period of time,” he said. “We have been actively and diligently working on that, doing better case management.”

The problems with delays are in courts across Ontario, added Naqvi.

“Some court houses are just busier than others, and we’re working on all fronts and putting resources where they’re needed to make sure the cases are moving through the system.”

Matthews said the Crown attorneys welcome any effective efficiencies.

“However, those steps will be mere Band-Aids if the government does not take meaningful, significant and immediate steps to increase the number of assistance Crown attorneys,” she said.

Ontario judge strikes down mandatory minimum sentence for sexual interference

Sean Fine, The Globe and Mail, November 21 2016

A judge has struck down a mandatory minimum jail term of one year for adults who engage in sexual activity with minors, a ruling that comes as the Liberal government mulls what it should do about obligatory sentences for sex crimes against children.

Justice Maria Lhaires de Sousa of the Ontario Superior Court of Justice gave a sentence of seven months in jail and two years’ probation to 50-year-old man found guilty of sexual interference for fondling the breasts of a 15-year-old girl. In her ruling, the judge called the law

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that established the mandatory minimum for the offence unconstitutional, saying one year would be grossly excessive in “reasonable hypothetical” cases, although not in the one currently before her.

The ruling is binding only on lower-court judges in Ontario. Federal Justice Minister Jody Wilson-Raybould told *The Globe and Mail* last month that she intends soon to cut widespread use of mandatory minimum sentences – a centrepiece of the former Conservative government’s crime agenda. The Conservatives passed 60 mandatory minimum sentences, mostly involving drugs, guns and sexual offences. The mandatory minimum for sexual interference became law in 2012.

Whatever the government does with minimum sentences for sex crimes against children, the ruling shows judges will not simply accept them quietly. If the government wishes to keep those sentences, it may have to fight for them in court.

Constance Backhouse, who holds the Chair in Sexual Assault Legislation at the University of Ottawa law school, said in an interview the ruling “adds more fuel” as the Liberals consider which mandatory jail terms to roll back.

“Certainly, people who are concerned about sexual assault are aware that the vast majority of these incidents go unaddressed in the criminal law,” she said. “They’re not reported, they’re not prosecuted, there are no convictions. And when there are convictions, frequently the sentences are out of line with other sentences in the criminal-justice system.”

But she said she opposes mandatory minimums because they prevent judges from taking into account a case’s intricacies.

A spokeswoman for Ms. Wilson-Raybould pointed to a speech last month in which the Justice Minister said reforming mandatory minimum penalties is a priority for her, although she did not say which ones would fall.

Hilla Kerner, a spokeswoman for the Vancouver Rape Relief and Women’s Shelter, said in an interview that she supports strong sentences for sex crimes against children, but “we think judges should have the discretion and the autonomy to decide on appropriate sentences. The way to go is not to tie judges’ hands but to make sure they understand the nature of these crimes and how men use their power to attack women and children.” The Ontario Attorney General’s Ministry declined to comment while it might still appeal the case.

The reference to reasonable hypothetical cases is controversial even at the Supreme Court, which established the concept. In a 2015 case, *R v Nur*, the court voted 6-3 to strike down a



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three-year minimum for illegal gun possession based on hypothetical cases. The dissenters said repeatedly that the hypothetical examples were out of step with “experience and common sense.”

In the sexual-interference case, the man fondled the girl once and stopped when asked during a night in which she slept in his bed, as his daughter and her friends had done before with no reported incident. The man had no criminal record, but was in a trust relationship with the girl, an aggravating factor in sentencing. The girl was raised without a father, and said she had suffered deeply – another aggravating factor – because the man had been like a father to her.

In her constitutional ruling, Justice de Sousa said she was not sure the man, a registered nurse whose name is not being made public in this story to protect the victim’s identity, was truly remorseful. The judge based the sentence of seven months on previous cases, including in the period predating the mandatory minimum, and according to the man’s lawyer, Mark Ertel of Ottawa, a psychological report that he was at low risk to re-offend and a good candidate for rehabilitation. She ultimately accepted his expression of remorse, she said.

Lisa Kerr, a professor at Queen’s University law school, called the ruling “yet another indication of the willingness of the Canadian legal system to closely protect judicial discretion to impose a proportionate sentence in all cases.”

Mr. Ertel explained in an interview that courts used to grant “constitutional exemptions” where minimums were unfair, but the Supreme Court has ruled this out, saying a law is either fair or not.

The Conservatives’ justice critic, MP Rob Nicholson, could not be reached for comment.

Liberals to table bill aimed at making voting more accessible

**Government has promised to address voting rights for citizens living abroad
Aaron Wherry, CBC News, November 23 2016**

The Liberal government will table amendments to the Canada Elections Act on Thursday, including changes aimed at "increasing accessibility" and "ensuring as many Canadians as possible have the right to vote," the parliamentary secretary to the minister of democratic institutions says.



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Details of the measures won't be made public until the legislation is tabled in the House of Commons, but Mark Holland told reporters Wednesday morning that the bill will deal with "some of the ways in which Canadians have been disenfranchised."

- [Trudeau's appeal for donations irks ex-pats still barred from voting](#)
- [Author of elections report cited by Poilievre contradicts minister on voter fraud](#)

The Liberals have several outstanding campaign commitments that a bill could deal with, and the government has also promised to address limitations on the right to vote for citizens living abroad.

In their election platform last year, the Liberals said they would "repeal the anti-democratic elements in Stephen Harper's Fair Elections Act" and "restore the voter identification card as an acceptable form of identification" at polling stations." (Elections Canada refers to the cards it mails to homes during election campaigns "[voter information cards](#)."

The previous Conservative government removed the information cards mailed to voters from the list of acceptable documentation in 2014, but the move was [criticized](#) as an unjustified change that would make it harder for some Canadians to cast a ballot.

Additionally, the Liberals promised to improve how voters are registered and remove Conservative restrictions that prevent Elections Canada from actively encouraging citizens to vote.

Ex-pat voting rights

Maryam Monsef, the minister of democratic institutions, promised last month the government would soon come forward with legislation concerning the ability of Canadians living abroad to cast ballots in federal elections.

Under current restrictions, citizens are not eligible to vote if they reside outside the country for five years, but that law is currently the subject of a legal challenge.

"The government of Canada is firmly committed to enhancing Canadians' participation in their democratic institutions and believes that more Canadians should have the ability to vote, not the opposite," [Monsef said in October](#) when the federal government had a filing with the Supreme Court.



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"We are currently examining the law as it relates to long-term non-resident Canadians who wish to vote in federal elections and we intend to introduce legislation this year that will meet the needs of highly mobile Canadian citizens who live in today's increasingly interconnected world," she said.

In September, Marc Mayrand, the chief electoral officer, also [released a report](#) with numerous recommendations for modernizing Canada's elections, including a suggestion that Parliament consider moving voting day to a weekend.

Ottawa annule la réforme conservatrice

Une réforme du droit de vote... en attendant celle du mode de scrutin?

Hélène Buzzetti, Le Devoir, le 25 novembre 2016

Le gouvernement Trudeau annule les resserrements conservateurs à la Loi électorale. Et il en profite du même coup pour élargir le droit de vote : tous les Canadiens expatriés pourront désormais voter, et les jeunes adolescents seront invités à se préinscrire à la liste électorale.

« Les jeunes Canadiens ont voté en grand nombre en 2015, par rapport à 2011. Mais on ne peut pas tenir ça pour acquis », a fait valoir la ministre des Institutions démocratiques, Maryam Monsef, en présentant sa réforme de la Loi électorale jeudi.

Ses fonctionnaires ont noté que seuls environ 60 % des jeunes qui viennent d'atteindre l'âge de la majorité sont inscrits à la liste électorale, contre 90 % du reste des électeurs. Pour y remédier, Élections Canada créerait, en vertu du projet de loi C-33, un nouveau registre des futurs électeurs permettant aux jeunes de 14 à 17 ans de se préinscrire en vue de l'obtention de leur droit de vote. Leur inscription à la liste électorale fédérale se ferait ensuite automatiquement à leur 18e anniversaire. Ottawa fait le pari que ces jeunes seront sensibilisés à cette nouvelle possibilité dans leurs cours d'éducation citoyenne.

Le Directeur général des élections retrouvera par ailleurs son droit de parole. Les libéraux annuleraient l'interdiction pour le DGE — instaurée par les conservateurs — de faire des campagnes d'éducation en vue d'un scrutin. Le DGE ne pouvait, depuis 2014, que s'adresser aux jeunes du primaire et du secondaire. Son mandat d'éducation populaire serait désormais *« sans restriction »*.



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Vote pour tous à l'étranger

Le gouvernement Trudeau souhaite en outre permettre à tout expatrié citoyen canadien de conserver son droit de vote à vie. Depuis 1993, un Canadien vivant à l'étranger perdait le droit de vote après cinq ans d'absence. Et il devait déclarer son intention de revenir au pays. Avant cette date, les Canadiens perdaient carrément leur droit lorsqu'ils quittaient le Canada.

Mais les libéraux proposent qu'à l'avenir, tout citoyen canadien né ou ayant vécu au Canada puisse continuer de voter depuis l'étranger. La limite de cinq ans était « *relativement arbitraire* », selon la ministre Monsef. Ottawa estime qu'un million de personnes pourraient désormais voter en en faisant la demande auprès du fédéral.

Le gouvernement britannique prévoit de déposer un projet de loi pour prolonger à vie le droit de vote de ses expatriés. Les Britanniques perdent présentement ce droit après 15 ans d'absence. Les Américains conservent leur droit de vote à vie. La France permet à ses citoyens de voter, qu'ils aient habité ou non l'Hexagone.

Élections Canada procédera en revanche à un nettoyage de sa liste d'électeurs, qui comptait à peu près 40 000 non-citoyens en date du dernier dénombrement en 1997.

Annulation

La réforme électorale conservatrice de 2014 avait fait grand bruit car elle modifiait la façon d'identifier les électeurs, ayant pour effet de restreindre l'accès au droit de vote. La carte d'information de l'électeur (CIE) — ce carton envoyé par la poste par Élections Canada sur lequel figurent le nom et l'adresse du résidant — n'était plus acceptée comme document d'identité. Les conservateurs plaidaient que ces cartes se retrouvaient parfois par dizaines dans les boîtes de recyclage d'édifices locatifs, accessibles à tous, y compris aux gens mal intentionnés. Élections Canada avait rejeté l'allégation, notant que la CIE était surtout utilisée par les électeurs pour établir leur adresse. Le Canada est un des rares pays à exiger qu'un électeur prouve à la fois son identité et son adresse, mais seuls 2 des 39 documents



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d'identification acceptés comportent ces deux éléments (dont le permis de conduire, que 15 % des électeurs ne détiennent pas). Les libéraux accepteraient à nouveau la CIE comme preuve d'identité.

Serait aussi restauré le système des répondants — ces électeurs qui certifient connaître un autre électeur dépourvu de pièces d'identité et lui permettent ainsi de voter. Les conservateurs disaient que plusieurs erreurs administratives étaient commises, ce qui ouvrait la porte à de la fraude. Les libéraux veulent permettre à un répondant de certifier l'identité d'un citoyen, mais pour seulement un électeur qui vote dans la même section de vote que lui. Un électeur ayant eu recours à un répondant ne pourrait pas à son tour répondre de quelqu'un d'autre.

Un sondage de Statistique Canada a conclu, début 2016, qu'environ 172 000 électeurs n'ont pas voté au dernier scrutin fédéral par manque de pièce d'identité.

Enfin, les libéraux annulent une autre décision conservatrice de faire passer le Commissaire aux élections sous l'autorité du Directeur des poursuites pénales plutôt que celle d'Élections Canada.

Et le mode de scrutin ?

Selon le conservateur Blake Richards, la ministre Monsef ne présente rien de plus qu'une « *distraction* », alors que le Comité sur la réforme électorale se prépare à déposer la semaine prochaine ses recommandations. « *On ne voudrait pas que ça serve de diversion pour ne pas respecter la promesse fondamentale de changer le mode de scrutin* », a renchéri Alexandre Boulerice du NPD.

« *Ça prendrait quelque chose de pas mal plus substantiel pour penser qu'on va oublier qu'ils [les libéraux] ne veulent pas aller de l'avant* », a commenté le bloquiste Luc Thériault. Le Bloc rejette la reconnaissance de la carte d'information de l'électeur comme preuve d'identité. Mais autrement, il appuie à première vue, comme le NPD, le projet de loi C-33.

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Liberals to reverse many changes from Conservatives' Fair Elections Act

Laura Stone, The Globe and Mail, November 24 2016

The Liberal government has introduced legislation that makes changes to Canada's voting system and replaces some of the controversial elements in the former Conservative government's law.

Democratic Institutions Minister Maryam Monsef said Thursday the changes in Bill C-33 are part of her mandate to repeal parts of the Conservatives' Fair Elections Act, which she said made it harder for Canadians to vote.

"If passed, our legislation will make seven reforms that will break down unnecessary barriers to voting while enhancing the efficiency and the integrity of our elections," Ms. Monsef said at a news conference.

The Liberal government is also staking new ground with a promise to preregister teenagers to encourage them to vote when they turn 18 and expand the rights of expatriates abroad.

The changes also include reinstating the voter information card, which contains a person's address, as a piece of identification to vote in federal elections. It also restores vouching for another eligible voter who does not have proper identification.

Ms. Monsef cited a recent Statistics Canada survey that indicated 172,700 electors listed lack of identification as a reason not to vote in the 2015 federal election. Ms. Monsef said the voter identification cards are also used by seniors in long-term care facilities and retirement residences.

"We will reinstate it," she said.

The bill would also expand voting rights to one million Canadians living abroad, even if they have been outside Canada for more than five years.

Prior to 1993, most Canadians living abroad – with some exceptions, such as military and diplomatic postings – were not allowed to vote. Since then, rules have limited voting rights to those who have spent no more than five continuous years living outside the country.



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That provision is currently being challenged before the Supreme Court of Canada, although it is now likely to be dropped.

Other changes in the bill include: expanding the chief electoral officer's mandate to include broad public education campaigns; creating a national register of electors to preregister youth aged 14 to 17; helping Elections Canada clean up data; and having the Commissioner of Canada Elections, who investigates complaints of fraud, report to the chief electoral officer again, as opposed to the office of the director of public prosecutions.

Ms. Monsef said the moves represent "a strong package for change," and asked opposition members to work with the government to make improvements.

Conservative MP Blake Richards, who sits on the parliamentary committee studying electoral reform, said he hadn't looked at the bill in detail but in general it reverses changes that his government made "to try to ensure Canadians have confidence in their voting system."

He said he's most interested in the fact that the bill was introduced a week before the committee makes its own recommendations.

"I think this is just a distraction," he said.

The previous Conservative government tightened voting rules in an effort it said was needed to combat voter fraud, despite repeated investigations that failed to turn up verifiable incidents. Critics said the measures were aimed at suppressing the vote of people unlikely to support Conservative options.

The government's legislation comes as an all-party parliamentary committee, on which the Liberals do not have a majority, meets behind closed doors to complete a report to be released next Thursday about suggested changes to Canada's electoral system. The Liberal government promised during last year's election campaign that it would be the last under the first-past-the-post voting system.

The Conservatives have been pushing for a national referendum on electoral reform, and the NDP, which supports a proportional representation system, agreed last week to back a referendum as well. The Bloc Québécois has also called for one.

Ms. Monsef said she looked forward to the committee's report but said referendums are expensive and "divisive in our communities."

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“I’ve been quite clear from the very beginning that I don’t believe that a referendum is the best way to go about having a really complex conversation about an important public-policy issue like electoral reform,” she said.

Canada's highest court to hear landmark cases on indigenous rights

**The cases will have a major impact in how Canada assesses such proposals in the future
The Canadian Press, iPolitics.ca, November 27 2016**

Experts say two cases coming before the Supreme Court this week could become landmarks in defining how Canada regulates industrial activity on indigenous lands.

But for Jerry Natanine of Clyde River, Nunavut – one of two aboriginal communities that will ask the top court to overturn National Energy Board permits – the issue is a lot more visceral.

“The animals that we live off are in danger and, because of that, we feel our lives are at stake.”

Clyde River is to ask the court Wednesday to overturn a permit for a Norwegian consortium to do seismic testing in Baffin Bay.

The tests involve a five-year program of 230-decibel sound blasts every 13 to 15 seconds, 24 hours a day, during operating periods. Locals say that would kill or drive away the animals they depend on, a position widely shared across Nunavut.

Lawyer Nader Hasan said the federal government ignored its duty to consult and left that completely – and wrongly – to the board.

“Although the stakes were extremely high, the Crown absented itself entirely from the process,” he said.

No public hearings were held and local people had no chance to examine statements from the proponent. The board didn’t even ask itself if that constitutional duty had been met, Hasan argues.

The Chippewas of the Thames have similar concerns in a case that is to be heard together with Clyde River’s.

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The Chippewas want the court to overturn a permit given to Enbridge(TSX:ENB) to reverse and expand the flow of the Line 9 pipeline between Sarnia, Ont., and Montreal.

“Neither the Crown nor the board at any time engaged in meaningful consultation with the Chippewas First Nation regarding the nature of their asserted aboriginal rights and interests,” says the band’s written argument.

“This ... effectively allows the Crown to avoid its constitutional duty simply by choosing not to participate in the board’s hearing process.”

In both cases, Ottawa argues that the board was qualified to stand in for the Crown and aboriginal groups had plenty of opportunity to get information and express their concerns. In a verdict the two suits are seeking to overturn, the Federal Court of Appeal sided with the government.

The cases will have a major impact in how Canada assesses such proposals in the future, said Nigel Bankes, chairman of natural resource law at the University of Calgary.

“It raises this question of whether a board has a duty to satisfy itself as to whether the Crown has discharged its responsibilities to consult and accommodate,” he said.

He added that because the Chippewas case involves a pipeline, it may be even more important than Clyde River.

“The real challenges that we have in Canada are linear projects that affect so many different communities; therefore, the challenge of consultation and accommodation is much more difficult.

“Clyde River is much about the particulars of what will satisfy the duty. The issue in the Chippewas is much more an issue of principle.”

Clyde River, though, has become much better known. Greenpeace, along with other groups such as Amnesty International and the Council of Canadians, has thrown its support behind the community.

An international petition has gathered almost 200,000 signatures. Celebrity activist and actor Emma Thompson has visited Clyde River. Media mogul Oprah Winfrey, satirist John Oliver and actor Leonardo DiCaprio have tweeted in support.

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Government IT projects flashing red: Email, Phoenix Pay and data centres just the tip of the iceberg

James Bagnall, the Ottawa Citizen, November 28 2016

It's a revealing list. As of Oct. 3, 10 projects involving Shared Services Canada were classified red, meaning troubled, documents obtained by the Citizen reveal. The government's central computer services agency is also a major player in 19 IT projects that were stamped yellow — only somewhat off track.

It will surprise no one that Shared Services' \$400-million email transformation initiative, now 20 months late with no end in sight, made the red list.

But the group of late or over-budget projects embraces a surprisingly wide range of activity involving information technology: border services, passport modernization, call centres, data centre procurement, software application migration, satellites and desktop phones.

The red list, obtained under an access-to-information request, includes only the projects sponsored by Shared Services or to which it contributed significant IT gear or services. Other federal departments also manage IT programs currently in trouble, but these are software-heavy endeavours that lie outside Shared Services' orbit. For instance, Public Services and Procurement Canada is responsible for Phoenix Pay, the so far failed drive to modernize the government's pay system.

While the red projects tracked by Shared Services vary widely in their missions, they share a strong IT core. Most are highly complex efforts to consolidate multiple technologies and technical standards and replace them with standardized, modern gear and software. The goal is to simplify networks, eliminate the need for specialized staff and achieve economies of scale.

Unfortunately, something often gets lost in the details — in the nitty-gritty of shifting from old IT to new.

And, as many of these government IT projects move from planning to implementation, the difficulties in managing them are becoming more apparent. Shared Services last month was tracking 10 projects it classified red. Eighteen months ago, there were just eight; 21 months ago there were seven.

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The good news is that some of the former red projects have dropped off the list. For instance, Shared Services last spring signed a contract to expand its data centre at Borden, Ont. That project was coloured red last year, courtesy of delays in getting the procurement launched.

Yet, even though the construction phase is now expected to proceed on schedule, the availability of the data centre for hosting the government's data and software applications has nevertheless been delayed. And this matters because so much of the government's electronic infrastructure is inter-connected. A delay in the shift of applications to a new home means older data centres have to be pressed into service longer than expected. And this consumes money that might otherwise have been spent on modernizing.

Here's a look at Shared Services' current batch of red projects:

Email Transformation Initiative: Bell Canada and CGI Group were awarded an initial \$245-million contract in 2013 to create a single, government-wide email system by March 31, 2015. Fewer than 15 per cent of government employees are using the new system today.

Hosted Contact Centre Service Transformation: IBM Canada a year ago won the \$50-million-plus contract to build a government-wide system to allow Canadians to get in touch with federal departments. The idea is to consolidate current systems, which handle more than 100 million calls annually, and upgrade them to handle social media. According to an industry source, the project has stalled while Shared Services and IBM try to resolve a disagreement about how to interpret the contract.

Workplace Communication Services: This is a Shared Services effort aimed at upgrading the technology used by government employees at their desks. Ordinary telephone service is to be replaced by voice-over-Internet Protocol phones, and employees will be equipped with desktop video and the ability to send instant messages. The \$66.3-million project received Treasury Board approval two years ago.

Mainframe Legacy Application Migration Project: This project shows why it's so important to keep technology fresh. The department of Employment and Social Development is shifting a bunch of applications and data from relatively ancient mainframe computers to new data centres operated by Shared Services. Accenture was picked as prime contractor two years ago but it's been heavy going. The Employment department notes the program was amended last year "to remove some of the technical complexity." It also explained the project was classified red based on "the number and severity of short-term risks and issues, as well as forecasted delays in schedule".



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Passport Program Modernization Initiative: This one is sponsored by Immigration, Refugees and Citizenship Canada with input from Shared Services. Immigration is developing a new way of issuing passports using its heavy-duty software application known as Global Case Management System. Ibiska Telecom was hired early this year to conduct a review of the project. Procurement documents suggest the review won't be completed until March 31, 2019.

E-Manifest: Canada Border Services Agency is putting in place a \$415-million system that will force truckers and other carriers of goods to transmit data about their cargo before arriving at the border. This will allow CBSA agents to assess risks earlier and to expedite legitimate exports and imports. The project is running late or, as CBSA puts it "is tracking deliverables and milestones against a revised project plan". Earlier this year, the agency expected to complete things by March 31, 2017. It's not clear if that extended deadline will be met.

Data Centre Server Storage Infrastructure Supply Chain Renewal: In plain English, this is to set up a system for buying the gear and software that allows data centres to run. The project didn't really get moving seriously until 2015 and is a relatively new addition to the red list.

Radarsat Constellation Mission: The development of the latest generation observation satellite is supposed to meet key milestones by March 31, 2017, including the completion of the first of three satellites. The program, which has cost taxpayers close to \$1 billion, has consistently been late and over budget.

Entry/Exit System: Canada Border Services Agency is developing software to expand the amount of information collected from travellers leaving the country. Canada and the U.S. currently share entry records but information about who has left Canada is currently confined to non-citizens and those who leave by land. Canada is proposing to collect biographical information from all air travellers through electronic passenger manifests, but would not share this data with the U.S. The project is awaiting the passage of enabling legislation and regulations.

Legacy Information Technology Service Management (ITSM) Conversion: ITSM is a system for figuring how and under what conditions Shared Services will offer its expertise to other federal departments. The system needs to shift from older computers to newer ones. However, the project to accomplish this is apparently under some distress.

Prosecution expected to start making case in trial involving polygamist sect

The Canadian Press, National Newswatch, November 23 2016

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The prosecution is expected to begin making its case today in a trial for three people connected to a polygamist sect in southeastern B.C.

Opening statements were slated for Tuesday, but the case was adjourned while lawyers discussed what evidence will be heard in court.

Brandon Blackmore, Gail Blackmore and James Oler are each accused of unlawfully removing a child from Canada for sexual purposes on allegations that date back to 2004.

Oler and Gail Blackmore, who was identified as Emily Ruth Gail Crossfield when charges were laid more than two years ago, have chosen not to hire a lawyer.

That slowed down proceedings as they were given more time to review matters that would ordinarily be routine in a judge-only trial.

Special prosecutor Peter Wilson is expected to call eight witnesses.

None of the allegations have been proven in court.