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Get ready for a 180-turn in federal justice policy

Rosemary Cairns Way, iPolitics.ca, December 8 2015

Prime Minister Trudeau promised an “efficient” speech from the throne. If efficient means “brief”, he delivered.

It’s tempting, but likely unwise, to read a great deal into what *wasn’t* said. The speech must be read alongside the ministerial mandate letters. The priorities identified in Justice Minister Jody Wilson-Raybould’s letter are staggeringly comprehensive. For many criminal lawyers, scholars, and activists, the most eagerly anticipated item on her agenda is a review of ten years of criminal justice reform and sentencing policy.

The letter specifically identifies community safety and value-for-money as legitimate goals, suggesting that this government recognizes that putting more people in jail for longer periods of time is an expensive and ineffective way to keep the public safe. It is also a strategy which disproportionately targets the already vulnerable — something the previous Conservative government consistently refused to admit.

The mandate letter highlights the problem of the increasing incarceration rate of Indigenous Canadians (they represent 23 per cent of the federally incarcerated and just 4 per cent of the population), the overreliance on (and abuse of) solitary confinement in overcrowded and under-resourced federal correctional institutions (currently the subject of constitutional litigation in Ontario and British Columbia), and gaps in service for both Aboriginal Peoples and the mentally ill which plague the criminal justice system. The mandated review sends a very clear signal that the era of punitive and ideologically-driven criminal justice reform is over.

In the throne speech, the government identified three specific criminal justice priorities for immediate attention: legislation providing greater support for survivors of domestic violence and sexual assault; legislation to get handguns and assault weapons off our streets; and legislation that will legalize, regulate and restrict access to marijuana.

Promising to support the particular and acute needs of women victimized by domestic and sexual violence is an important facet of the government’s pledge to develop and implement a federal strategy on gender violence, and is consistent with the government’s undertaking to engage in meaningful gender-based analysis at all levels of decision-making. It suggests that this government recognizes that justice for victims requires more than tougher penalties, mandatory surcharges, and unenforceable “rights”.

Paying explicit attention to the needs of victims is always politically wise. It remains to be seen whether this commitment will have any real impact on how women victimized by violence

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experience the criminal justice system. The admission that the system is failing women is an essential first step.

The Liberal platform on handguns and assault weapons is focused on tighter gun control and increasing restrictions on gun ownership. While it undoubtedly will be vigorously resisted by the gun lobby, it's unlikely that the implementation of this policy will put the government at risk of being labelled "soft on crime," a fate most governments are eager to avoid. In fact, neither of these priorities portends a wholesale shift in criminal justice policy.

It is the legalization of marijuana which has the potential to be the most transformative policy on the Justice minister's plate. Decriminalization would have been far simpler. Legalization, combined with regulation and restricted access, concedes that Canada's current system of marijuana prohibition is ineffectual, unfair and expensive. It acknowledges that criminal law is not always the most effective way to respond to social concerns, and that the war on drugs may need rethinking.

As my colleague Peter Oliver has pointed out, making good on all three of the commitments made in this throne speech will compel federal/provincial cooperation. Making good on the commitments in Wilson-Raybould's mandate letter will require an enormous amount of hard work. It also will require a willingness to ask hard questions, to pay attention to systemic inequalities, to resist easy rhetoric and to reject the false economies promised by the previous government's punitive agenda.

I wish the minister and the government well. They face a daunting task.

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Workplace violence not for public service employers to decide: Court

Canadian Labour Reporter, December 8 2015

Public service employers can't arbitrarily decide what constitutes workplace violence, the Federal Court of Appeal decided last week.

In what is being touted as a "groundbreaking" ruling by the union that represents workers in the federal public service, the court ruled that employers cannot arbitrarily decide what is or isn't workplace harassment.



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The Public Service Alliance of Canada (PSAC) had filed an application for judicial review after complaints of harassment and humiliation from Abel Akon (a poultry inspector at the Canadian Food Inspection Agency in Saskatoon) were dismissed by the employer and, later, a tribunal. Akon alleged his supervisor had humiliated and belittled him.

He took his case to the Occupational Health and Safety Tribunal of Canada, which sided with the CFIA. PSAC appealed that ruling and won on Nov. 30, when the federal court overturned the tribunal's decision.

“It establishes that psychological harassment can amount to workplace violence and is one of the worst forms of harm that can be inflicted over time,” Bob Kingston, president of PSAC’s agriculture union, said in a statement.

According to PSAC’s 2014 public service employee survey, about one in five workers reported being harassed on the job. Many of those workers did not make formal complaints or grievances, and when asked why not, they responded that they feared reprisals, or did not believe it would make a difference.

In its Nov. 30 decision, the Federal Court of Appeal also said employers should not be allowed to conduct their own investigations, as that “would make a mockery of the regulatory scheme and effectively nullify the employees' right to an impartial investigation of their complaints.”

Harcèlement: décision «historique» en faveur d'un fonctionnaire

Paul Gaboury, Le Droit, le 7 décembre 2015

Le harcèlement psychologique au travail peut, avec le temps, constituer une des pires formes de violence au travail, tranche la Cour fédérale d'appel. Ce faisant, le tribunal donne raison à un employé fédéral qui dénonçait le harcèlement et l'humiliation dont il disait avoir été victime de la part de son superviseur.

Après avoir vu sa plainte rejetée par son employeur, Abel Akon, un employé de l'Agence d'inspection des aliments en Saskatchewan s'est allié à son syndicat, l'Alliance de la fonction publique du Canada (AFPC), pour contester cette décision en vertu du Code canadien du travail.

Le Tribunal de santé et sécurité au travail du Canada avait soutenu la décision de l'employeur, forçant l'AFPC à porter la cause devant la Cour fédérale. En novembre 2014, la Cour fédérale

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avait statué que le traitement dont faisait l'objet M. Akon constituait de la violence au travail. L'homme se plaignait d'être la cible de moqueries et de commentaires désobligeants répétés.

Le juge de la Cour fédérale, Michael Manson, avait alors indiqué que l'intimidation psychologique peut, avec le temps, être l'une des pires formes de préjudice qu'on puisse infliger à une personne, ce qui allait à l'encontre de la position du gouvernement qui soutenait que la violence au travail se limite à l'usage de la force physique. La Cour fédérale d'appel a soutenu le raisonnement du juge Manson dans sa décision.

«Cette décision est historique pour la fonction publique fédérale et tous les employés régis par la réglementation fédérale», a indiqué Bob Kingston, président du Syndicat de l'Agriculture de l'AFPC.

Dans le récent Sondage auprès des fonctionnaires, une personne salariée sur cinq affirmait avoir été victime de harcèlement.

«Cette décision arrive à point. Les travailleurs qui dénoncent la violence au travail ont droit d'être entendus et respectés», a mentionné pour sa part Robyn Benson, la présidente de l'AFPC.

Public servants 'blow the whistle' on the tax system shortfalls and political meddling they say cost CRA billions

Postmedia News, December 13 2015

More than two dozen tax auditors, fraud investigators and managers at Canada Revenue Agency appear to have breached their code of ethics by contributing to a major report on political meddling and other problems plaguing Canada's tax system, which they claim cost billions in uncollected revenues.

The "insider" report by Canadians for Tax Fairness was built on a series of secret one-on-one interviews with 28 current and newly retired tax agency employees who oversee audits of complicated international companies. The interviews were done during the election campaign.

"The picture that emerged was of an organization struggling to carry out its function in the face of government mismanagement. This includes major budget cuts, a poorly conceived

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restructuring effort, and targeting those who make tax filing mistakes rather than prioritizing big time tax cheats,” concluded the report.

The public servants interviewed claimed politicians and lobbyists influence the agency’s operations, corporations successfully lobby to avoid prosecution, and there allegedly is political interference in audits to stop investigations.

They also complained about the impact of reducing or shutting down enforcement offices across Canada. Seasoned colleagues are often poached for higher paying jobs at legal and accounting firms, they said, and many felt unable to carry out their professional responsibilities.

It’s highly unusual — if not unprecedented — for public servants, who are supposed to be both loyal to the elected government and non-partisan, to team up with an advocacy group to complain about the government and its policies. The public servants weren’t identified, but they knew their input was central to the report, which calls for an overhaul of the CRA.

Their role raises questions around public servants’ right to complain in the “public interest” about government policies they feel don’t serve Canadians.

Like all public servants, CRA employees must comply with a written values and ethics code. It forbids them to use any “public medium” to make “pronouncements critical of CRA policies, programs, or officials, or on matters of current political controversy where the statements or actions might create a conflict with the duties of your position or CRA programs.”

They are also expected not to say anything about CRA and its operations that isn’t truthful and must ensure anything they do say “does not impair your employment relationship.”

Debi Daviau, president of the Professional Institute of the Public Service of Canada (PIPSC), said the union co-operated with the project, helped to find auditors for interviews, and will represent the workers if the department seeks to discipline them.

PIPSC represents federal auditors and Daviau said the union got involved because its concerns about CRA aligned with the project. The largest union, the Union of Taxation Employees, didn’t get involved, though its president, Bob Campbell, was interviewed.



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“This is an area where we share common ground and we will work with (the advocacy group) and anyone else to get there. This was about effective tax collection, not about jobs,” said Daviau.

PIPSC campaigned to defeat the Conservatives during the election, and fixing the problems it perceived at CRA was one of its priorities.

Daviau said the union was particularly concerned that Conservatives closed units responsible for international tax havens and fraud investigations, and rolled the specialists from those units into multi-disciplinary teams that she said have proven ineffective, collecting a fraction of the revenues that the special units did.

Dennis Howlett, executive director of Canadians for Tax Fairness, said he was approached or contacted by CRA employees so often that the organization decided to dig deeper for an insider’s view of what was wrong with the agency and how to fix it.

He said those still working at CRA knew their jobs could be at stake but were willing to take this risk to blow the whistle on what they saw as serious problems. CRA officials did not respond to a request for comment.

He said he was struck by the fear and frustration of employees who felt the concerns and evidence they presented to the government went unheeded. The Conservatives typically didn’t want or seek public servants’ advice, which alienated many bureaucrats over the years.

“This was at our initiative because so many employees had come forward to me out of the blue; we thought it warranted a more systematic investigation. I think it was an indication of how desperate people were feeling,” said Howlett.”

Howlett said the group went to great lengths to protect the confidentiality of employees and hired a former journalist to conduct the interviews. The organization itself has no idea who was interviewed or how to identify them.

He said employees who alleged political interference in files were encouraged to go public but they refused. They also wouldn’t lodge a whistle-blowing complaint or use the internal complaint process for fear of reprisal. The group even found lawyers to represent them pro bono.

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Howlett said he wanted the report released during the election but lawyers feared the government would order an investigation. Public servants face stricter limits on their behaviour during an election period.

Daviau said whistleblower laws don't provide public servants enough protection from reprisal.

Whistleblower legislation is aimed at protecting public servants who reveal wrongdoings in violation of laws or policies. Allegations of political interference in audits could be investigated as wrongdoing, but most of the report's complaints are about Conservatives policies and restructuring of the agency and could not be investigated under that law.

"It's outside the traditional role of public servants to publicly criticize budget cuts, restructuring decisions, the level of experience of ministers, the appropriateness of tax 'loopholes' or misplaced government priorities," said Karl Salgo, executive director of governance at the Institute on Governance.

"These are essentially views of whether the public is well served by government policies and practices and the answer depends partly on one's political perspective. That's not the role of public servants."

But the Liberal government will be hard-pressed to pursue discipline, with its promises for a new culture of open government, respecting public servants and seeking their advice. The Liberals also campaigned on changes at CRA, including a crackdown on tax evasion, a review of tax expenditures and providing data so the Parliamentary Budget Office can calculate the "tax gap" — the difference between money owed in taxes and what's actually collected

Senate independent Liberal Percy Downe, who has pressed for a crackdown on overseas tax evasion, said he's not surprised public servants took part in the project. Employees regularly contacted him in his battle to get CRA to calculate the "tax gap."

He said senior management, not the employees, should be on the hook and accountable for what's happened to the agency. "Management has a lot to answer for in doing little to protect the erosion of the tax system," he said.

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New bill would allow Mounties to unionize

Kathryn May, Ottawa Citizen, December 7 2015

The Liberal government is introducing a new labour relations regime for the RCMP and its reservists that allows them to unionize but does not give them the right to strike.

Public Safety Minister Ralph Goodale announced in the House of Commons on Monday plans to introduce new legislation by the end of February.

Last year, the Supreme Court ruling struck down a law that prohibited the Mounties from unionizing as unconstitutional because it violated Mounties' Charter right to freedom of association. It gave the government until mid-January to comply with ruling or the RCMP would be rolled into the Public Service Labour Relations Act, which governs collective bargaining for Canada's public servants.

"If passed, this Bill would ensure that RCMP regular members and reservists can exercise their Charter-protected right to engage in collective bargaining by providing a labour relations framework that both respects the Supreme Court's decision and reflects the operational policing environment of RCMP officers," said Goodale in a statement.

The bill would allow a single, national bargaining unit to represent all RCMP and reservists, who can decide whether they want to be represented by a union or not. Commissioned officers and management would be excluded from the bargaining unit.

Like all police forces, the Mounties would be prohibited from striking. Contract disputes or impasses during bargaining would go to an independent arbitrator. Any other contract issues or grievances would go to the Public Service Labour Relations and Employment Board.

The commissioner would retain control of police operations, which would be excluded from collective bargaining, such as deciding on the duties, responsibilities and deployment, the code of conduct, management systems, uniforms, medals, dress and law enforcement techniques.

It's unclear whether the legislation would deal with the RCMP's hundreds of civilian employees. It has been expected they would become public servants. If not, they would be the only federal employees without the right to collective bargaining.

The RCMP has long been the only police force in Canada barred from forming a union and was specifically excluded in the 1960s when the rest of the federal public service won the right to collective bargaining.

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Officers are currently represented by an association of staff representatives elected by members but which also works with management. It handles issues similar to that of a labour organization, but the commissioner has ultimate control. The force's compensation package is determined by the RCMP pay council.

Compensation will undoubtedly be a big bargaining issue. The RCMP has fallen behind other Canadian police forces and is near the bottom of the 83 forces with more than 50 employees. A first-class constable earns a base salary of \$82,100, compared with \$89,940 in Ottawa, \$96,000 for a Calgary constable \$92,000 for a constable in Vancouver,

Treasury Board President Scott Brison said the new labour regime was drafted after extensive consultations over the summer with Mounties and the provinces, territories and municipalities that rely on them for their policing. Most of any wage increase would be borne by the provinces and municipalities that have RCMP agreements.

Syndicat à la GRC

Paul Gaboury, Le Droit, Le 7 décembre 2015

Le gouvernement libéral a confirmé lundi qu'il entend déposer, avant le fin de février 2016, un projet de loi pour créer un nouveau régime de relations de travail pour les membres et réservistes de la Gendarmerie royale du Canada (GRC).

«La participation aux négociations collectives est un droit protégé par la Charte, qui est exercé depuis longtemps par toutes les autres forces de police du Canada. Ce projet de loi respecterait ce droit tout en reconnaissant les circonstances particulières de la GRC en tant que force de police nationale» a déclaré le président du Conseil du Trésor, Scott Brison.

Le nouveau document législatif reconnaîtra le droit des membres et les réservistes de choisir un agent négociateur qui sera indépendant de la direction de la GRC, a indiqué le ministre de la Sécurité publique et de la Protection civile, Ralph Goodale. Le corps policier fédéral compte 25 000 employés, dont près de 3100 travaillent à Ottawa.

Régime actuel «anticonstitutionnel»

Le gouvernement libéral entend ainsi se plier à la décision rendue en janvier 2015 par la Cour suprême du Canada qui avait statué que le régime actuel de relations de travail de la GRC est «anticonstitutionnel».



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Dans cette décision rendue à six contre un, les juges du plus haut tribunal du pays avaient conclu que le régime actuel non syndical de relations de travail imposé aux membres réguliers et civils de la GRC ne respecte par la Charte canadienne des droits garantissant la liberté d'association.

Pour la Cour, il s'agissait «d'un cas d'entrave substantielle au droit de s'associer en vue de réaliser un processus véritable de négociation collective à l'abri du contrôle de l'employeur». La Cour ne proposait pas de modèle de relations de travail, mais accordait une période de 12 mois au gouvernement pour se plier à la décision.

Le projet de loi du gouvernement prévoit notamment l'arbitrage exécutoire indépendant comme processus de règlement des différends pour dénouer les impasses des négociations, sans droit de grève et une unité de négociation nationale unique pour les membres et les réservistes de la GRC

Missing and murdered indigenous women: 1st phase of public inquiry outlined today

Ministers to spend next 2 months consulting with families of missing, murdered indigenous women

Susana Mas, CBC News, December 8 2015

Ministers will meet with the families of missing and murdered indigenous women in Ottawa this week, as the federal government launches the first of two phases in the creation of a much-awaited national public inquiry.

"I am pleased to announce that the government of Canada is launching its first phase of the inquiry into murdered and missing indigenous women and girls," Justice Minister Jody Wilson-Raybould said at a news conference Tuesday on Parliament Hill.

"As a first step, we will meet with the families in the National Capital Region with the goal of hearing their views on the design of the inquiry and what it needs to achieve. And over the next two months, we will hear from more families, other indigenous peoples, national aboriginal organizations and a range of front-line services workers and others."

Justice Minister Jody Wilson-Raybould lays out the first steps of her Liberal government's commitment to hold an inquiry into murdered and missing indigenous women. (CBC News)

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Wilson-Raybould, who is the first indigenous person to serve as a justice minister, worked as a regional chief for the Assembly of First Nations prior to being elected to Parliament.

She said that early calls for an inquiry had been met "by silence," but that victims' families "deserve better."

"Doing better requires openness and the ability to listen. We have heard this loudly and clearly, and we have heard that this cannot be just another report," Wilson-Raybould said.

The Harper government had rebuffed growing calls for a national inquiry, saying the government action on crime precluded the need for further studies.

AFN National Chief Perry Bellegarde welcomed the announcement, which he said "has been a long time coming."

"After years of denial and deflection, it is my hope we can make real strides in achieving justice for families and achieving safety and security for all our people," Bellegarde said in a written statement.

Phase 2 coming in the spring

Indigenous Affairs Minister Carolyn Bennett, flanked by Status of Women Minister Patty Hajdu, left, and Justice Minister Jody Wilson-Raybould, said the consultation phase will continue as long as needed "to get it right." (CBC News)

Indigenous Affairs Minister Carolyn Bennett said today's announcement will set a new tone for "a collaborative, inclusive" process.

Bennett said the first phase of the inquiry would determine its objectives, focus and parameters.

"It will also help identify potential terms of reference for the inquiry, outline possible activities and participants, and potentially help identify the commissioners."

Bennett said the first phase will take as long as needed "to get it right."

"Phase 2 will be the actual inquiry itself, and we hope to be able to announce that next year, in the spring," Bennett said.

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Interim Conservative Party Leader Rona Ambrose kept her remarks brief, telling reporters on Tuesday afternoon that the Liberals were "off to a great start."

NDP Leader Tom Mulcair gave the government a nod for moving ahead with a process to launch an inquiry, but expressed concern over the lack of a fixed launch date.

"Given the urgency of this national crisis," said Mulcair during question period, "can we expect a report by the end of 2016?"

Trudeau did not answer the question directly, saying only that the government was committed to doing "this right."

The Liberal Party platform pegged the cost of a full national public inquiry at \$40 million over two years starting in 2016.

Speaking to [a group of First Nations leaders](#) earlier in the day, Prime Minister Justin Trudeau said the launch of an inquiry was "a priority" for his government.

"The victims deserve justice, their families an opportunity to be heard and to heal. We must work together to put an end to this ongoing tragedy."

The RCMP found in 2014 nearly 1,200 documented cases of missing and murdered aboriginal women and girls between 1980 and 2012, a number the Mounties said exceeded previous public estimates.

A 2015 United Nations report found that young First Nations, Métis and Inuit women were five times more likely to die under violent circumstances than their non-aboriginal counterparts.

Ottawa confirme la tenue d'une enquête sur les femmes autochtones disparues ou assassinées

Marc Godbout, Radio-Canada, le 8 décembre 2015

Le gouvernement libéral de Justin Trudeau a décidé de lancer une consultation auprès des familles et des proches des femmes autochtones disparues ou assassinées avant de définir le mandat de la commission d'enquête.

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Les ministres de la Justice, Jody Wilson-Raybould, de la Condition féminine, Patricia Hajdu, et des Affaires autochtones, Carolyn Bennett, ont indiqué que la première phase consistera à rencontrer les survivantes, leurs familles et les proches des victimes ainsi que les représentants des organisations autochtones pour les sonder sur la « définition des paramètres de la commission d'enquête » à venir.

« Le gouvernement du Canada croit qu'une enquête sur les femmes et les filles disparues et assassinées peut seulement être définie une fois que ceux et celles qui sont directement touchés se seront exprimés » est-il précisé dans le communiqué.

Les trois ministres dirigeront ces rencontres qui se dérouleront au cours de la prochaine année. Elles consulteront les populations autochtones sur les choix suivants :

- Les paramètres de la commission d'enquête
- L'identité des commissaires
- La durée de l'enquête
- Les intervenants
- La portée des travaux

À la lumière de ces consultations, le gouvernement définira le mandat, les modalités, la forme et le calendrier de l'enquête.

« La mise sur pied de cette enquête représente une avancée importante vers l'établissement d'une relation de nation à nation et la restauration du lien de confiance entre le gouvernement du Canada et les Autochtones au Canada », a déclaré la ministre Wilson-Raybould.

Bien que les femmes autochtones forment 4 % de la population féminine du Canada, elles représentent 16 % des femmes assassinées au Canada entre 1980 et 2012. Elles sont trois fois plus susceptibles de signaler être victimes de violence que les femmes non autochtones.

« L'inaction est terminée », a déclaré la ministre Bennett.

« Nous avons fait de cette enquête une priorité » - Justin Trudeau

Le premier ministre Justin Trudeau a confirmé, en matinée, la tenue d'une enquête publique sur le sort des femmes autochtones assassinées ou disparues, devant l'Assemblée générale des Premières Nations à Gatineau.



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« J'ai donné instruction à la ministre des Affaires autochtones » de mettre en place « une enquête publique sur les femmes autochtones disparues ou assassinées au Canada », a dit Justin Trudeau devant les chefs de l'assemblée des Premières Nations.

« Nous avons fait de cette enquête une priorité pour notre gouvernement parce que ceux qui ont été touchés par cette tragédie nationale ont suffisamment attendu. Les victimes méritent d'obtenir justice, et leurs familles, une opportunité d'être entendues et de faire leur deuil », a dit Justin Trudeau.

Il a insisté, de façon plus large sur l'importance de renouer les liens avec les communautés autochtones. « Aujourd'hui, je vous promets que cette relation sera transformée et respectée », a-t-il dit.

Dans la foulée, il a annoncé des investissements majeurs en éducation pour les Premières Nations. Le chef libéral a signalé que le plafond de 2 % d'augmentation pour le financement des programmes des Premières Nations, qui stagne depuis environ 20 ans, serait aboli dès le premier budget fédéral.

Finalement, il a mentionné la Commission de vérité et réconciliation du Canada en affirmant qu'il allait mettre en place les actions recommandées par celle-ci. Il s'est aussi engagé à revoir une par une les lois autochtones décrétées par l'ancien gouvernement.

« Les mesures qui entrent en conflit avec vos droits, qui sont incompatibles avec les principes de bonne gouvernance ou celles qui n'ont tout simplement aucun sens sur le plan des politiques publiques seront abolies », a-t-il expliqué.

Le chef national de l'Assemblée des Premières Nations, Perry Bellegarde, a multiplié les éloges et les remerciements à l'endroit de Justin Trudeau, soulignant que c'était la première fois depuis bien des années qu'un premier ministre du Canada s'asseyait avec eux.

Il a ensuite félicité le chef libéral d'avoir nommé deux ministres autochtones - à la Justice, Jody Wilson-Raybould, et aux Pêches, Hunter Tootoo - en insistant sur l'importance d'avoir des représentants des Premières Nations autour de la table des décisions.

Une enquête attendue depuis longtemps

Cette enquête publique était demandée depuis plusieurs années par les Premières Nations du Canada, mais le gouvernement Harper y avait toujours opposé une fin de non-recevoir.

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Le Parti libéral du Canada, aujourd'hui au pouvoir, avait pour sa part promis la tenue d'une telle enquête lors de la dernière campagne électorale.

On ne connaît pas encore les détails du mandat de l'enquête publique. Il est donc trop tôt pour dire si son président pourra se pencher plus largement sur les violences faites aux femmes autochtones, comme celles mises en évidence par le reportage réalisé à Val-d'Or par l'équipe de l'émission *Enquête* en octobre dernier.

Selon les plans proposés à la ministre Bennett, la commission d'enquête sur les femmes autochtones disparues ou assassinées pourrait avoir jusqu'à cinq volets régionaux, en plus de la commission nationale. Les sous-commissions seraient réparties entre le Québec et l'Atlantique, l'Ontario, le Manitoba et les Prairies, la Colombie-Britannique et le Nord.

Quelque 1200 femmes autochtones ont été assassinées ou portées disparues en 30 ans au Canada. Toutes proportions gardées, c'est de trois à quatre fois plus que dans la population canadienne en général.

Le Parti libéral estimait en campagne électorale que l'enquête publique sur les femmes autochtones prendrait deux ans et coûterait 40 millions de dollars. En comparaison, la Commission de vérité et réconciliation avait duré 6 ans et coûté 60 millions de dollars.

Une première pensée pour les familles

En entrevue à ICI RDI, la présidente de la Fédération des femmes autochtones du Québec, Viviane Michel, et sa prédecesseure, Michèle Audette, se sont toutes deux réjouies de la décision du gouvernement. Leurs premières pensées sont allées aux familles de ces femmes autochtones disparues ou assassinées.

« C'est vraiment des lueurs d'espoir qui se concrétisent pour les familles. C'est plus les familles qui sont vraiment en attente d'une action concrète », a commenté Mme Michel, qui a parlé d'une « belle journée pour tous ».

« Il y a des familles qui nous appellent au bureau et qui sont vraiment contentes », a-t-elle poursuivi. « Enfin, elles vont peut-être avoir des réponses à toutes ces attentes qu'elles ont eues. »

Selon Mme Michel, le mandat de la commission s'annonce vaste et constituera donc un grand défi. « Il y a beaucoup de choses qu'on doit montrer, par exemple un portrait général

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des problématiques [...], le portrait des communautés qui doit être étalé aussi, et le manque d'accès aux services », a-t-elle énuméré.

Mme Audette, qui s'est présentée pour le Parti libéral dans Terrebonne mais qui a été défaite, admet s'être interrogée sur le bien-fondé de cette première phase de l'enquête publique, avant de décider de faire confiance au gouvernement.

« C'est un nouveau gouvernement, une nouvelle approche, et une plus grande ouverture sur la question autochtone, qui propose une relation de nation à nation - qui n'a jamais été là, soyons francs », a-t-elle souligné.

Elle se félicite que le gouvernement ait choisi dans le cadre de son processus « de mettre au centre les familles, les premières personnes touchées par ces tragédies-là. »

Mme Audette soutient que des femmes autochtones qu'elle a rencontrées lundi à Gatineau dans le cadre d'une rencontre des chefs avaient d'ores et déjà la ferme intention d'agir en ce sens.

« Elles disaient : "on veut dire à nos chefs ce ne devrait pas être nos organisations nationales qui portent cette enquête, mais les familles. Nous, les mamans, les frères et sœurs". Et c'est les femmes encore qui vont apporter cette approche innovante », a-t-elle relaté.

Charlottetown MP named parliamentary secretary to justice minister

Teresa Wright, The Guardian, December 14 2015

Physician-assisted death, an inquiry into missing and murdered indigenous women, criminal sentencing review – these are some of the weighty files Charlottetown MP Sean Casey will be delving into in his new role in Ottawa.

Prime Minister Justin Trudeau appointed Casey one of two parliamentary secretaries to Federal Justice Minister Jody Wilson-Raybould last week.

In an interview with The Guardian from Ottawa, Casey said he is happy to have been selected to fulfill this additional role in Trudeau's government, but joked his position places him more in the wings than in the cabinet spotlight.

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“The best way I could describe it would be along the lines of the Charlottetown Festival. The main actors in Anne of Green Gables have an understudy – that’s me,” he said.

“When the star of the show is unable to carry out their responsibilities for any reason, then there’s somebody in the background who is fully-briefed and fully-trained and ready to step in at a moment’s notice. In general terms that will be my role.”

But, as parliamentary secretaries to the justice minister, Casey and Ontario MP Bill Blair, will be working on some substantial and high profile issues over the coming months.

Prime Minister Justin Trudeau’s ministerial mandate letter to Wilson-Raybould has tasked her department to: lead a process to respond to the Supreme Court of Canada decision regarding physician-assisted death; develop an approach and mandate for an inquiry into murdered and missing indigenous women and girls in Canada and review changes to criminal sentencing reforms over the past decade, including implementing recommendations from the inquest into the death of Ashley Smith.

Legalization and regulation of marijuana and reviewing the process for Supreme Court appointments are also on the justice minister’s to-do list.

Casey agreed these are weighty files and, in some cases, rather controversial.

But he’s ready to jump right in.

“I’m absolutely energized and can’t wait to get at it,” he said.

“Dealing with issues this important is exactly what I wanted to do and I’m so grateful to have been handed the opportunity. I’m really looking forward to it.”

Casey says he will likely be especially involved in the work around physician-assisted death as well as Supreme Court appointments and criminal sentencing based on the work he did previously as third party critic for the justice portfolio when Stephen Harper was in power.

He noted many of the Harper government’s tough-on-crime reforms would likely have to be undone.

“That’s probably the one thing I’m looking forward to the most, is undoing the damage that was caused.”

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Being on the government side of the House of Commons has been a bit of an adjustment for Casey, who has only ever sat as a third party MP.

When arriving at the Parliament building last week, he says he almost walked into the Opposition members' lounge out of habit.

"It's completely different," he said, noting his new seat in the House of Commons now offers him a much better view of the speaker.

Former Supreme Court judge Marshall Rothstein says court not anti-business

Jeff Gray, The Globe and Mail, December 7 2015

Retired Supreme Court of Canada justice Marshall Rothstein says it is wrong to characterize a run of recent Supreme Court decisions, ranging from enshrining the right to strike to affirming Ottawa's powers to crack down on tax avoidance, as anti-business.

Mr. Rothstein, whose new job with a Vancouver litigation boutique was announced Monday, said in an interview with The Globe that the top court acts on the evidence and the laws that come before it, not on a bias for or against business or anyone else.

"Sometimes it favours business, sometimes it favours consumers, sometimes it favours other players," Mr. Rothstein told The Globe. "But it really is based on the evidence and the law. I mean, it may be that legislatures and Parliament may have created more laws or laws that affect business more than they have in the past. So to the extent that cases involving that legislation come to the court, well then the court has to deal with it."

Mr. Rothstein's new law firm, the 23-lawyer Vancouver-based Hunter Litigation Chambers, headed by well-known litigator John Hunter, announced the hire on Monday. Mr. Rothstein said he and his wife, a retired doctor, chose Vancouver to be closer to family. He said he chose a boutique firm to allow him to do more work as an arbitrator in commercial disputes without worrying about the conflicts posed by joining a big Bay Street firm with many clients.

The Winnipeg-born Mr. Rothstein, 74, was former Conservative prime minister Stephen Harper's first appointee to the top court in 2006, although the judge was drawn from a shortlist left by the previous Liberal government. He had served on the Federal Court of Appeal since 1999 after being appointed to the Federal Court in 1992. He was generally seen as one of the

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court's more conservative members, with expertise on intellectual property, tax law and commercial matters.

Among his most notable decisions was a 2011 unanimous ruling that upheld the powers of the Income Tax Act's general anti-avoidance rule, which allows the Canada Revenue Agency to deny benefits to a taxpayer for a transaction it deems was entered into solely for a tax loophole.

But on several decisions, he ended up in the minority, including July's 5-2 ruling that unionized workers have a constitutionally protected right to strike: "I simply view the situation differently than the majority. But you know what they say at the Supreme Court: The most important number is five. ... And unfortunately I didn't have five."

The court has been at the centre of a series of political controversies that saw it appear to clash with Mr. Harper's government. Mr. Rothstein acknowledged there was tension between the top court and the previous government, which was repeatedly defeated at the Supreme Court and bruised by the botched appointment of nominee Marc Nadon. But Mr. Rothstein insisted much of it was overblown.

"I think a lot of it was played up by the press," he said. "I think a lot of it was more benign than maybe it appeared at times. ... There were some areas where there was tension."

He said the most difficult cases included a recent decision to uphold hate-speech laws, this year's striking down of a ban on doctor-assisted suicide, and the 2013 ruling that axed Canada's prostitution laws.

Also difficult, he said, were cases in which he and some of his fellow justices had to rule against what some felt was a good piece of legislation for constitutional reasons. He listed the previous government's reference on Senate reform and its attempt to establish a national securities regulator as examples.

"We have to deal with the Constitution and we have to deal with the law," Mr. Rothstein said. "And we don't get to make it up ourselves on the basis of policy."