

**MINORITY GOVERNMENT: POLITICS, PLANNING, AND THE PUBLIC  
SERVICE**

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## **Minority Government: Politics, Planning, and the Public Service**

Significant challenges facing Canada -- demographic change, restoring fiscal balance, financing increasing health care costs, fostering innovation and productivity, or renewing fiscal transfer programs -- are difficult to address because they require the federal government to take a long term view. Minority governments which have been the norm since 2004 are not conducive to dealing with the long term issues, and public opinion polls, coupled with the Bloc Québécois's grip on Quebec voters in a multi-party system, suggest that minority governments might continue for some time. Compared to other countries, Canada's minority governments are unique, reflecting a particularized political and Parliamentary culture with no coalition or formal agreement between the governing parties. The implications of this type of minority government for the public service are particularly significant, especially in an era of 'new political governance'. This paper explores the effects of minority government on the public service and how public servants do their work. We find that the singular focus of minority governments on their short term electoral prospects has significant consequences for the public service. The scope for the public service to adjust previously announced campaign commitments is sharply reduced; budgetary decision-making and public communications is more centralized; expenditure reductions fall more heavily on the public service; pressure for speedy and error-free implementation of policies increases; ministerial demand for longer term policy analysis evaporates; and the risk of political interference in administrative matters increases. We conclude with some practical suggestions for action by the public service that could lead to a modest improvement in the workings of minority government, and possibly encourage more focus on longer term challenges.

### **There is No *Ceteris Paribus***

When Paul Martin formed a minority government in the fall of 2004, the first since Joe Clark's fiasco in 1979, there was considerable optimism from scholars and commentators that governance would improve. One scholar gave 'two cheers' to minority government arguing that it had the prospect of resisting 'unfriendly' trends where 'the same handful of political leaders directs government and controls parliament.' By 'resisting executive domination of parliament' it offered the promise of 'strengthening the democratic capacity of parliamentary government' (Russell 2008: 101-2.) Some lauded minority government for the ability of parliamentarians to hold it to account (McCandless) while others believed it could 'restore the influence of the House of Commons' (Axworthy). Others reflected longingly on the two consecutive and productive Parliaments led by Lester Pearson in the 1960s (Kent; Russell, 2009). Yet, after six years, the Canadian minority government experience, when compared to other Parliamentary democracies, is seen as 'dysfunctional' (Hazel and Paun). When it comes to the performance of minority government, Canada is widely reported to be a 'laggard' (Shane). For many, minority government has been remarkable for its intense partisanship, minimal progress on legislative items, and loud controversies over relatively minor issues (Norquay).

One important aspect of making any government work, minority or majority, is the relationship between the public service and the government of the day -- how elected politicians and professional public servants work together to deal with the critical public

policy issues facing the country. Understanding how minority government affects this relationship and impacts on the functioning of the public service is not as easy as it might first appear. There are many factors impacting on how well government and the public service operate other than whether there is a minority or a majority government. As logical as it may seem at first blush, it is probably impossible, and perhaps even misleading, to attempt to disentangle the impact of a minority government situation on the behaviour of the public service from the significant ongoing trends affecting government and the public service.<sup>1</sup> Minority government is a product of the times, and, with that, it can have more or less impact on the public service in particular circumstances and at particular times.

Expectations about minority government have a significant effect on how a government operates and how it relates to the public service. In nearly all situations in Canada, and particularly at the federal level, there has been an expectation on everyone's part – politicians, the public service, the media, and the public -- that a minority government is a temporary and exceptional event in the political calendar of the nation and that the governing and opposition parties will act in ways that will seek to return to a majority government as soon as political fortunes permit. Notwithstanding Forsey's efforts nearly fifty years ago to debunk the negative perceptions about minority governments, they continue to be seen by many as 'fragile constructs, capable of providing a short bridge between majorities but otherwise untrustworthy as governing instruments' (Globe and Mail). This is not the case in other countries, such as Denmark, where minority governments are more common and more expected, with the result that there is more political and administrative effort to make them work and to make them last (Arter). When minority governments are viewed as 'exceptions' and are expected to be temporary, there is less concerted effort and investment in developing and putting in place the institutional mechanisms, structures, and rules to support their decision-making. This has significant implications for the public service and how it goes about its work.

The type of minority government also matters (Geller-Schwartz). In Canada the dominant type is one governed by *ad hoc arrangements* with the government finding the support it needs on each issue from different sections of the opposition benches.<sup>2</sup> Ad hoc arrangements have considerable flexibility and, on occasion allow both the governing and opposing parties to go through the pretense as if a majority situation existed with the opposition exercising self-restraint on critical votes by being absent from parliamentary business or supporting the governing party on the grounds that the country does not want an election or it is not prepared to fight an election. In contrast to ad hoc arrangements is a *legislative alliance* where typically a smaller party formally agrees to support the government on confidence votes in return for the government's legislative program satisfying some of the party's key policy priorities. Formal legislative alliances are not used in Canada. The only exception occurred from a unique set of circumstances at the provincial level in Ontario in 1985 when the Liberal Leader David Peterson signed 'an agreement for a reform minority parliament' with NDP Leader Bob Rae (Cody; Russell, 2008). Unlike in Europe, *coalition governments* with a formal written agreement between parties setting out priorities and members of the different parties holding cabinet positions are almost never the case at the federal level in Canada.<sup>3</sup>

In addition to expectations about minority government and the form it takes, there is also the personal style, predisposition, and personality of the prime minister (Martin). There are important and significant differences between and among Diefenbaker and Pearson, Trudeau and Clark, and Martin and Harper, all of whom led minority governments. Indeed, in the Canadian federal government, the decision-making style of each prime minister -- how he/she deals with cabinet and ministers and how he/she perceives the public service -- has an important effect on how the public service goes about its work, particularly at the most senior levels.

At the federal level in Canada there have been thirteen minority governments all since 1921. Over this 90 year period there have been nearly 23 years of minority government, representing about one quarter of the time period. The tenure of these minority governments has varied significantly from as little as two and half months with the Meighen Conservative government of 1926 to nearly four years with the King Liberal government of 1926-30. In the three most recent minority governments -- Martin (2004-06) and Harper (2006-08 and 2008 and ongoing) -- there have been two important characteristics. First, there has been more than one way to maintain a majority. This has meant that each minority government has been able to negotiate time-limited support through ad hoc shifting arrangements with different parties around different issues and changing circumstances. It has also meant that no single opposition has had an ongoing, locked-in veto position. Second, it has been the two 'office seeking' parties -- the Liberals and the Conservatives -- that have formed minority governments. In differentiating themselves from each other both these parties have been able to appeal at various times to the specific political interests of the 'policy seeking' parties -- the Bloc Quebecois, the New Democratic Party, and the Green Party -- as a means of securing and maintaining support to govern. These opposition parties have been able to position themselves publicly in advance of issues when they see it in their interests to differentiate themselves from the government and other opposition parties.

A generation ago, in setting the context and circumstances for minority government in Canada and its relationship to the public service we would have stopped with expectations, form, and prime ministerial style. Not so today. In the past number of years there have been some important trends in governance which have been particularly significant in the Martin and the Harper minority governments. While these trends affect all governments, whether minority or majority, they are particularly intensified in minority situations and have a significant impact on the relationship between government, with its ministers, and the public service. When taken together, these trends represent 'new political governance' (Aucoin). They include:

- The concentration of authority and influence in the hands of the Prime Minister and his closest advisors, with the Prime Minister becoming the exclusive political minister of government (Savoie, 1999).
- A growing number of influential political staffers in the operations of government, which given the 5-year prohibition on former staff from lobbying government, has resulted in younger, less experienced, and more partisan political staff (Zussman; Davis).

- A growing insistence on the political control of government communications from the centre of government to present a favourable image of the government in the face of a probing and relentless media, the expanded use of access to information, and demands for increased transparency in government decision-making.
- A more aggressive role by the media in a political/media environment increasingly characterized by a combination of ‘spin politics’ by governments and ‘gotya journalism’ by reporters through their time-honoured media techniques of simplification, dramatization, personalization, juxtaposition, and the extensive use of pre-formed storylines to shape public attitudes and expectations before the events actually occur (Good, 2003).
- A weakening of the policy capacity of line departments and a concentration of the government’s policy capacity within the Department of Finance, with the Finance Minister being the policy minister for major changes and line departments, the delivery agents (Good, forthcoming).
- A greater diversity of informational inputs for policy making from external sources (think tanks, lobbyists, interest groups, special purpose government-appointed commissions and inquiries, etc.) with deputy ministers and their policy staffs no longer the sole source of policy advice to ministers.
- The expansion and politicizing of independent think tanks with increased capacity through sophisticated networks and linkages to influence political parties, campaign platforms, governments, and the media.
- A pre-occupation with accountability in government, the appointment and strengthening of numerous Parliamentary watchdogs, reduced anonymity of senior public servants and increased personal accountability before Parliamentarians, and an increasing aversion to risk on the part of the public servants.
- Increased partisanship on the part of politicians.
- An increasing expectation by political government that the public service will be enthusiastic for its agenda and will promote it, and is not there simply to explain it.

### **Public Servants in Minority Government**

At the most basic level, the fundamental principles of the public service do not change in a minority government. The role of the public service is to support the government of the day – to carry out and implement its program, its commitments, and its agenda. There are two parts to this. One is to tender professional, non-partisan policy advice to ministers. In short, the job is to ‘speak truth to power’ – to be frank and candid in policy advice. This requires that deputy ministers and staff have policy competence and can fashion policy advice that is relevant and useful to their ministers. The other part is be loyal and effective in implementing policies and programs once they have been decided by ministers, cabinet, and the prime minister irrespective of the policy advice that was tendered by the public service. The standards for political neutrality of the public service remain. Public servants are and must be politically sensitive but not partisan. At the most senior levels this means, as the British say, being ‘unparty political’. Being too political with one government is not condoned by being equally too political with another. Promiscuity is not the objective of public servants.

While these fundamentals do not change, the political and Parliamentary environment within which policies are developed and programs are implemented shifts dramatically. This changed environment means that additional factors and interests now bear upon the making of policy and its implementation, and public servants must not only be able to recognize these factors and interests but be able to deal with them. Minority governments lack the predictability that comes from majority governments and therefore they are constantly sniffing out the mood of the electorate and assessing public opinion.<sup>4</sup> The possibility of an election is almost always just around the corner, political campaigning is continuous, and the views and attitudes of the electorate are of immediate importance. For public servants this means that they are in pre-election mode with governments shaping their policies and programs in terms of how they can be distinguished from the opposition and how they will be perceived by voters in an upcoming election.

From the perspective of the public service the near-exclusive focus of a minority government on its short term electoral prospects is its overriding feature. This short term pre-occupation finds expression in how the government and its ministers operate, the relationship between the government and the public service, and how public servants go about their work. Minority government in the context of new political governance has come to take on a number of particular characteristics each of which has significant consequences. These characteristics, with their consequences for the public service, are set out below.

***Priority setting is driven from the top, off the most recent campaign commitments with little or no appetite to adjust previously announced priorities in light of changing economic, social, political, or administrative circumstances.*** In recent years political parties have found it in their interest to have a relatively clear set of priorities, or more accurately to ensure that within the constellation of their overall program there is a sufficient number of achievable initiatives which they can use to demonstrate to the public that they have kept their promises. For some Prime Ministers this has involved a few limited priorities. In his first term, Mr. Harper had his five achievable tasks.<sup>5</sup> For other Prime Ministers this has involved many priorities – Mr. Martin viewed most issues he talked about as ‘very, very important’. Because the campaign commitments are often spelled out in considerable detail there is less scope for subsequent adjustment, modification, and improvement in light of the operational and implementation considerations which invariably emerge once a party is in government. In addition, because the tenure of minority governments is sharply limited, minority governments are anxious to deliver on their commitments as quickly as possible.

This has several implications for the public service. At the most senior levels there is significantly reduced scope to debate, adjust, and improve specific policy proposals, most of which, such as the Federal Accountability Act, have been considerably formulated by the party, in advance of becoming the government, with little operational consideration. This places senior public servants in a particularly difficult position, since recommendations by officials for improvement can all too easily be viewed by ministers as an unwillingness to implement the minority government’s program. Deputy ministers

need to decide quickly what they are prepared to go along with and what needs to be adjusted and to skillfully convey to their ministers the right combination of support and skepticism so that the inevitable minefields can be detected and avoided.

As the minority government's first priorities are implemented – and there is every incentive to do it quickly – there will be an increased demand for new initiatives and priorities. There is nothing more risky to a minority government than not having an agenda. Furthermore, the second round of priorities of a minority government is likely to involve policy issues which are considerably more complex, more difficult to achieve, require a significantly higher level of political and policy integration, and are fraught with major communication and implementation challenges. It is one thing to reduce the GST and quite another to develop and implement a productivity and innovation strategy for the country. This presents a major challenge for the Clerk of the Privy Council and his cadre of the most senior deputy ministers to ensure that sufficient and appropriate planning and policy work is undertaken to assist the Prime Minister and the minority government in fleshing out a viable policy agenda. Focusing on what is important can all too often be displaced by the distractions of what is urgent.

***Budgeting in minority government is more centralized and more tightly controlled in the hands of the Minister of Finance and the Prime Minister to allow for quick strategic adjustment to ensure necessary political support.*** Budgets are matters of confidence and in minority government they often become the precipitating event for an election. In preparing budgets, both Mr. Martin and Mr. Harper have extended and furthered the strategies of their predecessors to avoid cabinet colleagues and to deal exclusively with the Minister of Finance.<sup>6</sup> Priority allocations in budgets have become the preserve of the Prime Minister and the Minister of Finance with little or no reference to the cabinet ministers. As the two most powerful ministers have focused on the incremental increases in the budget (rarely more than 5% of the total budget) there has been less political focus on the much larger overall base of the budget. Dealing only with the annual increment in the budget allows for ready adjustment in the amount and type of new expenditure necessary to secure the support of an opposition party.

Despite positive and optimistic commentary that minority government would increase and strengthen the scrutiny of the Estimates by Parliamentary committees, there is little evidence of this. One case in the Martin minority government where the Estimates were closely scrutinized by a Parliamentary committee involved the office of Governor General. The Standing Committee on Government Operations and Estimates reduced the budget of the Governor General by 10 per cent in the first quarter of fiscal year 2004-5. There can be little doubt that the impetus for this \$400,000 cut by parliamentarians was politically motivated. It was designed to send a signal from a group of seemingly beleaguered MPs to the Governor General that she should be more prudent in her public expenditure in the aftermath of extensive publicity about her international tours. It demonstrated that on certain occasions parliamentarians on all sides of the House could come together to modify an expenditure level of an important office when they perceived the groundwork of public support had been sufficiently prepared and the Prime Minister of the day was unprepared to provide a vigorous defence of the office.<sup>7</sup>

***Government spending increases and expenditures reductions are less likely, but when reductions are required they tend to be focused on the public service.*** Government spending often increases in order to secure and sustain the support of opposition parties. In minority government there is greater pressure on the fiscal framework and an increased tendency on the part of the Minister of Finance and the Prime Minister to use expenditure increases as a means of securing support from Parliamentarians for the passage of budgets. In contrast to Finance Minister Goodale's 2004 majority government budget which contain no major expenditure increases, his 2005 minority government budget contained ten major budget items including the large increases for the health-care agreement that Prime Minister Martin negotiated with provincial governments with a total cost of \$83 billion over six years. But this was not enough. To avoid defeat in the House of Commons after the initial budget was presented the Liberal government secured the support of the NDP by agreeing to additional expenditures in the areas of housing, environment, tuition, and foreign aid. Along with the others deals with Ontario on immigration services and training, this added an additional \$19.5 billion to multi-year expenditure.

Spending increases are used to maintain the political support of backbench government MPs. After a near devastating false start in its economic update in November 2008 the minority Conservative government had little difficulty in getting support from its own MPs and from opposition parties to a major, time-limited economic stimulus package increasing the deficit to \$54 billion. Government MPs immediately saw the benefits of a host of announcements that they could make in their ridings and the Liberal opposition, not wanting an election, supported the government in exchange for securing an agreement on quarterly progress reports to Parliament.

When it comes to restraint and expenditure reductions in the face of increasing structural deficits, minority governments focus their attention on securing savings from efficiency measures, administrative streamlining, and salary freezes to the public service rather than through cutting and eliminating programs and services which invariably have vocal public supporters. A major theme of the 2010 budget was 'returning to budgetary balance over the medium term'. It is not to be achieved by curtailing or reducing major expenditures in the budget – transfers to individuals, transfers to provincial and territorial governments, and other major programs. Nor is it to be achieved through tax increases. It is to be achieved through 'a comprehensive review of government administrative functions and overhead costs in order to identify opportunities for additional savings and improve service delivery' (Minister of Finance).

Experience also suggests that even expenditure reallocations focused on small direct expenditure programs, such as those undertaken from 'strategic reviews' of cultural programs or R&D programs, are highly problematic for minority governments as they can become easy targets for opposition parties. When expenditure increases are undertaken there is a tendency to discount or even ignore the long term and ongoing costs of government decisions. This is particularly the case when the decisions of one minister and department (the Minister of Justice and Attorney General) on criminal sentencing

reform increase the ongoing and long term costs of penitentiaries, the responsibility of the Minister of Public Safety and Correctional Services Canada.

***The public service is expected to deliver programs and services that are highly responsive to citizens, regional ministers, and Members of Parliament.*** Line ministers in minority government understand instinctively that their success is fundamentally predicated on sustaining good working relationships with regional ministers and MPs, both government and opposition.<sup>8</sup> MPs are no longer simply ‘backbenchers’. All MPs count and they are always being counted. The twenty-three newly created caucus committees by the Harper minority government to review and comment on draft legislation and policy initiatives in advance of cabinet consideration illustrate the desire of a minority government to ‘keep ministers “on side” with backbenchers’ and, by keeping in touch with ‘ordinary Canadians’ to ‘flag potential policy land mines’ (Stanbury). MPs and regional ministers have an interest in supporting their own parties but they also have an interest and an expectation in securing benefits for, and meeting the needs of, their local constituents and regions. The public expects minority governments to serve citizens and for MPs and regional ministers that means attending to their ridings and their regions.

This has several implications for the public service. The regional and local aspects of public policies and programs are of increased concern to government and opposition MPs. MPs as individuals and as members of regional caucuses press hard for tailoring policies and programs to address the unique concerns and needs of their constituents. Similarly, regional ministers will strongly advocate their regional interests. This can result in attempts to configure and shape national programs to accommodate regional interests and to ensure that constituents and regions receive their ‘fair share’ of regional programs. In addition, there can be pressure to increase the role of individual MPs in the formal decision-making process of regional programs and projects in an attempt to make these initiatives more sensitive and responsive to the unique needs of constituents. In both the Martin and Harper minority governments the role of regional ministers was strengthened by formalizing in service delivery agreements their special roles and responsibilities for the approval of transportation and other projects.

All this requires a public service that is closely attuned to regional and local issues so that these issues, driven with greater political force and determination by MPs and regional ministers, can be effectively managed in way that is coordinated, affordable, and respects the political neutrality of public servants and the accountability of the line (not regional) ministers who are responsible for the program. Increasing the decision-making role of regional ministers and MPs on individual programs and projects is fraught with great risk and considerable problems. The experience of the HRDC Canada Jobs Funds clearly demonstrates that formal decision-making roles for MPs on programs and projects confuses accountability and ministerial responsibility and can undercut the real and perceived political neutrality of public servants.<sup>9</sup> Similarly, formal decision-making authority for regional ministers can undercut the direct accountability of line ministers.

***Speedy and flawless implementation of policies and programs is expected of the public service.*** Minority governments are anxious to establish an immediate record of achievement that can be readily seen and understood by voters. This requires quick implementation and delivery of programs by the public service. As the implementation of the economic stimulus package indicates there is considerable pressure on the public service to fast track reviews and assessments, reduce and eliminate less important requirements, streamline procedures and processes, speed up interdepartmental and intergovernmental consultations and approvals, and effectively coordinate public announcements.

***The public service is expected to provide ‘error-free’ government.*** No government wants mistakes, but especially minority governments who are particularly vulnerable to media and public criticism on which the opposition can readily capitalize. This places a premium on prudent and sound public service advice in matters of both policy and administration. The Martin Liberal minority government felt especially vulnerable to opposition and media attacks that found their origins in reports of the Auditor General whose credibility with the public was very high in the aftermath of the sponsorship scandal. The Harper minority government feels especially exposed when its flagship Federal Accountability Act – publicly touted as the most significant reform ever made to the public service – fails to prevent the normal series of managerial and ethical lapses. Therefore, when it comes to the management and administration of programs, public servants focus on avoiding and minimizing risk rather than on pursuing innovation and creativity.

The political pressure for ‘error-free government’ is especially strong in minority government. Despite the Auditor General’s warning that ‘we do not need more rules’, the inevitable result is the creation of ‘the web of rules’, a web that became so pervasive and rigid that it was necessary for the President of the Treasury Board to create an independent blue ribbon panel to address the problem.<sup>10</sup> The other result is that many more program and administrative decisions that could be taken by more junior and regional staff are referred to senior public servants in Ottawa and decisions taken by senior public servants are referred to ministers for consideration, guidance, and decision. This has the inevitable result of significant delays in government decision-making.

Government decision-making and communications, which over the past two decades has been increasingly centralized in the Prime Minister’s Office becomes even more concentrated and personalized in the Prime Minister and his closest political advisors (Savoie, 1999, 2010). In an effort to avoid embarrassment and to ensure that public statements are ‘on message’ public communications of line ministers and senior officials – speeches, statements, comments, and press releases -- are constantly vetted and approved by the Prime Minister’s Office. In the Harper minority government this is done through a highly centralized procedure called the Message Event Proposal (MEP) which requires ministers, government caucus members, and public servants to seek formal, advance approval for any public statements. For public servants their access to the media and public exposure is dramatically curtailed.

***There is little or no demand on the public service by ministers for long term policy, planning, and analysis.*** Minority governments lack the stability that is often necessary for longer term analysis and planning. With the prospect of an election almost always on the horizon, the focus of minority governments and opposition parties is on their immediate electoral prospects. The longer term implications of policy alternatives are easily ignored in favour of the short term. The dominant political calculus is to highlight and emphasize immediate costs and ‘time discounted to zero’ future benefits.

The uncertainty and general instability of government means that to the extent there is planning the focus is on short term contingency planning. This has implications for the public service which needs to be prepared for the unexpected. For public servants this fluid environment, with several floating arrangements of possible support, significantly increases the prospects for surprise and uncertainty and the demands for quick and immediate response and adjustment to policy proposals and legislation. The possibility for surprise will occur before policy is debated or legislation is introduced in the House of Commons and before and during consideration of proposals at Federal-Provincial and First Ministers meetings. Surprise will also occur when legislative proposals are amended in Committees of the House in which a majority coalition of support will be required for passage. All this requires a public service that can offer a combination of anticipatory analysis, the generation of more than the normal number of options, and considerably more sophisticated short term contingency planning. This must be done under the intense scrutiny of the media with its skill in accessing critical government information and in transforming daily events into sensational stories. It requires a fast-footed and flexible public service to react quickly and adjust to the changes and pressures that could not be anticipated. In short, public servants need to think tactically, act flexibly, but be prudent.

***The political partisanship of ministers, members of Parliament, and political staff increases.*** Minority government over the last six years has been associated with increased political partisanship, not of the public service, but of the government and the opposition parties (Norquay). To be sure the political and media environment, increasingly characterized as one of ‘spin politics’ and ‘gotta journalism’ where the first impressions as reported by the media usually become the lasting impressions as remembered by the public has contributed to this excessive politicization. But even with that, there is no end to the ways in which the two ‘office seeking parties’ – the Liberals and the Conservatives – have tried to distinguish themselves from each other. In an effort to appeal to a majority coalition of voters, they have increasingly found that it is simpler and more graphic to communicate their differences in terms of style and attitude than in terms of substantive policy position. Their political rhetoric is not of policy but of partisanship. And it is partisanship where the orator speaks less to the merits of his or her party’s position than to exaggerated and distorted deficiencies of the other. Tax cuts for parents vs. subsidies to day care providers come to be differentiated at the extreme -- parents spending public money on ‘beer and popcorn’ vs. ensuring that only the private decisions of parents are important in the raising of children. The ‘policy seeking parties’ – the NDP, the Bloc, and the Green Party -- have also found it in their interests to engage in this style of excessive partisanship in an attempt to distinguish themselves from other parties in the eyes of the electorate.

The increased likelihood that public issues will become excessively politicized has important implications for the public service especially when issues are (or become) publicly cast in terms of disagreements or differences between the Prime Minister and his/her ministers on the one hand and senior public servants on the other. A few recent examples include, Bernard Shapiro, the former Ethics Commissioner; Marc Mayrand, the Chief Electoral Officer; and Linda Keen, the former President of the Canadian Nuclear Safety Commission (CNSC), Richard Colvin the diplomat who wrote memos to his superiors alleging abuse of detainees in Afghanistan, and Munir Sheikh, the former Chief Statistician. No one can or should make partisan politics go away. It is an essential part of the effective functioning of our parliamentary democracy. But, public servants do have a responsibility to 'size up and help manage a situation' where the risk of excessive partisanship is high and its consequences potentially costly. Partisanship is especially serious when it takes the form of a high profile public attack by a prime minister who declares that a professional non-partisan public servant is a politically appointed partisan.

The capacity to 'size up the situation' requires an extraordinarily skilled cadre of senior public servants, where an experienced deputy minister serving a new minister has sufficient antenna to 'smell out' a pending problem that may not be proximate within the department but emerges through the fog of governing from the distant constellation of separate boards, agencies, and commissions within the portfolio. Fettering out the issue is half the job, working with the Privy Council Office to get a 'safe pair of hands' on it is the other. To be successful this invariably requires 'quietly working things out' in advance to establish a reasonable balance, invariably between two deeply conflicting objectives – in this case, between safety of a nuclear reactor vs. the risk to public health. Why must it be done quietly -- quite simply because in this case the inevitable noise associated with a high stakes Parliamentary resolution can too easily unleash a set of dynamics that triggers excessive partisan attacks along with their negative consequences for both the government and the public service.

***There is increased risk of political interference in the public service.*** In minority government the political reach and grasp of the Prime Minister and his advisors extends considerably to embrace issues and concerns which in other circumstances would have been handled by line ministers and public servants. Because the prospect of an election is ever present, minority governments continuously search for public positions on issues, large and small, that can be used to distinguish themselves from their opposition. Wedge issues have increasingly been used in an effort to 'trap' the opposition. At times this can include taking political positions on issues which traditionally have been considered to be largely administrative in nature. As a former deputy minister explained over a generation ago, 'matters ... normally regarded as purely administrative become matters of active interest to (the) minister' (Hodgson).

Seemingly technical issues such as the abandonment of the mandatory long form census in favour of a voluntary short form can be decided and managed by ministers and even prime ministers with a political focus on reducing the perception of an intrusive government into the private affairs of citizens rather than on the technical requirements to

ensure credible and trustworthy statistical data. As described by two former Clerks of the Privy Council and two former senior deputy ministers, the implications for the public service are immediate, significant, and far-reaching. The chief statistician, a public servant of deputy minister rank, resigns because the minister mischaracterized his advice as supporting the cancellation of the long form census. When implemented, the new voluntary short form census costs more and delivers less than the old mandatory one. The quality of the statistical data becomes suspect. The ‘well earned credibility and respected international standing’ of the statistics agency is put ‘at risk’. The recruitment of an effective new chief statistician becomes extremely difficult unless legislative action is taken to explicitly establish in law his/her responsibility for methodological competence, currently implicit in the office. (Cappe et al). Looking ahead, the recent and unprecedented decision that the Prime Minister chair a cabinet committee on administrative services review suggests that politically-driven administrative decision-making might not only continue but could increase.

### **Doing Slightly Better?**

In his seminal article on minority government Eugene Forsey concluded that ‘minority government can be not a “problem” but an opportunity, not a threat but a promise’ (Forsey, 11). In the today’s Canada, in a world of ‘new political governance’ with an increasing propensity for minority government accompanied by ad hoc arrangements and the centralizing of decision-making, control, and communications around prime ministers and their closest advisors, the problems and threats seem ever real and the opportunities and promises ever small. The implications for the public service are particularly significant. To say, however, that in minority government the public service has become the political punching bag for the jabs of excessive partisanship and electoral preoccupation would be an exaggeration. To say the public service is increasingly getting caught in the cross-fire of minority government partisanship would be closer to the truth.

If minority governments are to work better, change can not simply come from the public service. There must also be significant changes in political parties, prime ministers, governments, parliamentarians, the governor-general, the media, the public, and perhaps most important, political culture (Hazell and Paun). When it comes to the public service, however, there are a few changes that could provide the promise of modest improvement and possibly encourage some greater focus on longer term challenges.

***Be prepared for every governing contingency.*** Like the good boy-scout the public service needs to be fully prepared for *all* electoral eventualities and not simply the four most prominent – Conservative or Liberal majority government and Conservative or Liberal minority governments through ad hoc arrangement. In its transition planning, the public service, led by the Clerk of the Privy Council, must prepare full contingency plans for a number of other scenarios including, minority governments under both formal and informal legislative arrangements and the full range of coalition government possibilities. Never having a federal minority government with a formal legislative arrangement nor a coalition government is no excuse for not preparing for the possibilities. Nor should contingency planning for coalition government be ignored by the public service because of the partisan manner in which it has been cast by the incumbent government. Pre-

election planning and preparation by the public service for *all* the options is critical because without a majority government, formal cross-party political negotiation and decision-making starts immediately after election results are known. Furthermore, this process is politically driven around a politically determined time table and, in certain circumstances, it could be prolonged.

***Serve the caretaker government.*** Immediately after an election, the public service under the leadership of the Clerk of the Privy Council has the responsibility of serving the incumbent government while the new government is put into place. While this period can be several weeks or more, experience in Canada indicates that it has generally gone smoothly with outgoing governments respecting the conventions associated with their limited mandates and incoming governments respecting the role of the Clerk as the public custodian of the outgoing government's confidences and cabinet papers. Clerks have been able to find the critical balance between continuing to support the incumbent government while facilitating the formation of the new government. But the experience of others countries such as Scotland and New Zealand suggests that past precedents and civility do not necessarily guarantee future peace, especially if the election results are close (Hazell and Paun).

In Canada the principles and rules for serving caretaker governments have emerged slowly over time and have been refined and adjusted through experience. They are largely informal and unwritten, residing in the collective minds of a few officials and politicians, and their supporting specialists. As a result, the principles and rules are not widely known. With the increasing intensity of political pressures surrounding the formation of governments, including the transfer of government from one minority government to another, there is risk that implicit and informal principles will be interpreted differently by different players. There is a need for the Privy Council Office to review and refresh the caretaker principles and rules and to ensure that they are written down, understood, and accepted by the key players.<sup>11</sup>

***Protect administrative space from political interference.*** There is considerable evidence suggesting that in minority government the hard edges of the new politics of political governance are in some instances eroding the informal understandings and traditional norms of behaviour between deputy ministers and ministers with respect to what is administrative and what is political space. The mandatory long form census issue is a case in point where this administrative matter was used as a political vehicle by the Conservative minority government in an effort to distinguish itself from its opposition.

With increased risk of political interference into the administrative responsibilities of the public service there is a need to refresh and clarify responsibilities between ministers and public servants. This can not be done effectively, however, through a singular government-wide, 'one-size fits all' rule, guideline, or statute. Not only is the diversity and complexity of government services and operations is too vast but it is doubtful that a government can actually draw a universal, workable, and fixed line between political direction on the one hand and undue political influence on the other. Instead, the public service, led by the Privy Council Office and the Treasury Board Secretariat needs to

review a host of existing informal ‘administrative’ understandings across the entire range of departments and agencies to determine if and where it is necessary to establish more formal rules, legislation, or other structures to clarify responsibilities. This review should draw upon the recent experience with ‘management boards’, for example, in the case of the Canada Revenue Agency where responsibility for management and direction is vested in the commissioner (a deputy minister level appointment) rather than the minister (Brown). In undertaking this government-wide review, priority should focus on activities and services of highest risk of inappropriate political interference into administrative space.

***Focus on the long term when politicians are not.*** If politicians are not focused on the long term, then the public service must be. Deputies need to quarantine the urgent and the everyday, and foster and protect a small but concentrated policy capacity focused on the long term. Whatever the issue – population ageing, health care sustainability, innovation and productivity, fiscal balance, or foreign policy in changing international world – the development and articulation of strategic policy frameworks are necessary to ensure viable, effective, and affordable policy. Consequences need to be assessed and balances and tradeoffs need to be made. In the absence of such guiding frameworks, choices can too easily fall victim to short term perspectives, narrow interest group pressures, ideological think tank prescriptions, and excessive political considerations. Even as the demand for policy analysis wanes during periods of minority government it is important for the public service to stay in the policy game and in some cases to get back into the game.

***Broaden expenditure guardianship.*** In minority government there is great pressure on the fiscal framework and increased risk of unsustainable structural deficits. There are increased tendencies to ignore the long term and ongoing expenditure implications of government decisions. There are also tendencies to focus expenditure reductions only on administrative streamlining and service delivery. Over time, spenders can all too easily overpower guardians. With the prospect of prolonged periods of minority government effective guardianship can not only reside in the Department of Finance and the Treasury Board. Parliamentarians need to play a more significant role. To assist Parliamentarians, the role and mandate of the recently created Parliamentary Budget Officer should be clarified and strengthened by making the office a legislatively separate and independent office from the Library of Parliament and thereby operate as a full agent of Parliament. A strong and independent Parliamentary Budget Officer could force the government to substantially defend its economic and fiscal forecasts; it could promote accountability in government costing and analysis; and it could provide economic and fiscal analysis for use by all Parliamentarians and committees.

***Clarify the rules of the game.*** The public service does not determine the rules of the game to guide the behaviour of ministers and officials. That ultimately is the task of the Prime Minister and his closest political and public service advisors. Advising the Prime Minister on these matters is perhaps the most important task of the Clerk of the Privy Council. No other individual in the political/bureaucratic system has the overall vantage

point of the Clerk, or the responsibility to ensure that political government and the public service can work together to make government work.

The extent to which the rules are written down they are found in nine 'cabinet guides' developed by the Privy Council Office.<sup>12</sup> A number of these guides predate the three most recent minority governments. There is no reference in any of these guides to minority government as it is implicitly assumed that the various principles, guidelines, and rules that apply in majority government will also apply equally and in the same way in minority government. This is perhaps not surprising since in Canada, to date, minority government has been viewed as an exceptional event. In New Zealand and Scotland, where minority and coalition governments are expected to be the norm, there has been considerably more effort and success in the gradual development of rules to guide the behaviour of officials and ministers in these situations. At a minimum the Privy Council Office needs to review the existing rules currently embodied in a large number of 'cabinet guides and directives' in light of the increasing prospects for minority government and the potential impact of minority government on the public service including, most notably, an elevated risk of political interference in administrative matters.

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## Endnotes

<sup>1</sup> As a theoretical exercise some may wish to explore the mono-causal impact of minority government on the public service in the absence of other contextual variables such as the political and parliamentary culture or a particular style of governance, such as new political governance. We do not find this approach particularly productive as we are unable to sort out what comes first, the cultural chickens or the minority eggs.

<sup>2</sup> A variant is the informal arrangement between parties. The 1972-4 Trudeau minority government had an informal understanding with the NDP. Every policy proposal and all legislation was discussed between the two parties, and only when agreement was reached did the Liberal government introduce the bill confident that with NDP support it would pass. As a result the House operated for a year and half in a fairly predictable manner. See Dobell.

<sup>3</sup> The Union Government of 1917-21 was an exception. At the provincial level there have been 11 coalition governments but only one in recent times, the Saskatchewan NDP-Liberal coalition (1999-2003). See Marchildon.

<sup>4</sup> The amount of public opinion polling by the Martin minority government which Mr. Harper severely criticized while he was in the opposition increased in the Harper minority government.

<sup>5</sup> The tasks were: enacting the Federal Accountability Act, reducing the Goods and Services tax, increasing penalties for crime, providing a tax credit to parents with children, and establishing a patient wait time guarantee for health care.

<sup>6</sup> Good, 2007.

<sup>7</sup> Clarkson.

<sup>8</sup> In any federal government in Canada the role of regional ministers in the delivery of programs and services is important. This has almost always been handled informally as part of the give and take of politics. See Bakvis.

<sup>9</sup> Good, 2003, Chapter Five, 'Looking Closer: "The Billion Dollar Job Fund"'.

<sup>10</sup> Treasury Board of Canada Secretariat.

<sup>11</sup> See for example, the New Zealand Cabinet Manual which contains five pages explaining how the caretaker convention is to work.

<sup>12</sup> The most significant guides include: *Accounting Officers: Guidance on Roles, Responsibilities and Appearances Before Parliamentary Committees, 2007*; *Accountable Government - A Guide for Ministers and Ministers of State, 2008*; *Cabinet Directive on Law-Making, 2003*; *Conflict of Interest and Post-Employment Code for Public Office Holders, 2006*; *Guidance for Deputy Ministers, 2003*; *Guide Book for Heads of Agencies, 1999*; *Guide for Making Federal Acts and Regulations, 2001*; *Memorandum to Cabinet, September 2010*; and *Notes on the Responsibilities of Public Servants in Relation to Parliamentary Committees, 1990*.