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# Time for a Reboot:

## Nine Ways to Restore Trust in Canada's Public Institutions

October 2015

## A message from the panel chair

The sustained practice of good governance in our parliamentary system matters deeply to the democratic health of our provinces, territories and Canada as a whole.

This report emanates from a deep concern about the weakening of key pillars of the Westminster democratic system. This has occurred progressively over decades now and across parliamentary systems from Australia and New Zealand to France, the UK and Canada, owing greatly to common conditions and dynamics.

The report examines these contemporary conditions through the lens of our parliamentary system in Canada's federal, provincial and territorial governments.

Factors undermining good governance include an extraordinary centralization of authority, weakening the foundation of our democracy.

It describes how the office of the prime minister and premiers' offices have come to exert an unprecedented degree of power over the legislative branch of government and the public service.

Tightening political control and the imperative of real-time government responses to unfolding events, reinforced by media and the Internet, leads to a concentration of power that profoundly impacts four of our most important institutions, namely: parliament, the cabinet, the public service, and the emerging "political service."

The report proposes recommendations to reinvigorate and rebalance our system in Canada, drawing upon international and domestic practices.

Our nine recommendations seek to reboot these institutions. Our proposals do not go back to the past. Neither do they seek revolutionary change. Rather, our goal is restorative: to revitalize these institutions to serve their intended purposes, and to facilitate their adaption to the digital age.

The report marks the first time that the Public Policy Forum has established a panel of eminent Canadians to examine a pressing public issue. The panel comprised:

- Jim Dinning – chair – former treasurer, Province of Alberta, and chair, Western Financial Group
- Jean Charest – partner at McCarthy Tétrault LLP, and former federal cabinet minister and premier of Quebec
- Monique Leroux – chair, president and CEO, Desjardins Group
- Kevin Lynch – vice-chair, BMO Financial Group, and former Clerk of the Privy Council
- Heather Munroe-Blum – chair, Canada Pension Plan Investment Board and Principal Emerita, McGill University

The panel was supported by an 18-member advisory council, drawn from a broad cross-section of society. A list of members can be found at the end of this report.

Sincere thanks go to fellow panel members, advisory council members and research director, Lori Turnbull. A special thank you to VP Julie Cafley and project lead, Sara Caverley for their substantial contributions, as well as the Public Policy Forum staff for their invaluable work to support this project. Particular thanks go to past President and CEO David Mitchell, whose expertise and insight contributed tremendously to the depth of this report. The publication was made possible by the generous support from the Power Corporation of Canada, the Wilson Foundation and Jim Fleck.

Good governance transcends partisan politics; indeed, it can draw parties together in common cause, in the best spirit of our parliamentary traditions. We are confident that progressive reform will benefit Canada and Canadians across the country. Adoption of these recommendations will reassert Canada's global reputation as a leader in democratic governance.

Jim Dinning  
Panel Chair

Ottawa, October 2015

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## Governance in a fast-changing world

We live in an era of globalization and disruptive innovation, and no sector of society has escaped their impact. In the case of government, advances in technology have raised expectations among citizens about their role in the democratic process and the accountability of elected representatives.

Like those of other democratic nations, Canada's public institutions have failed in some important ways to keep pace with global changes.

This is no particular criticism of our system of governance or any one government. The Westminster parliamentary model has evolved in the Canadian context with the aim of delivering strong national leadership to the country and its provinces. It is based on a decision-making process designed to work for a large country with diverse regional interests. If institutions such as cabinet, parliamentary committees and the public service evolved to function as intended, they could deal effectively with the issues of the day. They could also foster responses to critical longer-term challenges facing Canada, such as the need to diversify and expand our international trade; better coordinate environmental and energy strategies; address unsustainable health care costs, compounded by an aging population; and build a more innovative economy, to name just a few.

The problem is that our public institutions are no longer playing the roles for which they were designed, nor with the authority to be effective. And they are still using processes created a century or more ago for a very different world.

These shortcomings, heightened by globalization and the Internet, have contributed to an erosion of trust in public institutions and our political system. Evidence of such disillusion exists worldwide and is widespread in Canada:

- In their 2014 book, *Tragedy in the Commons*, Michael MacMillan and Alison Loat paint a picture of disappointed MPs across all political parties who feel that parliament is not working as it should, and that parliamentary committees have become dysfunctional.
- Samara's recent *Democracy 360* report card points to a very low level of public trust in politicians.
- The Senate's troubles have become regular media fodder. Some of its problems are clearly structural.
- In the view of many provinces, processes for federal-provincial relations are simply not functioning, as shown by the dearth of First Ministers' meetings in recent years.
- An extraordinary centralization of power with our prime minister, provincial premiers and their political advisers has become a defining characteristic of government today, frustrating elected representatives and career public servants.
- There is a troubling antipathy toward the public service, raising the risk of long-term damage to the institution.

Good governance is not an end in itself, but a means towards achieving a robust democracy for the benefit of all citizens. This is important to Canadians both for reasons of transparency and ensuring trust in public institutions. Given the above-mentioned shortcomings, our political system clearly needs a reboot if it is to fulfil citizens' expectations and serve the purposes of advancing our provinces and our country—and Canada's place in the world.

The good news: Renewal is within our reach.

## How have we gone astray?

Parliamentary systems are widely lauded for their constitutional flexibility, executive accountability, and for their ability to accommodate diverse and competing interests. They enable a strong executive to deliver on its mandate while offering meaningful representation to minority groups. They balance democracy and efficiency, authority and accountability, and stability with the ability to adapt to change.

In Canada however, that balance is eroding, largely due to an extraordinary degree of centralization.

Our system of responsible government is modelled on that of the United Kingdom. As in the UK, Canada has a head of elected government, the prime minister, and an appointed head of state, the governor general, who is the queen's representative.

Authority is concentrated in the executive branch. That is usually understood to mean the prime minister and cabinet, supported by the public service.

But for reasons that include the need for quick responses to unfolding events, the power of communications technologies, and individual governing styles, decision-making is centralized to an unprecedented degree among a much smaller group in Ottawa, as well as in many provincial capitals.

The prime minister or premier and his or her closest advisors have now emerged as the preeminent force in our democracy. This close-knit group determines the proceedings of parliament and its committees and their centralized authority has sidelined the cabinet and eroded the influence of the public service. Indeed, political advisors in Ottawa and the provincial capitals now constitute a separate non-elected "political service" that is often more influential than the permanent public service, while being less accountable.

The concentration of authority in so few hands is inconsistent with our system of responsible government, which puts the balance of power in the hands of the legislative branch, where members of parliament can hold a government accountable.

## The prime minister: more than first among equals

The centralization of Canada's political system means that our prime ministers have become far more than "first among equals." In fact, they wield more power than their counterparts in other Westminster-style parliamentary systems. As Gordon Robertson, former Clerk of the Privy Council, put it more than a decade ago: "With the lack of checks and balances, the prime minister in Canada is perhaps the most unchecked head of government among the democracies."<sup>1</sup>

Prime ministers have a number of powerful levers at their disposal to enforce party discipline in the legislature. They appoint cabinet ministers, parliamentary secretaries, the government house leader, the government party whip, and committee chairs – in other words, almost all the positions of influence in parliament. The ambition to secure one of these positions is often enough to ensure the loyalty of MPs to the party leadership, and thus the executive.

Party discipline has reinforced the prime minister's authority to the point where, with governing party MPs voting as a bloc, it is near-impossible for a majority government to lose parliament's confidence.

Even a prime minister heading a minority government is reasonably safe. Opposition parties are seldom prepared to defeat a government and suffer the consequences in the form of an election with an unpredictable outcome.

<sup>1</sup>"PM's power threatens to even make cabinet irrelevant," *The Ottawa Citizen*, November 16, 2004, <http://www.canada.com/national/features/democracy/story.html?id=%7B84423B03-A368-4F91-A52B-CDCA98746160%7D>

## The PMO: where decisions – large and small – are made

Nowhere is the centralization of political power in Canada more evident than in the role of the prime minister's office (PMO) or, in the case of the provinces, the premier's office.

Today, the PMO functions as the “real” cabinet. It develops and screens government policy, decides on appointments, devises communication strategies and writes speeches for the prime minister, ministers and others. Its reach and influence extends into almost every corner of government.

Furthermore, by enlisting digital-age technologies, big data, micro-targeting and social media, prime ministers need to rely less on their ministers' advice to determine how various constituencies across the country may react to the government's agenda.

The rise of the PMO and the relative decline of the cabinet are not new. For example, Donald Savoie documented the decline of government by cabinet in his 2008 book *Court Government and the Collapse of Accountability in Canada and the United Kingdom*.

## The cabinet: a shadow of its former self

The cabinet was intended to be a key element of Westminster-style systems, functioning as a forum for discussion on the main issues facing the government, followed by decision-making and leadership. That is a far cry from the way the federal and most provincial cabinets function today.

The dominance of the PMO and premiers' offices has come largely at the expense of the cabinet – so much so that the notion of cabinet government is now questionable. Executive governance has evolved to the point where cabinet ministers no longer play the vital role they once did.

In the past, prime ministers would delegate responsibility to ministers for policy initiatives, and those ministers were expected to bring to cabinet important subjects for examination. They were also expected to be knowledgeable about their own portfolios as well as those of their colleagues. Today, by contrast, the measure of a minister seems all too often to be his or her ability to avoid controversy.

## The public service: supplanted by the “political service”

The public service plays a core role in our Westminster system of government. It is non-partisan, professional and permanent, serving governments of any political party with equal loyalty and effectiveness. Its appointments are merit based.

Canada's public service, long-recognized as being very competent, is intended to offer evidence-based policy advice and experience to the government of the day. It administers the policies, programs and regulations approved by parliament and cabinet on a non-partisan basis, and it provides the essential services of government.

However, the public service in Canada is today in danger of becoming an “administrative service” whose sole task would be to execute the orders of politicians and their aides without informed policy advice, question or discussion.

In theory, these political advisors complement the public service, rather than compete with or displace it. Regrettably, there is little evidence of it working that way in practice.

The permanent public service is increasingly supplanted by the ever-stronger “political service,” made up of political appointees who provide support, typically at the behest of the PMO and provincial premiers’ offices. Elected officials now rely heavily on political appointees for advice, marginalizing the important contributions of the senior ranks of the public service and eroding the complementarity of their respective roles.

Governments are less inclined to seek guidance, advice and ideas from the public service, relying more on ready-made solutions generally designed by political strategists, who are then increasingly involved in the implementation of policy.

As a result, the public service’s capacity to offer astute, independent and researched policy advice is diminishing. A generation of experienced public servants is retiring or drifting away. Ministers and deputy ministers have less contact with one another than is either desirable or was a longstanding practice. And in departments where ministers and deputy ministers do interact, the deputy often ends up being better connected to the political staff and the PMO, rather than the minister.

Political staff are an essential part of our system of government. They have a role to play in advising the prime minister, the premiers and their respective ministers. At question is whether they should also be doing the work of the public service.

The public service and the political service are both involved in policy, while the operations of government are the responsibility of the public service. In order to avoid confusion, the lines of responsibility need to be clearly defined and respected.

## There is another way

Our system has evolved over time to the point where it now overwhelmingly rewards centralization of power in the executive branch instead of empowering elected representatives, as was the original intent.

Some concentration of authority is arguably a natural evolution in Westminster-style parliamentary systems such as those in Canada. In fact, some measures of centralization may be justified and even inevitable, such as in the area of communication. However, this should not come at the expense of stifling democratic debate. The unbalanced centralization of power now evident in Ottawa and many provincial capitals does not serve the public interest.

Ideally, Canada’s governance systems would engage the other institutions that were designed to counter-balance executive authority. That may be challenging in practice, but we should aspire to a system where power and authority are effectively shared and less centralized than they have become.

## Stumbling blocks to better governance

Four key challenges need to be addressed if we are to achieve more effective governance.

### A dearth of collegial decision-making

The cabinet, the House of Commons and parliamentary committees can function with far more common cause. To do so however, each should be allowed to effectively express its voice.

The size of cabinet alone hampers its ability to make decisions. In Ottawa, it has grown from 13 members at the time of confederation, to 39 in the most recent Parliament.<sup>2</sup> By contrast, the United Kingdom, with a much larger parliament, usually has a much smaller cabinet. In 2015, for example, there were 22 members of the UK cabinet.<sup>3</sup>

A large centralized cabinet cannot function as a decision-making body, nor as a forum for deliberating ministers' policy proposals. Instead, it becomes a "super caucus" in supporting the prime minister or the premier. This may have political and symbolic benefits when a large cabinet satisfies demands for diversity in regional, sectoral, ethnic, and gender representation. But it is generally not in the interests of good governance.

Parliamentary committees are weakened with constant pressure from party whips and House leaders to follow narrow partisan agendas. Legislators are no freer to speak their mind in committees these days than they are in parliament or provincial legislatures. Working productively across party lines is becoming the rare exception.

The executive branch also wields growing influence over committees through the committee chairs, who are effectively chosen by the prime minister or premier (in those cases where they are members of the governing party). Committee chairs have been known to follow instructions from the executive to direct proceedings and to be selective in choosing witnesses to appear before a committee.

As well, committees are generally under-resourced and under-staffed, leaving them ill-prepared for their valuable work.

Senior public servants have historically played a valuable role in promoting a more collegial form of governance. They have the knowledge and credibility to engage with stakeholders on a long-term and continuing basis on the development of policy options and to offer coordinated, thoughtful, evidence-informed responses to complex issues. However, the increasingly restricted role they play makes it difficult for public servants to provide what is traditionally expected of them: non-partisan advice.

### Where are the checks and balances?

Our governance system is designed to have countervailing forces at work to ensure that a strong executive branch has restraints in its exercise of authority. The judiciary, for instance, reviews legislation and has the authority to strike down laws that are inconsistent with the constitution. The Supreme Court of Canada, in particular, provides a strong check on executive power.

But other institutions are struggling. The respective roles and responsibilities of cabinet and the public service have increasingly been diminished.

<sup>2</sup>House of Commons, "Current Ministry (Cabinet)," Parliament of Canada. Accessed September 5, 2015, <http://www.parl.gc.ca/parliamentarians/en/ministries>

<sup>3</sup>Government of the United Kingdom, "Ministers," accessed September 5, 2015, <https://www.gov.uk/government/ministers>

The news media can play a dynamic role in holding a government to account. It can contribute to public education, awareness and engagement, and often blows the whistle on government waste, abuses of power and lapses in oversight.

However, accountable investigative journalism has declined over several decades for financial and other reasons, including the rapid emergence of Internet communications. Less time, space and money are available for analysis and informed commentary. “Short-termism,” online communication, advocacy through social media, and heightened disconnection of “news” from fact, with a stronger emphasis on entertainment, can lead to reactive governance instead of engagement with longer-term policy issues.

Social media, such as Twitter and Facebook, are a powerful 24/7 phenomenon, shaping political responses to emerging issues. The risk is that politicians and officials become bogged down in micromanaging short-term issues, instead of focusing on longer-term strategies and policies. With social media setting the pace, governments all too often find themselves in a reactive rather than proactive mode.

On another front, academics can play an important role in informing the public, given their specialized expertise and the security of tenure. The academic community often contributes to public information. It also provides expert input to the work of governments. But all too often, academics and their institutions keep too low a profile on major public issues for which they are well positioned to contribute as experts. The general passivity of Canadian universities to holding public fora on major public policy matters represents a missed opportunity to foster effective policy and practice, as well as to advance citizen engagement, education and informed opinion.

Unfortunately, none of these countervailing forces compensate for the weakness of our federal parliament and provincial legislatures in driving effective public policy and holding the executive to account.

The House of Commons in Ottawa has a unique responsibility in this respect. It is the only institution directly accountable to all Canadian voters and the only one with the capacity to confer legitimacy on a government.

Yet the House is also exercising diminished responsibility in this regard. Opposition parties are now as hooked on the 24/7 news cycle as much as governments in power, and often seem as concerned about scoring political points as they are about meaningful scrutiny of public spending and effective legislation.

### The tyranny of “short-termism”

The business community has been grappling for years with financial markets’ obsession with short-term expectations. The pressure to meet quarterly targets has too often swept aside thoughtful management that looks beyond the horizon. Study after study has documented the harm that a short-term focus does to business stability and growth.<sup>4</sup>

What is bad for business is even worse for government. It’s easy to be overly influenced by public opinion polls and perceived reputation risk management, inspired by short news cycles. The danger is that consideration of longer-term issues and options is deferred and sometimes ignored. They don’t receive the attention or the resources they need. The unfortunate result is that quick responses, along with partisanship and confrontation, trump more reasoned approaches to public policy and the long term success of Canada and our provinces.

Many of the big issues today are complex, requiring research, evidence, dialogue and strategic approaches to effective policy-making. Yet, short-term issues-management prevails, obscuring the reality that there are no “quick fixes” or simple solutions to substantial challenges facing Canadians. Some examples include diversifying and expanding international trade;

<sup>4</sup>For example, see Dominic Barton, “Capitalism for the Long Term,” *Harvard Business Review*, March 2011

coordinating environmental and energy strategies; sustaining affordable health care costs; and building a more innovative economy. Addressing these kinds of complex challenges demands a better and more structured approach.

## Permanent campaigning

The emergence of non-stop, US-style electioneering in Canada has undoubtedly played a role in undermining sound governance standards and trust in our public institutions.

In the past, hyper-partisan events and communications typically began only after an election was called.

But the advent of fixed election dates has brought renewed encouragement to our politicians to craft strategies with a specific timetable in mind. The thinking seems to be that no time is too soon to get started on the next campaign. And the pervasive influence of social media reinforces permanent campaigning and nurtures public cynicism of government.

Permanent campaigning subverts sound governance in a number of ways:

- It blurs the lines between political messaging and public policy for the non-partisan public service.
- The public service has neither the structure nor the resources for serving governments engaged in non-stop political campaigning. Public servants were never intended to play this role.
- It reinforces the power of the political service, whose standards of transparency and accountability are not at the same level as the public service, and risks lines being crossed when everything is seen through a campaign lens.

## The good news: Renewal is possible

There is a growing tendency to write off our governance model and public institutions as damaged beyond repair, and to conclude that parliament and the provincial legislatures are simply unable to serve the public good.

Many critics see the concentration of power in a highly centralized executive as irreversible. Indeed, a steady decline in voter turnout at election time is one indicator that a growing number of Canadians may have given up on traditional avenues of democratic engagement.

In light of the vulnerability of our governmental institutions to serve their public purposes, some suggest that extra-parliamentary voices are likely to be more effective in holding government to account. As they see it, actors outside parliament – notably special interest

groups and the media – have assumed the mantle of the unofficial opposition.

In a digital world, these voices will become increasingly influential. However, we believe there is an inner resilience in parliament among individual MPs of all parties and in the public service that can be nurtured to restore effective governance and to rebuild public trust. Our system, in its entirety, is vitally important to ensure confidence in governing.

More than that, we believe Canadians expect their political system to live up to the values upon which it was founded: balance, inclusiveness and respect. But this requires sparing no effort to ensure our public institutions excel at the jobs they are designed to do.

## STEP ONE: Strengthen parliamentary committees

If we could make just one change to strike a more effective balance of power between the executive and legislative branches, it would be to strengthen parliamentary committees.

We are confident that our system can be recalibrated in such a way that elected representatives in parliament and the provincial legislatures, including those from different political parties, can sometimes meet in smaller groups and support common goals, rather than be overly constrained by party discipline.

The House of Commons currently has 24 standing committees – too many, in our view. They vary widely in terms of resources and activity. Some, like the Standing Committee on Finance or the Standing Committee on Foreign Affairs and International Development, meet

often and regularly call expert witnesses. Others, such as the Standing Committee on Official Languages, are far less active.

Chances are that Canadians would be more engaged in the process of governance if they had access to various fora where more meaningful debate occurred. If committees were stronger and their members more independent, we'd see a greater diversity of views and more dialogue. In this way, committees could offer a much broader array of Canada's communities, interest groups and individuals to channel meaningful input into the policy process, including seeking advice more often.

## The purpose of committees

Committees were intended to be parliament's most effective tool for scrutinizing the executive branch and holding it to account. Ideally, they provide a forum for MPs to work in a collaborative, multi-partisan environment to analyze spending estimates, examine bills, and debate amendments to legislation before it is returned to the House for consideration.

Committees provide an ideal forum for careful consideration of big issues with longer-term implications. They hear testimony from public servants, stakeholders and experts. They also provide an opportunity to engage the public in the work of parliament, and to gather input during the policy-making process.

These roles should enable committees to both exercise a robust check on executive authority, and to make parliament a more relevant institution. But to do so, they need to operate far more independently from the political executive and from partisan leadership than they do at present.

## Committee membership

Committee membership reflects the partisan composition of the House; as a result, members of the governing party chair most standing committees.

Members of each committee vote for a chair and two vice-chairs. But in practice, the PMO or the House Leader select the chair. Committee members vote accordingly. Similarly, opposition leaders exercise tight control over the selection of chairs for the committees their party leads.

### RECOMMENDATION 1:

The full House of Commons should elect committee chairs by secret ballot.

This approach deserves support for several reasons:

- Committee chairs would have a strong mandate because they are backed by a majority of House members, quite possibly from different parties.

- A secret ballot takes the edge off partisanship by encouraging MPs to act "outside the party box." It gives candidates an incentive to campaign for votes across party lines.
- The secret ballot protects MPs from party leaders who may want to steer their votes towards preferred candidates.
- Perhaps most important, chairs' mandates and their legitimacy would come from the House of Commons rather than the party leadership, thereby enhancing the independence of committees.
- The Speaker of the House of Commons has been elected in this way since 1986.

The UK held elections for select committee chairs for the first time in 2010. Of 16 committees involved, nine went to at least a second count – until one candidate received a majority of votes. In other words, the outcome was neither a foregone conclusion nor a rubber stamp. The vote for the chair of the Select Committee on Public Accounts went to five counts, while ballots for the chairs of the environment, defence, and education committees each went to three counts. Even though there was a minority parliament and a coalition government in the UK at the time, this shows that committee chairs are highly coveted and can be hotly contested.

The selection of committee members by a multi-party committee of MPs, instead of by party whips and House leaders, could also help bolster the independence of committees. This would follow the model already used in the Quebec legislature and the UK.

### RECOMMENDATION 2:

Committee chairs and members should retain their positions for the full term of a parliament.

The selection of committee chairs and members for the normal four-year term of parliament would translate into greater stability and independence for committees.

An ever-present threat of losing a committee job is an incentive for chairs and members to toe the party line. Fixed terms, however, would encourage chairs and members to become more knowledgeable on the issues

covered by their committee, and more fully engaged and accountable for the execution of its mandate.

Ideally, they would also take a less partisan, longer-term view of the policy process, providing continuity and adding relevance to the work of parliament.

## How parliamentary committees do their work

The United Kingdom's parliamentary committees offer a useful model for Canada. They have a strong reputation for holding governments to account, scrutinizing bills, and reporting to the House of Commons on matters within their purview. Closer to home, the Quebec National Assembly's committees (*les commissions parlementaires*) are also effective in both holding the executive branch to account and studying complex issues.

Quebec provides an instructive example of how a select committee can offer valuable guidance on a complicated and controversial policy. In December 2009, Quebec's National Assembly established the Select Committee on "Dying with Dignity" to explore the legal, moral and ethical considerations associated with doctor-assisted death. The committee, which engaged stakeholders and citizens in meetings, hearings and via online methods of communication, was commended for its open and respectful approach and for placing the interests of the public over short-term political considerations. In addition to generating an informed province-wide dialogue, the committee's final report provided a solid basis for Bill 52 which, once approved, made Quebec the first Canadian jurisdiction to recognize a patient's right to dignified end-of-life care.

### RECOMMENDATION 3:

Committees should determine their own meeting schedules. They should be able to meet any time during the life of a parliament, including during periods of recess and adjournment.

Committees should not be held hostage to parliament's schedule. They not only scrutinize spending estimates and proposed legislation; they should also be studying broader, longer-term policy matters.

In other words, committees have important work to do, even when the full House of Commons is not in session. Interruptions should be kept to a minimum.

Quebec's standing orders allow for five standing committees to meet even when the National Assembly is not in session.

It should be noted as well that prorogation of parliament is especially disruptive to committee work. It not only forces meetings to be cancelled, but brings members' tenure to an end, including chairs and vice-chairs. The committees cannot be reconstituted or restart work until parliament reconvenes.

These problems would be significantly overcome if committees held office for the life of a parliament. Committee chairs and members would keep their positions and continue their work without interruption, even during prorogation of parliament.

### RECOMMENDATION 4:

Reduce the number of parliamentary committees and provide them with effective resources to fulfill their mandates. They should engage the public in a more robust manner, using new technologies and informed by best practices.

Governance models developed during the 19th and 20th centuries worked well when only a small number of citizens were directly engaged in policy-making. That's not the case today. We believe that a more open, transparent model providing more inclusive opportunities for public engagement will lead to better decision-making and higher levels of trust in public institutions.

Our parliamentary committees can play a key role through broader, more imaginative tools of public engagement as have been used in other countries. The digital age demands the use of the Internet and progressive communication technologies and processes to more effectively and efficiently reach out to citizens across the country. Other parliaments are using new approaches to achieve broader citizen engagement, in particular, the UK and Australia. We must do the same and go even further.

It is our view that fewer parliamentary committees (with the House determining the right number), resourced more effectively (staff, including researchers), and providing scrutiny, oversight and meaningful engagement with more Canadians on important policy matters, will be a powerful force in enhancing provincial, territorial and federal governance.

#### RECOMMENDATION 5:

Ministers and deputy ministers should regularly appear before parliamentary committees.

Ministers should regularly appear before committees when legislation under their responsibility is brought forward for consideration. Deputy ministers should appear before committees as the accounting officers for their departments.

As well, deputy ministers and senior officials should appear before committees to discuss longer-term issues and trends relevant to their mandates. These appearances would give committee members valuable insight into the forces shaping key trends, challenges and opportunities, as well as the longer-term consequences of policy options.

Since the mid-1990s, the Governor of the Bank of Canada has appeared regularly before the Finance Committee of the House of Commons, which has proven useful to both parliamentarians and the public, providing a non-partisan perspective on the issues the Bank monitors and analyzes. Surely, similar appearances by deputy ministers would improve parliament's understanding of trends and risks and would also require departments to further develop and present their policy and analytic capabilities.

## STEP TWO: Restore cabinet government

A key element of the Westminster model's executive branch is the executive council— known more commonly as the cabinet. This group is led by a prime minister or premier and, by the convention of collective cabinet responsibility, is accountable to parliament.

For a number of reasons, the relevance and importance of cabinet has waned in recent decades.

Centralization of authority in increasingly powerful prime ministers' offices has been spurred by a number of factors including the growing demand and perceived need for rapid responses to emerging issues, new technologies, and globalization. Prime ministers are increasingly interacting directly with the heads of other governments on a broad range of economic, trade and security matters.

As more power has accumulated in the centre, the influence of cabinet and cabinet ministers has declined. Cabinet is sometimes referred to as a “focus group” for the prime minister or premier.<sup>5</sup>

However, the Westminster system is based on balances. It requires strong leadership in many quarters. It also requires collegiality contributing to good decision-making. For these reasons, ministers should be ministers, carrying out the important functions for which they are appointed. Where necessary, cabinet government should be restored, including the convention of ministerial accountability.

<sup>5</sup>Donald Savoie, *Governing from the Centre: The Concentration of Power in Canadian Politics* (Toronto: University of Toronto Press, 1999), 328.

Of course, the offices of prime ministers and premiers play crucial leadership roles; but they shouldn't be doing all the work of cabinet ministers as well. A greater degree of clarity on these roles would be helpful, including the relationships among a minister, a deputy minister and political staff.

Currently, for instance, a chief of staff to a minister in Ottawa is appointed by the PMO and reports to the PMO. This illustrates an unusual degree of centralization and results in confusion over accountabilities.

#### RECOMMENDATION 6:

Ministers should be accountable for their political staff and should appoint their own chiefs of staff.

When a minister's political staff are appointed by the PMO or premiers' offices – and not by the minister – there is a misalignment of responsibility. A direct channel of communication with centralized first ministers' offices is essential; however, this shouldn't be the primary linkage, because such arrangements carry a risk that ministerial staff are thereby undermining the minister's authority and accountability as stewards of their departments.

## STEP THREE: Let the public service fulfil its intended role

Governments have much to gain from a strong public service. On the other hand, a weak public service is sure to undermine good governance.

The UK Minister for the Cabinet Office, Matthew Hancock, noted in a May 2015 speech that the bedrock principles of the public service are objectivity, honesty, integrity and impartiality. "These principles are vital today and our task is to apply them to the modern world. The last in particular is worth reflecting on. Impartiality. Not independence."<sup>6</sup>

Canada's public service should follow the same set of principles and this mandate needs to be clearly spelled out. The federal Public Service Employment Act and the Values and Ethics Code for the public sector speak to the non-partisan nature of the public service, and to the necessity of merit-based appointments. Even so, much of the public service's role is defined by unwritten convention (informal rules of governance that have evolved over time).

More public clarity is required on the policy function of the public service and the relationships among the prime minister, cabinet ministers, deputy ministers, political staff and departmental staff. Indeed, we believe that consideration should be given to producing a Cabinet Manual in Canada, similar to those that have been developed in New Zealand and the United Kingdom, providing a publicly-accessible guide to governance in our country.

#### RECOMMENDATION 7:

A clear public statement by the prime minister and government is needed regarding the "conventions" underpinning the public service in Canada and its role with respect to policy advice and implementation, administration of programs, and delivery of services to Canadians.

<sup>6</sup>Matthew Hancock, "Making the civil service work better for modern Britain" (speech presented at The Institute of Government, London, United Kingdom. May 22, 2015), <https://www.gov.uk/government/speeches/making-the-civil-service-work-for-modern-britain>

In our view, such a statement should clearly define the public service's core role in the provision of impartial, well-informed and evidence-based policy advice; duty to bring their perspectives on longer-term challenges; and impartiality and non-partisanship.

By spelling out these conventions, the statement would articulate a clear understanding of the role of the public service.

#### RECOMMENDATION 8:

The principles, roles and responsibilities of the public service, including specific accountabilities for deputy ministers, should be enshrined in legislation.

To give practical effect to the conventions related to the public service in Canada, legislation should be enacted to guide and direct its important role. This would be supplementary to existing legislation setting out the accountability requirements for executive heads of departments and would require deputy ministers to attest annually that:

- Measures have been taken to ensure regular engagement between the minister and deputy

minister, as well as cooperative working relationships with the minister, minister's office and departmental officials;

- The highest levels of integrity and impartiality have been exercised at all times, across all departmental functions, including policy advice, program delivery, regulatory administration and departmental communications;
- High quality policy capability and advisory processes are in place to deliver effectively on the government's agenda and to be ready to address future challenges, particularly long-term issues facing the country; and
- The department consults and engages Canadians widely and stays abreast of the latest in digital methods to understand public perspectives and priorities pertaining to the department and in the development of policies, as well as the design of programs and services.

## STEP FOUR: Build more public accountability into the "political service"

Political staff have long played an essential role in our system. They advise prime ministers and ministers on policy and communications. They view the activities of government through a legitimate partisan lens.

However, the growth and influence of political staff have accelerated in recent years. In fact, they are involved in so many of the details of government operations that we see the emergence of a separate "political service" working in parallel to the professional, non-partisan public service.

It is worth noting that the UK government, far bigger than Canada's, employs a total of approximately 60 political advisors. By contrast, the federal government in Ottawa has more than 600 on its payroll, or more than 10 times the UK number. Ontario's political service alone comprises more than 400 staffers.

The growth in numbers and influence of the political service has reinforced the centralization of authority in the PMO and premiers' offices, and it has diminished the role of the public service.

It is important for political appointees to understand and respect the role of the public service and not do the public service's work. "The risk with political staff," observed the late Canadian political scientist, Peter Aucoin, "is that in promoting and protecting the government, they all too easily regard the values of a non-partisan public service and the distinct spheres of authority assigned to public servants as obstacles to be overcome in the pursuit of effective political management."<sup>7</sup>

### RECOMMENDATION 9:

Clarify the role of the political service, and ensure measures are in place to provide appropriate accountability and transparency, including a code of conduct and formal oversight mechanisms.

The political service will continue to be an important part of our system. However, its uncodified standards of accountability and transparency are inconsistent with the demands of a modern democracy.

A recent report by the Integrity Commissioner of Ontario observed: "There is a need for balance and sober second thought to ensure that the actions of ministers' staff are consistent with fulfilling the government's mandate and they are not focused predominately on how an issue will affect the political party's standing. Ministers' staff must be aware that, like those who work for all MPPs, they are paid by taxpayers to serve the people..."<sup>8</sup>

Political staff are not elected; nor is their work subject to the same level of scrutiny as elected officials and members of the public service. In fact, the most significant rules of employment that apply to political staff are those that come into force after they have left government (post-employment conflict of interest rules).

We believe the accountability of the political service should be elevated to the same standards as others working in the public domain. A good starting point would be the implementation of the following three measures:

- Introducing a Code of Conduct for Political Staff, with reference to best practices in other jurisdictions, such as the United Kingdom (2001), Australia (2008) and British Columbia (2014).
- Establishing a formal oversight mechanism for political staff, similar to the model provided by the Office of the Integrity Commissioner of Ontario.
- Providing more training for political staff, particularly on the subject of the Westminster model of governance in Canada. This training/professional development should be delivered by an independent, third party as has been the case in the UK.

<sup>7</sup>Peter Aucoin, "New Political Governance in Westminster Systems: Impartial Public Administration and Management Performance Risk," *Governance: An International Journal of Policy, Administration and Institutions*, 25:4, (April 2012): 186.

<sup>8</sup>Lynn Morrison, *A Report on a Consultation into the Role of Ministers' Staff at Queen's Park* (Toronto: Office of the Integrity Commissioner, March 10, 2015), 9.

## The way forward

How we govern is important to the issue of trust in our democracy. The debate on political governance in Canada has for many years centred primarily on the future of the Senate. The time has come to turn our attention to other institutions that play a far larger role in our system and that may be more amenable to reinvigoration and reform.

This report focuses on parliamentary committees, cabinet, the public service and the political service. None are functioning as effectively as they should, but as we have sought to show, they are not damaged beyond repair.

A common thread running through our recommendations is that each institution should be doing the job for which it was created, rather than delegating its functions to others or expanding its powers beyond its proper mandate. In particular, while the executive is a vital part of government and should be equipped with the tools necessary to do its job, it should not be doing the jobs of other branches of government too.

We have outlined four steps to restore the balance that has served Westminster-style democracies so well over the years:

- Strengthen parliamentary committees.
- Restore cabinet government by letting ministers be ministers.
- Let the public service fulfill its intended role.
- Require more accountability from the political service.

If adopted, our proposals stand to reboot Canada's public institutions, fortifying them so they can perform the roles for which they are intended. Canada would then benefit from more productive, more transparent and more accountable public institutions and governance that matters.

We wish to emphasize again that we are not seeking to re-create an idealized past. Rather, we advocate a restorative approach that will mould the governance of our democracy to the global digital age. Public institutions, like every other part of our society, require fresh input, and to be focused broadly on the medium- and long-term, as well as pertinent short-term considerations.

Most of this report's recommendations involve relatively modest adjustments that can be easily and quickly implemented. We call on our political leaders across parties to have the determination and foresight to act on them.

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