



# HORIZONS

P O L I C Y R E S E A R C H I N I T I A T I V E

## Connecting research to policy

Connecting research to policy is the fundamental challenge for all those interested in evidence-based policy. Effective knowledge transfer goes to the very *raison d'être* of the Policy Research Initiative. In the fall, the PRI began a process of reflection on, and renewal of, its role within the federal government. As a result, the PRI's core mandate is now more clearly focused on deepening, collecting and synthesizing research on emerging horizontal issues that are highly relevant to the federal government's medium-term policy agenda, and ensuring the effective transfer of this knowledge to policy-makers. Our goal as we move forward is to ensure stronger integration of our policy research into the policy development process.

Over the next few years the work of the PRI will be largely centred on medium-term projects with focused work plans, clear timelines and well-defined deliverables. We have consulted widely with senior federal officials over the past months as to specific project proposals. After receiving particularly strong endorsements in specific areas, we launched three of our new horizontal projects in January: *Population Aging and Life-Course Flexibility*, *New Approaches for Addressing Poverty and Exclusion*, and *Social Capital as a Public Policy Tool*. Consultations are still going on regarding next steps and possible follow-up projects in the areas of sustainable development and North American integration. The coming issues of *Horizons* will provide more details on these projects and will feature related articles and research briefs.

This process of renewal capped what was, for the PRI, an extremely eventful autumn. In October, Nathalie Des Rosiers, Garnett Picot and Ken Battle spoke to the Graduate Student Prize winners of the 2002 Canadian Policy Research

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# HORIZONS

POLICY RESEARCH INITIATIVE

## PRI Horizons Team

### EXECUTIVE DIRECTOR

Jean-Pierre Voyer

### MANAGING EDITORS

Robert Judge  
Frédéric Pilote

### ADMINISTRATIVE ASSISTANCE

Johanne Valcourt

**Translation and copy editing by**  
PMF Editorial Services Inc. and  
by Tradulitech

**Design and layout by**  
Zsuzsanna Liko Visual  
Communication Inc.

The Policy Research Initiative (PRI) publishes *Horizons* as a liaison bulletin for the federal government policy research community. The primary objective of the PRI is to deepen, collect and integrate research work on crosscutting issues that are highly relevant to the Government of Canada's medium-term policy agenda. *Horizons* highlights the work of policy researchers from across federal departments, and from external experts, on issues that relate closely to PRI horizontal research projects and activities. For more information on the Initiative or to consult previous issues of *Horizons*, please visit [policyresearch.gc.ca](http://policyresearch.gc.ca).

Any comments or questions? Requests for subscription or change of address?

E-mail: [horizons@prs-srp.gc.ca](mailto:horizons@prs-srp.gc.ca)  
Phone: (613) 947-1956  
Fax: (613) 995-6006

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## INTRODUCTION (CONTINUED)

Awards. At that time, the three speakers were asked to reflect on the difficulties of translating research knowledge into policy development. The challenge of effective knowledge transfer has been an important one in each of their careers, and their respective views were both insightful and, in many ways, inspiring calls to action. Their thoughts have been transformed into our opening feature for this issue of *Horizons* "Connecting Research to Policy".

October witnessed as well the PRI's 2002 National Policy Research Conference that this year featured the theme of "Future Risks." By any estimation, this past year's conference was a spectacular success. It drew together a truly broad representation of the federal policy research community, including not only those working in the areas of social and economic policies, but also drawing extensive participation from health and security policy researchers. The plenary speakers were, in particular, tremendously stimulating and represented a cross section of world leaders in their respective fields. Highlights of the conference plenary sessions may be found in this issue (see page 38).

On October 25, the recipients of the 2002 Canadian Policy Research Awards were honoured at a dinner at the Ottawa Congress Centre, including the of the Career Achievement award to Ivan Fellegi, Chief Statistician of Canada, by Alex Himelfarb, Clerk of the Privy Council (turn to page 56 for a complete list of the winners). In this issue we have featured briefs on the work of two recipients of the Outstanding Research Contribution Award (page 31 and page 33), and articles written by two of the winners of the Graduate Student Prize (see page 18 and page 21).

In September the PRI and Justice Canada, with support from the Law Commission of Canada, organized a well-attended conference in Montreal entitled "Instrument Choice in Global Democracies." This event examined the effectiveness of various instruments of governance – a theme further explored in the context of conflict resolution at a policy dialogue, "New Paths to Justice," organized by the PRI and the Law Commission in November. Reports on both of these events are included in this issue of *Horizons* (turn to pages 47 and 52 respectively).

The year ahead promises to be even busier for the PRI and its partners. As our new projects take shape, we look forward to further engaging the federal government policy research community and other partners in research efforts that will feed the medium-term policy agenda of the federal government. Look to future *Horizons* issues for progress reports and information on upcoming activities.

**Jean-Pierre Voyer**  
Executive Director  
Policy Research Initiative

# The Journey from Research to Policy:

## Frictions, Impetus and Translations

**Nathalie Des Rosiers**

**President**

**Law Commission of Canada**

*To move an idea or a concept from academic circles to policy spheres, the idea needs to acquire a resonance with policy makers. This means it should respond to the problems as policy makers see them or at least challenge their understanding of a problem.*

This is the first of three articles based on presentations to the recipients of the 2002 Canadian Policy Research Awards, Graduate Student Prize during their seminar in Ottawa in October 2002. Nathalie Des Rosiers, Garnett Picot and Ken Battle were each asked to share their insights into translating research results into public policy development drawing on their own experiences.

**H**ow do research ideas get implemented? How do academics contribute to public policy? How should they do so? These are the questions that were asked of our panel. The following is a personal reflection on the journey from research to policy. It is inspired by my own experience in academia as well as the work and philosophy of the Law Commission of Canada. The research agenda of the Commission and its methodology are detailed on its web site [www.lcc.gc.ca](http://www.lcc.gc.ca).

I have divided my remarks into three main points. First, I will argue that the journey from research to policy is analogous to a process of translation between multiple audiences. Second, the process is not without pain since it involves a “destabilization” of sorts of the intellectual status quo. Finally, it seems to me that the process should be seen as one of democratic deliberation, aiming not only at translating “one idea” into policy but rather at creating the capacity within the public and among the different actors to reflect critically on their own process. The journey from research to policy should not be a one-way voyage but rather an ongoing and facilitated commute between decision makers, academics and the general public. It cannot be done successfully without a process of engaging the general public in the debate.

### A Translation Process

For a research idea to get implemented into policy, the idea or new concept that emerges from academia or from any other research body must first be understood. Its potential must be assessed, debated and criticized. Its benefits must be discussed to become evident or at least widely accepted. In short, the idea or concept must become part of the language of decision makers and problem solvers, not just of academics. It must be translated from an academic framework to a policy one.

This process of “translation” is not without difficulty. First, a good translation requires that one be able to communicate perfectly in both languages. To move an idea or a concept from academic circles to policy spheres, the idea needs to acquire a resonance with policy makers. This means it should respond to the problems as policy makers see them or at least challenge their understanding of a problem. Therefore, the translation process entails an ability to speak and understand the implications of concepts from the decision maker’s perspective as well as from an academic perspective. It may mean using data familiar to decision makers or challenging the data currently used. It often means doing “more” research to respond adequately to the imperatives of policy makers.

It also means reaching out to scholars of different disciplines. Policy making requires input from many disciplines and, hence, concepts must respond to the challenges brought to bear by different scholars. I use an example here of a project developed by the Law Commission of Canada and explored

in a recent report to Parliament, *Beyond Conjugal - Recognizing and Supporting Close Personal Adult Relationships*. It examined the idea of supporting interdependency generally as opposed to supporting only interdependency within conjugal or sexually intimate relationships. Many disciplines were brought to bear on the issue: psychology (Why do people stay together?), sociology (How has

*Ideas get implemented, because enough people are convinced of their merits, and the impetus for change overcomes the resistance to it. Understanding the “resistance” is therefore fundamental to the process of implementation.*

the family groupings changed?), law (What type of distinctions could be acceptable within an equality framework?) and history (How were caring relationships supported in the past? How was the regulation of marriage related to the distinction between state and religion?).

The point is that policy making must integrate the wisdom of all disciplines, and academics must be prepared to engage their colleagues in debating their ideas. Again, it requires flexibility and adaptation to the language of others, because the discussion must recognize the obstacles to change that do exist.

### **The Painful Process of Destabilizing a Status Quo**

Research often leads to new conceptualizations of problems and, hence, encounters resistance from specialists whose knowledge and expertise is embedded in a certain conception of the world. In a sense, it is a painful process to accept that one's vision of the world and of good

policy is erroneous or outdated. Changes in policy often require an acceptance of the failures of past policies or at least recognition of their inability to continue to provide satisfactory outcomes.

Often, the very way in which “success” is measured prevents the adoption of new policies. Again to use the *Beyond Conjugal* example, if

social policy is defined by the number of married people in a society (if marriage is seen as the only acceptable relationship), then policies designed to support other types of interdependent relationship are bound to encounter resistance. Defining new and more appropriate measures of success is often the most critical part of new conceptualizations.

Ideas get implemented, because enough people are convinced of their merits, and the impetus for change overcomes the resistance to it. Understanding the “resistance” is therefore fundamental to the process of implementation. Why are people resisting the idea? Are decision makers paralyzed, because of conflicting points of view? Are they unable to imagine the potential of an idea, because of their institutional biases? Because of their inability to access proper data? Because they have invested too much in a definition of the problem and are unable to abandon older conceptual models?

Because they perceive opposition from certain powerful groups in society?

The journey from research to policy is marked by attempts to diminish such resistance. It may be about overcoming institutional biases, acquiring new data, critically examining current conceptual frameworks, dispelling myths or measuring the costs of doing nothing.

It is important to understand the reluctance of all actors, not only decision makers, to adopt new ideas or concepts. Many groups have an interest in social change: political parties, non-governmental organizations, citizen groups, business groups. New ideas need to be translated for a variety of audiences; not every social actor can engage with the discussion at the same level. Often, the abilities of non-governmental organizations to engage in the discussion vary. Their power varies, their perception of the urgency of a problem varies, and their ability to access proper information may also vary. For an idea to become reality, efforts must be directed at understanding the blockages. Who is afraid of the idea and why? This is the question that must be answered.

Fears must be addressed. It may require gathering new data that initially appeared irrelevant, but is crucial to diminishing certain groups' reluctance. Most new ideas, from restorative justice to looking beyond conjugality, to use Law Commission examples, evoke powerful fears. Fears of disorder and fears of expenses are often at the root of this opposition. They can and should be addressed by pilot projects and budgetary predictions.

Ultimately, however, the journey from research to policy is not only a question of understanding the language of decision makers, the blockages emerging from institutional players, and the fears of different social actors; it must also be about engaging the wider public.

### Engaging Canadians in Critical Thinking

In the end, the public must be convinced of the validity of ideas policies: the public will have to live with the consequences of the implementation of such ideas. The public also elects, writes to and influences politicians.

It is therefore essential to explain the benefits of the research conclusions. In practical terms, this entails writing

*It is therefore essential to explain the benefits of the research conclusions. In practical terms, this entails writing for the media and engaging wider audiences in the discussion.*

for the media and engaging wider audiences in the discussion. This is often a difficult role for academics to play. Writing op-ed pieces for the media is not considered proper academic writing, and community building is time consuming. Certainly, this is the reason for other institutes to develop such public engagement and discussion. Many research institutes build wide consultation mechanisms into their policy research work. Nevertheless, academics cannot shy away from the recognition that they do

have a responsibility to share their ideas and expertise, and habilitate the public to participating in public policy discussions on the ideas they want to see implemented.

The larger public must be engaged, because policy development cannot be done to the public or for it, it must be done “with” it. Most policy changes require the co-operation of different actors. Successful implementation demands change in attitudes in the public as much as it requires convincing powerful decision makers.

This must mean a commitment to creating the space to engage in critical discussion within our society. It necessitates a commitment to a larger democratic participation in

research and public policy institutions. It requires a commitment to building the capacity within different groups to engage with the discussion.

In the end, the journey from research to policy is as much about listening to others — decision makers, other scholars, social actors and citizens — as it is about good research and clear presentation. It must be grounded in a strong democratic tradition of allowing citizens to participate and engage in research.

## Beyond Conjugality

“In this Report, the Law Commission of Canada has questioned the role of the state in the regulation of personal adult relationships. The Law Commission has argued that governments have tended to rely too heavily on conjugal relationships in accomplishing what are otherwise important state objectives. Focusing only on spousal or conjugal relationships is simply not the best way to promote the state's interests in close personal relationships since it excludes other relationships that are also important. But, instead of simply arguing that some relationships that are currently excluded (such as non-conjugal relationships) should be included, the Law Commission is of the view that it is time for governments to re-evaluate the way in which personal adult relationships are regulated.”

From Law Commission of Canada, *Beyond Conjugality: Recognizing and Supporting Personal Adult Relationships*, 2001.

Available at <http://www.lcc.gc.ca/en/themes/pr/cpra/report.asp>.

# Does Statistical Analysis Matter?

**Garnett Picot**  
**Director General**  
**Socio-economic**  
**and Business Analysis**  
**Statistics Canada**

*While many argue that a significant gap between the research and public policy worlds exists, limiting the usefulness of quantitative analysis, experience in the area of labour market analysis shows that empirical analysis can indeed influence policy.*

This is the second of three articles based on presentations to the 2002 Canadian Policy Research Awards, Graduate Prize Seminar held in Ottawa in October 2002.

**D**oes statistical analysis and quantitative social science research really matter in public policy development? This article addresses this question from the perspective of a statistical agency involved with empirical analysis. While many argue that a significant gap between the research and public policy worlds exists, limiting the usefulness of quantitative analysis, experience in the area of labour market analysis shows that empirical analysis can indeed influence policy.

- The reform of the Unemployment Insurance (UI), now known as Employment Insurance (EI), system during the 1990s was influenced by statistical studies supporting anecdotal evidence of substantial “repeat use” of UI.
- Empirical studies indicating that small firms create a disproportionate share of new jobs have resulted in a public policy interest in small firm development.
- Policy concerns regarding social cohesion and child poverty developed in part as a response to quantitative studies showing increased earnings inequality and poverty.
- Policies to promote R&D and technological diffusion received a boost when it was shown that product and process innovation is a major factor differentiating slow from fast growing firms.
- Statistical studies have played a significant role in numerous

other recent and ongoing policy discussions, including:

- the “brain drain” debate;
- the role of immigration in Canada;
- the level and significance of illiteracy among many Canadians;
- intergenerational equity; and
- issues of access to education in the face of rising tuition.

Governments are increasingly interested in “evidence-based” policy development. The creation of the Policy Research Initiative is one outcome of that interest.

However, there are many factors that limit the influence of quantitative analysis. Public policy development is primarily a political process, with statistical/empirical evidence typically playing only a supporting role. The anecdotal evidence and personal experiences of Canadians also clearly influence policy. When the statistical analysis supports the prevailing interpretation by Canadians of this experience, “buy in” of the results comes fairly easily, and the studies may have an immediate effect and substantial policy influence. On the other hand, empirical studies may run counter to commonly accepted wisdom. For example, getting tough on crime in response to a public sense of rising crime and violence remains high on the public policy agenda. This is in spite of the fact that crime statistics and studies have shown for a number of years that the crime rate is in fact falling. The public does not appear to accept the empirical evidence, as it does not confirm the accepted wisdom. If empirical evidence is confirmatory

of the public consciousness, it is readily accepted. If it contradicts it, the evidence has an uphill battle. In the latter cases, at best, a body of studies and substantial time may be required before the analysis has a policy effect.

### The Role of the Statistical Analyst in Policy Development

The output from a statistical agency has many goals. Companies use statistics for commercial purposes, and individual Canadians as well as innumerable associations use it for decision-making purposes. However, one of the principal objectives of a statistical agency is to inform public policy development. Policy development is, of course, a complex process. It involves politicians, the public and special interest groups, as well as researchers and policy analysts within and outside government. Experiences and views of Canadian workers, business people and the population at large, as well as political ideology, combine to arrive at policy alternatives. Empirical and theoretical evidence on social and economic events and the fiscal position help to form and temper the views of these groups, thus influencing policy development. This article focusses in particular on the role played by statistical analysis. For the sake of simplicity, and from this perspective, the process will be described in three stages: the identification of trends requiring a policy response, assessing causation and the development of an appropriate policy response.

### Identifying or Substantiating Policy-Relevant Trends

Low income among children has risen over the last two decades. Poor families increasingly relied on social

transfers, and less on employment earnings. Productivity growth, while positive, lagged behind that of the United States during parts of the 1990s. There has not been an increase in the “brain drain” to the United States, but higher income, and likely higher skilled, individuals do tend to emigrate. Employment growth, while slow by North American standards through the 1990s, has been outperforming that of most nations recently.

*It is essential that a statistical agency maintain the trust of its users, so policy discussions do not degenerate into debates over whether a particular trend is real.*

These are all examples where statistical information has drawn the attention of the policy analyst, politician and the population at large. “Current economic intelligence” from ongoing surveys (e.g., the unemployment rate, the rate of low income, employment growth, the consumer price index) often prompts a policy response when trends are taken over the longer term. Politicians, special interest groups, policy analysts and the public all use this economic and social intelligence in the process of determining the most pressing public policy issues.

The provision of this “intelligence” likely constitutes the most important role of a statistical agency. Without accurate, reliable and credible (in the eyes of the public) data, policy issues would have trouble getting to the next steps, the determination of causes and responses. Instead, debate would stall on whether the observed trends were real or imaginary. It is essential that a statistical agency maintain the trust of its users, so policy discussions do not

degenerate into debates over whether a particular trend is real.

But how do statistical agencies decide what new data to develop, trend data to report or what empirical studies to conduct? Developing information flows that will allow priorities to be assessed is crucial. In his description of “The Characteristics of an Effective Statistical System,” Ivan Fellegi, the Chief Statistician of Canada, outlines the approaches Statistics Canada uses to assess the priorities of federal,

provincial and other users. These include:

- full access to cabinet documents;
- direct access by the Chief Statistician to deputy ministers;
- bilateral relationships with key policy departments;
- maintaining and using provincial focal points;
- seeking advice from professional advisory committees;
- client-oriented evaluations of Statistics Canada programs;
- interaction with professional and business associations;
- market feedback on Statistics Canada’s output; and
- the maintenance of strong analytical capacity in Statistics Canada to facilitate interaction and communications with policy departments and the academic community, and to have a body of knowledge from which new ideas for information sources can flow.

This infrastructure allows a statistical agency to remain informed on policy issues and priorities. The information leads to proposals for new data sources and analytical studies to investigate particular trends. Often, proposals come from major users, but even in these cases the statistical staff should have an understanding of the issues

*Policy response is often hampered by a lack of understanding of causes. Truly “knowing” requires hard work.*

driving the proposal, to better implement the survey or development of a data source.

This information flow has allowed Statistics Canada and its policy agency partners to develop a significant response to the demand for new data to address numerous policy issues. Over the last decade, many new, often longitudinal, data sources have been developed to provide the raw material for studies in a number of major policy areas, including early childhood development, poverty and income dynamics, changes in workplace practices, levels and the determinants of the healthfulness of Canadians, the role of technology and innovation, as well as other subjects.

However, the trend information described here typically has little to say about the underlying causes of the issue and, hence, usually provides little guidance regarding the appropriate policy response. The monthly employment and unemployment data, inflation rate and crime statistics essentially monitor current trends. They inform us as to whether a response is needed and whether more information is needed to develop an appropriate response.

## Understanding Why

To develop an appropriate response requires an understanding of causes. This is often a very difficult task in the social sciences. Typically, one is unable to run controlled experiments where the effects of “treatments” can be unambiguously identified. Many of the data sources mentioned earlier

were developed to assist with answering why events occur. Nonetheless, frequently the inability to definitively identify causes impedes appropriate policy responses.

For decades, the Canadian and U.S. unemployment rates tracked each other, but during the 1980s a gap arose, with a higher Canadian rate. The gap increased yet again in the 1990s (but has been reduced recently). Why? Trends data pointed out the policy issue, but said little about the cause. Numerous empirical studies were conducted and many factors were seen to contribute, including the following.

- During the 1980s, when Canadians were not employed, they were more likely to call themselves unemployed (i.e., to be seeking a job) than their American counterparts in the same situation. This resulted in a higher unemployment rate. Hence, the gap was, to a considerable extent, due to the way the populations responded to the surveys. Job creation was as rapid in Canada as in the United States during that decade.
- During the 1990s, studies pointed to other factors. These included

“institutional differences” in the labour markets (e.g., minimum wage laws, unemployment insurance benefits, unionization rates, etc.), the longer and deeper recession in Canada and its aftermath, and the possibly greater structural mismatch in Canada between the skills and geographical location of the unemployed, and the skills required in and location of available jobs.

The major point is that while the trends data indicated the issue, to better inform policy development, understanding “why” was essential. This was much more difficult, and the answers not always obvious, and still in some debate. There are numerous other examples.

- Why were poorer Canadians increasingly relying on social transfer payments rather than earnings (an observed trend)? Was it because of an increased disincentive to work associated with more generous social programs, or because the types of jobs needed for these workers were simply not available?
- Was the “brain drain” large and increasing, and if so why? Even establishing the trends in this case proved difficult, and understanding possible causes of any “drain” much more so. (Poorer Canadian economic conditions? Differences in personal tax rates? Better working conditions and opportunities for learning in the United States?)
- As immigration plays an increasing role in the growth of the Canadian labour market and cities, economic outcomes for immigrants are deteriorating (the trend). Why? The effect of the 1990s recession? Increasing language issues? The difficulty in

recognizing the credentials of immigrants? Changes in the characteristics of immigrants?

Here, as in many areas, policy response is often hampered by a lack of understanding of causes. Truly “knowing” requires hard work.

### Determining the Appropriate Policy Response

The third stage in policy development is determining an appropriate response. This goes beyond the mandate of a statistical agency and agency researchers. It is also often beyond the skills and knowledge of many researchers, who focus on how the economy works and why, rather than on policy. This is the domain of policy analysts in policy departments, and the political system. Economic intelligence and analytical studies of statistical agencies have an important role to play. However, to maintain credibility, a statistical agency must be known for its objectivity and neutrality regarding policy issues and, hence, cannot develop recommendations regarding policy.

### Communicating the Findings

If statistical information on important policy-relevant issues exists, how does it make its way into the policy process? This is an important issue. It is well known that there has been a gap between academic researchers and policy analysts. The researchers are often unaware of the policy issues and concerns, or have little incentive to conduct policy-relevant analysis. Policy analysts, often faced with more immediate demands, are frequently unaware of relevant academic research. However, substantial progress has been made in narrowing this gap.

In the labour market area, the Canadian Employment Research Forum (CERF) was set up to address this issue. This organization brings mainly academic labour market researchers together with government policy analysts at conferences and workshops on policy issues so information might be exchanged. Issues are jointly identified, and research initiated to shed light on the issues in the manner noted above. It serves as one effective means of closing the research–policy gap. More recently,

wisdom regarding some issue is altered (or reinforced). As public understanding changes, this can influence policy initiatives and responses developed in the political process. If studies reinforce an already tentative understanding of some issue, they are quickly accepted and help to strengthen the current understanding. If the information runs counter to the existing public consciousness, it can take years to counteract earlier understanding. Consciousness altering is a slow

*Policy analysts, often faced with more immediate demands, are frequently unaware of relevant academic research. However, substantial progress has been made in narrowing this gap.*

some government policy departments have developed policy research shops that have, in turn, developed strong networks with academic researchers. These groups make it their business to remain informed regarding quantitative research related to policy, and often initiate it. The Policy Research Initiative has played a role in reducing the gap.

With this improved communication, relevant quantitative analysis, both from the statistical agency and the academic community, is often fed directly into the policy process.

### Influencing the Public Consciousness

But there is a second, more indirect means whereby results of statistical studies influence policy. In the process of informing Canadians on current issues, usually through the media, empirical analysis alters their understanding of how the world works. The commonly accepted

process, and not one usually triggered by a single statistical study. However, over time information and understanding accumulate, resulting in changed perceptions that influence political responses and policy.

Everyone now knows that small firms create a disproportionate share of new jobs. In fact, this conclusion is still debated by researchers, but a commonly accepted wisdom has nevertheless developed. Based on a series of empirical studies in the late 1970s that made use of newly available longitudinal data, public consciousness regarding who creates jobs was altered, and public policy responses followed. There are numerous other examples. Statistical analysis showed that after decades of stability, the earnings gap between lower and higher paid workers rose in Canada (although the transfer system offset this increase and prevented family income inequality from increasing).

Information on the rising earnings gap altered public consciousness, leading to concerns regarding social cohesion, and the need for better education and training among lower paid, less skilled workers.

There are other examples where analyses, although broadly publicized, faced an uphill battle in altering commonly

*If studies reinforce an already tentative understanding of some issue, they are quickly accepted and help to strengthen the current understanding. If the information runs counter to the existing public consciousness, it can take years to counteract earlier understanding.*

accepted wisdom. The popular sense that we are living in an increasingly dangerous environment, although data show crime rates are falling, has already been mentioned. During the 1990s, popular books were written on “the disappearance of work” (associated with technological change), and there was a popular consensus that job instability was rising. This notion persisted in spite of the fact that studies showed that job stability was, if anything, actually increasing, and that the probability of layoff did not rise. Policy agencies were aware of these results, but they appeared to have little impact on the public.

Statistical analyses often support policy development by informing public awareness of issues via the media. As the examples demonstrate, such studies are only one force helping set public perception, and the extent of the impact varies from case to case. Nonetheless, this is a crucial avenue of

communications that could be used to a greater extent, particularly by academic researchers who conduct policy-relevant quantitative analysis.

## Conclusion

Although playing a supporting role in what is largely a political process, public policy is influenced by the

manner in which a statistical program develops, and the empirical analysis conducted with the statistical output. However, this leaves many questions. Could public policy be better served if additional empirical research were brought to bear on these issues? Is the communications gap between the statistical and research world on one hand, and the policy development community on the other, too large, resulting in an inefficient use of the information that does exist? Do researchers adequately put the information in the form needed by policy analysts (or the public), or should they? Should policy analysts themselves spend more time and effort seeking out empirical research? These questions go far beyond the goals of this article.

One of the most important contributions a statistical system can make to policy development is to ensure that the basic data on trends and events are reliable, and seen to be so. Otherwise,

it is the existence or magnitude of the trend that risks becoming the debate, not what to do about it. Maintaining a statistical system that has the trust of the population and policy analysts is essential.

Assisting with an understanding of why events are occurring is the next priority. Developing an adequate policy response depends on the understanding of the causes. In the area of labour markets and firms, the statistical system in Canada has moved a long way in developing data and analysis that assists in this way. The development of new special data sources (often longitudinal, and often in partnership with policy agencies) and related analytical capacity has been significant. Given this increase in the supply of policy-relevant data, increased analytical capacity with a public policy orientation in universities and research institutes as well as government could lead to considerable gains. Improving access to the newer micro-data bases is another important dimension to increasing policy relevant analysis. The development of the Research Data Centres by Statistics Canada, the university community and the Social Sciences and Humanities Research Council is playing a central role regarding access.

Continued efforts to form links between the policy and statistical/research communities can also produce improved policy-relevant information. Considerable progress has been made along a number of dimensions that could lead to more “evidence-based” policy development.

# The Role of a Think-Tank in Public Policy Development: Caledon and the National Child Benefit

**Ken Battle**

**President, Caledon Institute of Social Policy**

*The reform of child benefits is one of the best examples of significant policy reform through what I have called “relentless incrementalism.”*

*Relentless incrementalism consists of strings of reforms, often seemingly small and discrete when made, that accumulate to become more than the sum of their parts.*

This is the third of three articles based on presentations to the 2002 Canadian Policy Research Awards, Graduate Prize Seminar held in Ottawa in October 2002.

Canadian think-tanks are far fewer and typically smaller than those in the United States, such as the massive Brookings Institution and its many competitors that span the left, centre and right of the political and ideological spectrum. But public policy (at least in Canada) is one instance where size does not mean everything. The Caledon Institute of Social Policy is a small but influential think-tank that has had a significant impact on both the understanding and development of social policy. Caledon’s unique role in the policy-making process is illustrated here with reference to the National Child Benefit — hailed as the most important innovation in Canadian social policy since medicare.

## Background

Caledon was founded in 1992 with core financing from the Toronto-based Maytree Foundation, a small family foundation headed by businessperson and philanthropist Alan Broadbent. Caledon is incorporated under federal law as a non-profit organization with charitable status. It has a small staff of four full-time employees in Ottawa and one part-time employee in Toronto, supplemented from time to time with outside consultants who help on some projects. Caledon’s sustaining funding from the Maytree Foundation is amplified by project funding from other foundations, governments and other non-governmental organizations, as well as contracts.

Caledon’s formal objectives, as stated in its incorporation papers, also have been its substantive objectives, expressing accurately what we are about. They have inspired and driven the large and diverse body of work we have accomplished in our first 10 years and have guided our rapid growth into one of Canada’s leading social policy think-tanks. These aims are to:

- conduct research on the nature, causes and consequences of poverty and other social and economic problems;
- develop and propose progressive, practicable and innovative policies to combat poverty and other social and economic problems, drawing on Canadian and international evidence and experience;
- develop innovative methods of raising public awareness and promoting discussion of poverty, other social and economic problems, and public policy;
- disseminate information on social and economic trends, issues and policies to a wide variety of organizations and individuals in Canada and abroad, including anti-poverty and social justice groups, policy makers, researchers, educators, students and the media; and
- study and promote the reform and integration of social and economic policies.

One characteristic that sets Caledon apart from many other think-tanks is its action orientation. Caledon not only does research and analysis, but also seeks to inject its ideas and proposals into the public discourse and the policy-making process and

get them legislated. From time to time, we move “inside the government tent” in pursuit of implementing our ideas, working on occasion for ministers, officials or task forces. We are consulted frequently by politicians and officials.

Indeed, Caledon seeks to influence public policy both directly and indirectly. The direct dimension of our work involves the inside-the-tent activities — setting and shaping the policy agenda, undertaking policy research and development, and “peddling” ideas and proposals for reform. Some of this work is done under contract; some is unpaid.

Caledon’s “indirect” influence involves the kind of activities that are typical of most think-tanks. We attempt to spark and inform public discourse on, and media coverage of, public policy issues. We contribute to building a body of knowledge, through our own work and that of the hundreds of other works we publish, and we inform and influence the work of other players in the policy process, both in and outside of government. Much of our written output is in the form of papers, commentaries, short profiles of innovative community projects and influential leaders (social entrepreneurs), op-eds and letters to the editor, though we also publish longer research reports and, on occasion, books. We also have produced videos and do a lot of media work — interviews on our work and on current issues, as well as briefing reporters and columnists.

One of Caledon’s major policy achievements is the reform of child benefits, which serves as a revealing case study of the role of one think-tank in advancing Canadian public policy.

### National Child Benefit: A Caledon Policy Success

Caledon has perhaps done more than any other organization inside or outside government to foster understanding of, and support for, fundamental reform of child benefits — through what came to be known as the National Child Benefit —and to develop political momentum for the initiative. This initiative is

*The National Child Benefit is one of the rare reforms in the history of Canadian public policy that sold itself to governments of all political stripes and hues by virtue of the logic of its substantive policy rationale: to break down the welfare wall that stands in the way of families moving from welfare to work*

considered the most promising reform in Canadian social policy since medicare. Caledon played a pivotal role in bringing the idea to legislation in the 1997 federal budget. But before discussing Caledon’s roles in the National Child Benefit, I will briefly sketch out the origins and nature of the reform.

The reform of child benefits is one of the best examples of significant policy reform through what I have called “relentless incrementalism.” Relentless incrementalism consists of strings of reforms, often seemingly small and discrete when made, that accumulate to become more than the sum of their parts. Relentless incrementalism is purposeful and patterned, not haphazard and unintended. The drip drip drip of individual changes over time carves substantial and planned shifts in the structure and objectives of public policy.

The long road to the National Child Benefit started decades ago, when the Trudeau Government introduced the

innovative refundable child tax credit in 1978 — the first use of the personal income tax system to deliver social benefits to Canadians below the taxpaying threshold. The Mulroney Conservatives inherited from the Trudeau Liberals a complex and poorly integrated triad of programs that had been created at different times for different and in some ways conflicting purposes: family allowances (begun in

1944), the children’s tax exemption (1918 vintage) and the refundable child tax credit (1978). Overall, payments from this mishmash of programs bore no sensible relationship to need, as measured by level of family income. Modest-income families got more than the poor, and the poor not much more than the affluent. Families with the same income received different amounts of benefit depending on each parent’s share of family income.

Driven partly by the desire to focus limited resources on need, but mainly by the war against the deficit, successive federal governments implemented a series of changes that rationalized and, on balance, strengthened its child benefits, although partial deindexation of child benefits from 1985 through 1999 eroded increases to low-income families and reduced child benefits for non-poor families. Today, Ottawa delivers a single geared-to-family income program — the Canada Child Tax Benefit — that pays substantially more to the poor (currently up to

\$4,910 for two children, more than double the 1984 amount) yet still serves the large majority of families throughout Canada, excluding only upper-income families. And in 2000, Ottawa fully indexed the Canada Child Tax Benefit, putting an end to erosion through stealth.

The Canada Child Tax Benefit is the federal government's contribution to the National Child Benefit, an innovative federal-provincial/territorial project launched in the 1997 federal budget. The provinces and territories are participating in the National Child Benefit by reinvesting money they used to spend on welfare child benefits into other programs for low-income families with children (e.g., income-tested child benefits and earnings supplements, child care and other early childhood education services, supplementary health care). As Ottawa increases the Canada Child Tax Benefit, the provinces and territories can reduce their welfare child benefits, although they have agreed to reinvest the savings, as just noted, in better ways to help low-income families with children.

At the heart of the policy rationale for the National Child Benefit is the concept of "welfare wall," coined by Caledon and adopted by the federal, provincial and territorial governments. Under the old system, families on welfare received child benefits from two sources — provincial/territorial welfare payments on behalf of their children and the federal child benefits (from 1993 to 1997, in the form of the Child Tax Benefit) — while working poor families got federal child benefits only. As a result, welfare families, on average, received about double the amount of child benefits as other poor

families with children. Families that managed to move from welfare into the work force encountered the welfare wall. They lost thousands of dollars in provincial/territorial child benefits and, often, in-kind benefits (e.g., supplementary health care) at the very time that they saw their (typically low) earnings reduced by income and payroll taxes and stretched by work-related expenses such as child care, clothing and transportation.

The National Child Benefit is one of the rare reforms in the history of Canadian public policy that sold itself to governments of all political stripes and hues by virtue of the logic of its substantive policy rationale: to break down the welfare wall that stands in the way of families moving from welfare to work; to provide a secure, fully indexed, portable and non-stigmatizing benefit that treats all low-income families equally and includes them in a social program that serves virtually all families, poor and non-poor alike; and to help reduce the depth of child poverty. It is a rare reform because it involves Ottawa and the provinces and territories working together — a rare sight indeed in this era of unco-operative federalism. It also requires these two levels of government to implement significant reforms that depend on each other. And the reform was accomplished quickly through a pragmatic political agreement. It did not require a lengthy process of new legislation or, perish the thought, formal constitutional change.

We are just one federal budget<sup>1</sup> away from completing the first phase of this groundbreaking reform, which is to create an integrated child benefit that gets rid of welfare-provided child

benefits in favour of parallel federal and provincial/territorial income-tested benefits. The federal Canada Child Tax Benefit currently pays a maximum \$2,422, scheduled to rise to at least \$2,520 by July 2004. Caledon has urged Ottawa to accelerate the pace of investment in the Canada Child Tax Benefit by announcing in the forthcoming 2003 budget a \$2,600 maximum benefit for the July 2002-June 2003 payment year (the rise being retroactive to July). The budget also should announce a second significant increase, as a down payment on a second stage of reform, that will gradually expand the Canada Child Tax Benefit to achieve the ultimate target of an adequate child benefit. By adequate, we mean a maximum child benefit that largely offsets the cost of raising a child in a low-income family. That would go a long way to filling the gap between wages, which of course pay workers as individuals, and family income needs, which depend on family size.

In a 1997 report, Caledon suggested a figure of \$4,000, which amounts to about \$4,400 in today's dollars. But we deliberately erred in the low side and recommended that a study be done using more up-to-date data to look at the costs of raising children. Clearly, we cannot reach that target in one or even a few budgets, but we should be able to get there by the end of the decade. The United Kingdom and Australia already provide substantially larger child benefits to their low-income families.

The integrated child benefit we are so close to achieving will remove child benefits from welfare. Successive increases in child benefits as we progress toward an adequate child

1 At the time of submission, the 2003 budget had not been released.

benefit will deliver real increases to welfare families as well as the working poor. But building an adequate child benefit also means improving child benefits for non-poor families, especially those with modest and middle incomes.

### Caledon's Role in the National Child Benefit

I was 31 when I first began working on and advocating child benefit reform (at the National Council of Welfare) and was 50 when the National Child Benefit was announced. Thus, the concept of relentless incrementalism that I coined is rooted in personal experience!

Obviously, the National Child Benefit was the result of the work of many people, most of them unnamed federal and provincial/territorial officials whose contributions tend to go uncredited. It also could never have emerged without the support and commitment of key politicians, including the federal ministers of Finance and Human Resources Development and their provincial/territorial counterparts, among whom Saskatchewan Premier Roy Romanow was a leading proponent. Caledon also played a key and unusual role for a think-tank in the National Child Benefit reform.

### Work on the Outside

In the 1980s, while Director of the National Council of Welfare, a citizens' advisory body to the Minister of National Health and Welfare, I was a prominent analyst and critic of child benefits, which underwent a succession of incremental reforms under the Trudeau Liberals and then the Mulroney Conservatives. My efforts were directed to integrating

the various child benefits into a single, fully indexed, refundable credit with benefits geared to family income. I was the first person in the social policy community to break from the universalist orthodoxy and favour a targeted, albeit broad-based, system which matched level of payments to level of family income. Such a geared-to-income system need not provide child benefits to high-income families, because resources should be focussed on improving benefits for poor and modest-income families. In 1993, that vision was realized when the federal government integrated family allowances, the refundable child tax credit and the non-refundable child tax credit into the family income-tested Child Tax Benefit.

I undertook what I call "R&D" on child benefits in a paper published in the appendix to the 1990 Senate Committee report on child poverty. I extended the scope of analysis to include provincial/territorial welfare-provided child benefits and came up with the first costed options for a national, integrated child benefit.

Caledon's first product was an op-ed in *The Globe and Mail* on the Child Tax Benefit announced in the 1992 federal budget, which we followed with a primer. My Caledon colleague Leon Muszynski and I wrote a report, *One Way to Fight Child Poverty*, that updated my earlier work on an integrated child benefit by making the policy case for reform (using the welfare wall metaphor) along with a concrete, costed proposal. That paper proved influential in federal and provincial policy-making circles. A subsequent report on social policy reform by the provincial/territorial Ministerial Council called on Ottawa

to work with the provinces and territories to create an integrated child benefit — a significant advance in creating the political will to act. Caledon also published a paper by three Ontario officials who had worked on the Ontario Child Income Program, which would have created the first provincial integrated child benefit system in Canada. Unfortunately, the Rae Government had pulled the plug on the reform, because of its worsening fiscal situation (fuelled in no small part by cuts in federal transfer payments). Caledon's work at this stage on an integrated child benefit can be characterized as both policy R&D, and agenda setting and shaping. The Ontario federal Liberals and then the national Liberal policy convention endorsed Caledon's proposal for an integrated child benefit.

### Work on the Inside

Caledon shifted to working on the inside, still aimed at agenda setting and shaping, when we pushed for, and were successful in getting, an integrated child benefit option placed on the policy reform table. Sherri Torjman, Vice-President of Caledon, and I wrote a think piece on social policy reform for the new (and first) Minister of Human Resources Development, Lloyd Axworthy, in which we proposed a framework for comprehensive reform that featured an integrated child benefit as a key element. We also called on the new federal government to undertake a broad review of social policy, which the incoming Liberal Government did launch with Axworthy as head. We advanced the integrated child benefit idea in our roles as a member of the Task Force on Social Security Reform and in helping draft the *Discussion*

*Paper on Social Security Reform* and a background paper on child benefits. Caledon also sponsored a seminar on child poverty, including child benefit reform, as part of the Review's public consultations.

In the summer of 1996, I was appointed senior policy adviser to the Minister of Human Resources Development, Doug Young and, when he went to Defence, was kept on by his successor Pierre Pettigrew. In that capacity, I wrote the basic document making the case for the National Child Benefit; the paper was circulated, probably also outside Ottawa. I would characterize Caledon's work at this point as (small p) political work, as I functioned as a temporary pseudo-official/political aide in an informal coalition of line department and central agency officials working to bring the National Child Benefit idea to life. During this formative stage, three important events in which I figured were a one-on-one discussion of my paper with Finance Minister Martin one Sunday November morning, presenting the reform to a Cabinet committee on social development along with Minister Pettigrew and Deputy Minister Mel Cappe, and helping HRDC officials make the case for a sufficient "down payment" on the NCB in the 1997 budget which announced the reform. I wrote the first draft of the 1997 budget document proposing the National Child Benefit.

I also served as a member of the federal-provincial National Child Benefit Working Group in its early months, until I fired myself when I thought it was time to leave the tent. The NCB Working Group was incredi-

bly important to the reform, because it had the tough task of translating the budget proposal into action. Its federal and provincial co-chairs, and its other members, deserve enormous credit for their commitment, tenacity, expertise and hard work.

### Back on the Outside

Caledon engaged in debates on the National Child Benefit, which was attacked by social groups — because

*Caledon's several and varied roles in the National Child Benefit reform illustrate the ways one think-tank operates, though I am by no means implying that every think-tank should try to emulate us or that ours is the only way to make a useful contribution to the policy-making process.*

welfare families see no net increase in the amount of child benefits — through papers published by Caledon and by others, media interviews and conferences. For example, I wrote papers on child benefit reform for the *Canadian Tax Journal*, *Policy Options*; a book on the 1997 federal budget published by The John Deutsch Institute, Queen's University and The Institute for Policy Analysis, University of Toronto; and *Canada's National Child Benefit: Phoenix or Fizzle?*, a critical assessment of the NCB. Caledon published two of the most thoughtful and important studies of child benefit reform: *Child Benefit Reform in Canada: An Evaluative Framework and Future Directions* (commissioned by HRDC and the Government of British Columbia, which I wrote with Michael Mendelson, Caledon's Senior Scholar) and *Benefits for Children: A Four Country Study*, a comparative international study co-published by Caledon and

the Rowntree Foundation in the United Kingdom with papers on Australia, Canada, the United Kingdom and the United States.

Caledon also has worked on Canada Child Tax Benefit options for the federal-provincial NCB Working Group and for Human Resources Development Canada. We are about to embark on a study for HRDC on defining an adequate child benefit

for the future, since the National Child Benefit's current stage — creating an integrated child benefit — soon will be completed.

### Conclusion

Caledon's several and varied roles in the National Child Benefit reform illustrate the ways one think-tank operates, though I am by no means implying that every think-tank should try to emulate us or that ours is the only way to make a useful contribution to the policy-making process. In summary, Caledon's work illustrates its role in agenda setting, policy research, building coalitions of support, contributing to draft government documents, bringing players together, media work, myth-busting and popularizing public policy.

# Scientific Research Synthesis (Systematic Reviews and Meta- analyses): What, Why and How

**Jeff Frank**  
Project Director  
Policy Research Initiative

and

**P.J. Deveraux**  
McMaster University

When confronted with numerous and sometimes contradictory studies on a given issue, what's a policy maker interested in evidence-based decision making to do? Because the clearest answer to any scientific question comes from bringing together all the high-quality studies addressing the question of interest, research synthesis provides a solution.

Many people are confused about what is meant by research synthesis. The term has been used to describe everything from thematic traditional literature reviews to approaches that apply systematic and quantitative methods to summarize the results of similar studies. Although research synthesis has been used to represent many activities, in the scientific community it is a systematic process of summarizing research that has evolved over the last few decades into a science of its own. In the past, it was common for researchers to publish traditional review articles that lacked transparency in how the researchers identified and collected the evidence to include in their publications. Traditional review articles have a significant risk of ascertainment bias. In contrast, scientific research synthesis is a carefully conducted, effective way of searching for, and sifting through, the vast quantity of studies in the literature, selecting those eligible for inclusion on the basis of relevance and quality criteria, summarizing the evidence and drawing conclusions about the direction of the evidence and the circumstances under which a given intervention may or may not be effective.

There are two types of scientific research synthesis. A *systematic review* is a study that addresses a focussed research question, uses explicit eligibility criteria to determine which studies will be included and conducts a comprehensive search of the literature to identify all eligible studies. A systematic review then assesses the validity of the studies identified for inclusion. In all cases, it is important that eligibility and quality criteria are explicit so the assessments can be scrutinized and even replicated. *Meta-analysis* is the procedure of statistically combining results across studies in a systematic review.

Systematic reviews and meta-analyses have had a significant impact on health care over the last 15 years, and similar approaches are now being tried in the social sciences. The Cochrane Collaboration was initiated in 1993 to prepare and maintain systematic reviews of research into the effects of health care interventions and to make this information accessible. Since 1993, the Cochrane Collaboration has witnessed incredible growth, with thousands of researchers and non-researchers from around the world participating and completing systematic reviews. It has had a profound influence not only on health care delivery but also on the type of research that is funded and conducted. Now the Campbell Collaboration is heading down the same road, but in the areas of education, justice and social welfare.

Systematic reviews and meta-analyses, like any research, can lead to the wrong conclusions if they are not appropriately conducted. For this reason, one needs to ensure that explicit eligibility criteria were used, a broad search was undertaken (for published and ideally unpublished studies), and the quality of the studies was assessed. Although systematic reviews are becoming very popular, decision makers will frequently not find a systematic review addressing their question of interest. In this situation, decision makers must rely on lower levels of evidence

(i.e., single studies on a topic). One common reason individual studies and systematic reviews are not available on a specific topic is the lack of funding to support these scientific endeavours. Although it is true that research is expensive, the costs are minor in comparison to the costs associated with policies that are later shown to be ineffective or even harmful.

Scientific research syntheses (i.e., systematic reviews and meta-analyses) are the “gold standard” for evidence-based decision making. The companion piece to this primer provides an example that was recently conducted on a question of key public policy concern. In fact, the examination of mortality rates in private-for-profit and private not-for-profit hospitals that follows was presented to the Romanow Commission on the Future of Health Care in Canada. It is among the studies that have had a profound influence on the tone of the health care debate, as refrains of “show me the evidence” can still be heard.

For more information about research synthesis and the Cochrane and Campbell collaborations, see:

- Harris Cooper (1998) *Synthesizing Research: A Guide for Literature Reviews*, Sage Publications.
- Cochrane Collaboration: <http://www.cochrane.org>.
- Campbell Collaboration: <http://www.campbellcollaboration.org>.

## UPCOMING EVENT

**October 26–31, 2003**

### **The XI Cochrane Colloquium: Evidence, Health Care and Culture**

(Barcelona, Spain)

The Iberoamerican Cochrane Centre will host the 11th Cochrane Colloquium in Barcelona, Spain from Sunday, October 26 to Friday, October 31, 2003.

The Barcelona Colloquium is intended both for people who are already working in the Cochrane Collaboration, and for those who outside the Collaboration who are interested in learning and taking part in discussions on these issues. The first part of the Colloquium (26th to 28th October) will mostly be dedicated to activities of methodological training, coordination of groups and committee meetings. The second part (29th to 31st October) will focus on the application of scientific evidence, bearing in mind different needs, circumstances and perspectives.

You can find the registration form at <http://www.colloquium.info/formcochrane.htm>

## Restorative Justice

“The traditional criminal justice system, which has been often criticized as too formal, punitive and adversarial, is clearly changing. The large increase in the number of restorative justice programs operating in Canada is undoubtedly having an impact on criminal justice theory and practice. We are currently in a period of substantial change; but, as the results of this meta-analysis indicate, we are moving in a positive direction. The addition of restorative justice programs has enhanced victim satisfaction in a process that was, by its very nature, rather unsatisfactory. Moreover, this response to criminal behaviour has a strong impact by encouraging more offenders to take responsibility for their actions and repair through restitution some of the harm they have caused. And while the gains made in recidivism are not as strong as “appropriate correctional treatment,” restorative justice does appear to reduce recidivism for those who choose to participate. Finally, offenders in restorative justice programs report moderate increases in satisfaction compared to offenders in the traditional system.”

From Jeff Latimer, Craig Dowden and Danielle Muise, *The Effectiveness of Restorative Justice Practices: A Meta-Analysis*, Research and Statistics Division Methodological Series, Department of Justice Canada, 2001.

This is the first in a series of publications from the Research and Statistics Division that will profile innovative policy research methods.

Available at <http://canada.justice.gc.ca/en/ps/rs/rep/meta-e.pdf>.

# A Systematic Review and Meta-Analysis of Studies Comparing Mortality in Private For-Profit and Private Not-For-Profit Hospitals

**P.J. Devereaux**  
McMaster University

*...if Canada converted all its hospitals to private for-profit, Canadians would suffer over 2,000 extra deaths per year. These results cast serious doubt on the wisdom of a move toward expanding the scope of private for-profit health care provision in Canada.*

P.J. Devereaux is a cardiologist, who is completing a PhD in health research methodology at McMaster University. He was a recipient of a 2002 Canadian Policy Research Awards, Graduate Student Prize, offered by the Policy Research Initiative in partnership with the Social Sciences and Humanities Research Council, the Natural Sciences and Engineering Research Council and the Canadian Institutes of Health Research.

This study was published in the May 2002 issue of *the Canadian Medical Association Journal* (166: 1399-1406).

Canadians are engaged in an intense debate about the relative merits of private for-profit versus private not-for-profit health care delivery. To inform this debate, a team of researchers from McMaster University identified and combined studies that have compared mortality in private for-profit and private not-for-profit hospitals. Fifteen studies involving more than 26,000 hospitals and 38 million patients have addressed this issue. In the studies in adults, the research showed a significant increase in the risk of death in private for-profit hospitals. These findings suggest that if Canada converted all its hospitals to private for-profit, Canadians would suffer over 2,000 extra deaths per year. These results cast serious doubt on the wisdom of a move toward expanding the scope of private for-profit health care provision in Canada.

## Background

Health care can be separated into two essential and distinct components, funding (i.e., who pays for the health care) and delivery (i.e., who owns and administers the institutions or services that provide the care). Public funding is the dominant method through

which Canadian hospitals obtain revenue. About 95 percent of Canadian hospitals, however, are private not-for-profit institutions. Because Canadians commonly use the term “public hospitals” to refer to private not-for-profit hospitals, many are unaware of the private ownership and administration of our hospitals.

This study addresses issues of health care delivery, rather than health care funding. Accurate understanding of the impact of alternative health care delivery systems requires a systematic, comprehensive and unbiased accumulation, and summary, of the available evidence. We therefore undertook a systematic review and a meta-analysis to address the following question: What is the relative impact of private for-profit versus private not-for-profit delivery of hospital care on patient mortality?

## Methods

A range of search strategies identified 8,665 unique citations. Two-person teams independently screened the titles and abstracts of each citation and identified all citations for full review where there was any possibility the study addressed the research question. This screening process yielded 805 full-text publications for full review.

## Assessment of Study Eligibility

The results of all the publications selected for full review were masked (i.e., blacked out from the tables and text). Teams of two individuals independently evaluated each masked article to determine eligibility. All disagreements were resolved by consensus. Teams reviewed masked articles they had not assessed during the screening process.

## Eligibility Criteria

The study included observational studies or randomized controlled trials (RCTs) comparing patient mortality in private for-profit and private not-for-profit hospitals. We excluded studies that evaluated health care delivery systems that were under a particular profit status (e.g., private not-for-profit) that subsequently converted to another profit status (e.g., private for-profit). We excluded these studies, because the comparisons are confounded by differences in time and uncertainty regarding the time required to create functional change after an alteration in ownership status.

## Data Collection

We assessed the following in all the observational studies meeting eligibility criteria:

- sampling method;
- type of hospitals evaluated (e.g., general medical surgical, hospitals with maternity services);
- date when data collection was initiated and completed;
- duration of patient follow-up;
- source(s) of health care financing (public, private insurance, etc.);
- case mix of patients (e.g., medical disorders, surgical disorders, etc.);
- source of data (i.e., administrative database, patient chart, etc.);
- number of hospitals and patients evaluated;
- mortality results; and
- whether there was adjustment for potential confounders in the analyses.

Teams of two individuals independently abstracted data from all studies that fulfilled the eligibility criteria.

Disagreements were resolved by consensus, and there was 93 percent overall agreement for the data abstraction. We attempted to contact all authors when data were missing.

## Data Analysis and Results

To eliminate hospital teaching status as a potential confounder, we report the results of private for-profit non-teaching and private not-for-profit non-teaching hospitals when these data were available. If a study reported two separate adjusted analyses, we included the results from the analysis with the most appropriate adjustment. We adjusted for patient severity of illness, socioeconomic status, hospital teaching status and other variables that could confound the comparison of interest.

*...when dealing with populations in which reimbursement is similar (such as medicare patients), private for-profit institutions face a daunting task. They must achieve the same outcomes as private not-for-profit institutions while devoting fewer resources to patient care.*

When possible, we avoided adjustment for variables that are under the control of hospital administrators, which may be influenced by profit status, and may impact on mortality. The latter variables included hospital staffing levels (e.g., the number of registered nurses per bed, registered pharmacists per bed) after the adjustment for patient severity of illness had already been undertaken.

The systematic review identified 15 observational studies that compared private for-profit with private not-for-profit hospital mortality. These studies uniformly met quality

criteria of adjustment for potential confounders, in particular, patient severity of illness or surrogate markers of severity of illness, and complete accounting of deaths. For each study, we computed the relative risk of mortality in private for-profit hospitals relative to private not-for-profit hospitals. Our pooled analysis of the adult population studies demonstrated that private for-profit hospitals were associated with a statistically significant increase in the risk of death.

## Why the Increase in Mortality in For-Profit Institutions?

Typically, investors expect a 10 to 15 percent return on their investment. Administrative officers of private for-profit institutions receive rewards for achieving or exceeding the anticipated

profit margin. In addition to generating profits, private for-profit institutions must pay taxes and may contend with cost pressures associated with large reimbursement packages for senior administrators that private not-for-profit institutions do not face. As a result, when dealing with populations in which reimbursement is similar (such as medicare patients), private for-profit institutions face a daunting task. They must achieve the same outcomes as private not-for-profit institutions while devoting fewer resources to patient care.

Considering these issues one could be concerned that the profit motive of private for-profit hospitals may result in limitations of care that adversely affect patient outcomes. Our results suggest that this concern is justified. Studies from our initial analysis, adjusting for disease severity, and another analysis with further adjustment for staffing levels, support this explanation of the results. The private for-profit hospitals employed fewer highly skilled personnel per risk-adjusted bed. The number of highly skilled personnel per hospital bed is strongly associated with hospital mortality rates, and differences in mortality between private for-profit and private not-for-profit institutions predictably decreased when investigators adjusted for staffing levels. Therefore, lower highly skilled staffing levels are likely one factor responsible for the higher risk-adjusted mortality rates in private for-profit hospitals.

Given the differences in the structure of Canadian and American health care systems, one might question the applicability of our results to Canada. The structure of American health care has, however, shifted dramatically over time. With the exception of a single study, our results are remarkably consistent over time, suggesting that the adverse impact of private for-profit hospitals is manifest within a variety of health care contexts. Furthermore, whatever the context within which they function, for-profit care providers face the problem of holding down costs while delivering a profit. One would, therefore, expect the resulting problems in care delivery to emerge

whatever the setting. Finally, should Canada open its door to private for-profit hospitals, it is the very same large American hospital chains that have generated the data included in this study that will soon be purchasing Canadian private for-profit hospitals. In summary, we think it plausible, indeed likely, that our results are generalizable to the Canadian context.

### Significance of the Results

This systematic review demonstrates an increased risk of death in private for-profit hospitals in both adult and perinatal populations (relative risk 1.02 and 1.09, respectively). How important is a relative risk increase of two percent? At a population level, the potential impact could be profound. Canadian statistics for 1999-2000 indicate 108,333 Canadians died in hospital (data provided by the Canadian Institute for Health Information). If all Canadian hospitals were converted to private for-profit institutions, these results suggest that Canada would incur over 2,000 additional deaths per year.

The Canadian health care system is at a crucial juncture with many individuals suggesting we would be better served with private for-profit health care delivery. Our systematic review raises concerns about the potential negative health outcomes associated with private for-profit hospital care. Canadian policy makers, the stakeholders who seek to influence them, and the public whose health will be affected by their decisions should take this research evidence into account.

## Health Reform Primer

“The question is: how do we manage wait lists to ensure fairness in accessing services? As Lewis and Sanmartin outline, fairness can be achieved in one of four ways: randomness (patients are chosen to receive services by chance or lottery); desert or merit (patients are chosen on the basis of some individual characteristic unrelated to their health status, such as income or education); order of presentation (first come, first served); or condition (patients are chosen on the basis of their relative medical need or prospect for benefit). All four methods are “fair,” in that they either exhibit no bias or the rules for ordering are transparent and agreed upon; however, all but the last one separate access from need. One of the reasons Canadians came up with a universal, publicly funded health system in the first place is that we believe the distribution of health services should be based on need, and not on chance, being the early bird, being richer, or some other characteristic unrelated to health.”

From Terrence Sullivan and Patricia M. Baranek, *First Do No Harm: Making Sense of Canadian Health Reform*, Toronto: Malcom Lester, 2002, p. 65.

# Street Youth Suicide

**Sean A. Kidd**  
Department of Psychology  
University of Windsor

*In my research, I did something seldom done in street youth research and never done with a focus on suicide among street youth: I asked the youth for their stories, for their views on what was happening, and what they wanted me to do to help.*

Sean Kidd is a doctoral candidate in the clinical psychology program at the University of Windsor and a recipient of a 2002 Canadian Policy Research Awards, Graduate Student Prize. His primary research interest has been an examination of suicide among street youth. Using qualitative methods, he has conducted in-depth interviews with street-involved youth in Toronto and Vancouver, and has been involved in policy development and advocacy work based on this research. He is completing his clinical internship with the Yale Department of Psychiatry in New Haven, Connecticut.

Suicide among street youth is a major problem in North America with about one to two million youths on American and Canadian city streets (Emblach, 1993). Suicide attempts among these young people occur at rates over 100 times that of the national average (Adlaf et al., 1996). Completed suicide rates are at least 10 times that of the national average (Hwang, 1999), and general mortality rates are about 40 times that of other youths their age (Roy et al., 1998). Driven by this bleak picture and the observation that the few papers written on the topic of street youth suicide were very limited descriptive studies divorced from the contexts and experiences of street youth, I pursued this line of research in my graduate studies. Starting in 1998, I conducted 117 in-depth interviews on the topic of suicide with young people living on and making a living from the streets of Toronto and Vancouver (Kidd, in press; Kidd, 2002; Kidd and Kral, 2002).

In my research, I did something seldom done in street youth research and never done with a focus on suicide among street youth: I asked the youth for their stories, for their views on what was happening, and what they wanted me to do to help.

This approach was empowering for the participants and yielded a rich array of data grounded in the socio-cultural and personal experiences of street youth. Elements emerged that had previously received little or no attention in the suicide literature and minimal attention in the general street youth literature.

Of the 117 youths that I interviewed, 72 were young men and 45 were young women ranging in age from 14 to 24 with an average age of 20. Generally, these were young homeless people, unemployed with few having completed high school, who made their living through activities such as pan handling, squeegeeing, and the sex trade. Interviews lasted about an hour, were tape recorded and transcribed. Transcripts were later analyzed using a qualitative content analysis procedure that drew out categories and themes that ran through the narratives. From these categories and themes, a picture emerged of the various factors and processes involved in the high levels of suicidal behaviour among these youth.

Abusive and disrupted childhood experiences were a prominent feature in the participants' descriptions of their pasts and in their discussion of the experiences that left them feeling suicidal. Abuse and neglect were central to the narratives of half the youth who made money pan handling and were homeless, and abusive pasts (particularly sexual abuse) were described by three quarters of the youth involved in the sex trade. Themes of feeling trapped, worthless, lonely and hopeless ran strongly through these narratives. This finding was consistent with the literature where high rates of domestic violence, poverty, disrupted home and

school lives, abuse and neglect are commonly found in the backgrounds of street youth (Maclean et al., 1999).

*Home was my dad molesting me and my mom on coke. And my dad leaving and my mom's boyfriends molesting me and my mom on coke. Same trip. I used to get beat a lot when I was a kid. Home was rough. Home was poor. My mom was like bringing tricks home and stuff and shit and fucking up big time. I don't know...my aunt killed herself when I was three. I have really morbid dreams sometimes too, like I see people dying and it is like [crying]... oh shit.... It's pretty hard to forget.*

A central category that emerged in the participants' narratives, and something absent from virtually all the street youth literature, is the profound effect social stigma has on the lives of many of these youth. They described a daily barrage of cruel comments, disgusted glances and numerous experiences with assaults, being denied jobs and apartments, and police brutality. This constant process of denial and dehumanization was a major part of the "trap" of street life and a contributing factor to suicidality.

*With certain people, they go through life living on the street. They get so much disrespect from people going by them and going like: "Why don't you get a fucking job?" And all that shit, right. And they are going, "How am I supposed to get a job without an education? How am I supposed to get a job when people look at me and shoo me away?" There are so many reasons that people are on the streets. And there are so many people that just won't give us a break. Some kids take it directly to heart. They start getting so depressed, because of all the bullshit they hear from people walking by*

*them. Telling them to go get a job or telling them: "Get the fuck out of here; you don't belong here." They get so depressed that they think their life isn't worth it. And they start doing suicidal shit. The suicidal people out there, they have been out here quite a while, and they have just got to the point where they don't care anymore, because other people don't care. And they have got this idea in their head that if others don't care why the hell should I.*

Drug abuse and addiction, according to over half of those interviewed, was a major problem in their lives and related to suicide, though it must be emphasized that drug abuse is an outcome of numerous social and psychological problems and is not the central problem, as is often portrayed in popular media. Many street youth suffer from addictions that contribute

*The suicidal people out there, they have been out here quite a while, and they have just got to the point where they don't care anymore, because other people don't care. And they have got this idea in their head that if others don't care why the hell should I.*

to being trapped on the streets and feeling hopeless within a social milieu that can be manipulative and superficial. Additionally, many participants described a "slow suicide" in which they gave up and placed themselves in dangerous situations and suffered progressively more severe overdoses. While drug use has been previously linked to suicide and depression among street youth (Rotheram-Borus, 1993), the potential for drug abuse to be a form of suicide has not.

*I've known people who have had it hard on the street and have tried to kill themselves or are killing themselves by prostituting and smoking crack and*

*drinking too much. They are killing themselves slowly. Trying to ease the pain. It may not be, "oh, I am going to slit my wrist," like some people I know have done. It is a slower burn...almost more painful. You see them waste away. Completely waste away all of the time.*

Trauma due to violence on the streets and the stress of being impoverished emerged in the narratives as being strongly linked to suicide, particularly among sex trade workers. Poverty was described as "making everything worse," and experiences with violence on the streets were linked with grief due to the loss of friends and feelings of worthlessness and powerlessness following assaults. Street victimization is common, traumatic and has been linked to depression, substance abuse and conduct problems (Whitbeck

et al., 2000). In the present work, the connection to suicide was made explicit and the traumatic nature of the sex trade for many youth was prominent.

*A lot of the suicides come from the cheap prostitutes, because every time you do it, because I do it, every time you do it, it eats a piece of you up. You are sitting there going, some dirty old man wants me to have sex with him, and I don't want to do this, but I need the money, for this and that. Some kids think it is a big joke down there. It is not a big joke, a lot of people do really sick and nasty things to you. You feel so violated, that it eats you away slowly.*

The central theme in the suicide narratives was the experience of being or feeling trapped. This experience was strongly tied to their feeling worthless, alone and hopeless. For these youths, being trapped meant being unable to reduce negative feelings and unable to escape intolerable situations. Suicide was an escape from being “stuck,” “in a rut,” from the “trap.” Being trapped and becoming suicidal was described as a process. Young people would escape or be thrown out onto the streets, and gradually get drawn into a position that becomes increasingly physical and emotionally painful and distressing. This reaches a point where there appears to be no other way of ending the suffering other than death. According to the youth I spoke with, the situations and problems that produce a trapping effect are drug addiction, a lack of social/government resources, societal prejudice/oppression, and a social context on the street that is not supportive of getting “un-trapped.” Of the homeless and panhandling youth I spoke with, 46 percent reported having made at least one suicide attempt. The suicide attempt rate for sex trade-involved youth was 74 percent.

*Suicide on the streets is...the last way out basically. I've thought of suicide but I haven't actually tried it while I was on the streets, but that was my own reasons...the only way out. There is nowhere left to turn. You don't have foster care. You don't have the government to turn to. You can't turn back to your parents. You don't have anyone to turn to. And basically...after a while of living on the streets your dreams begin to fade.*

As daunting and disheartening as many of these young peoples' experiences are, there is a great deal

of strength and resourcefulness on the streets. Many youth work hard to value themselves, build a sense of agency, build hope and learn from having survived extremely adverse conditions.

The policy implications of this research fall in five major categories. First is the need to protect Canadian youth in the home since most street

*Finally, steps should be taken to combat the pervasive social stigma faced by these youth. Rather than dismissing them as squeegee kids and prostitutes and criminalizing their behaviour, there is a need for recognition of our own degree of responsibility in social policy and public statements.*

youth run away or are thrown out of abusive environments. This will mean providing greater resources to agencies, such as Children's Aid Societies and schools, to catch abuse and neglect early, and the provision of mental health treatment to youth who have suffered in such environments. Second, training and education programs for street youth need to be developed, which can improve their sense of self-worth and make them better able to find employment. Third is the pressing need for the development of affordable housing readily available to vulnerable youth. Fourth, given the mental and physical health problems of many street youth, better access to health care and mental health treatment is desperately needed. Finally, steps should be taken to combat the pervasive social stigma faced by these youth. Rather than dismissing them as squeegee kids and prostitutes and criminalizing their behaviour, there is a need for recognition of our own degree of responsibility in social policy and public statements.

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# Analyzing Public Support for North American Integration

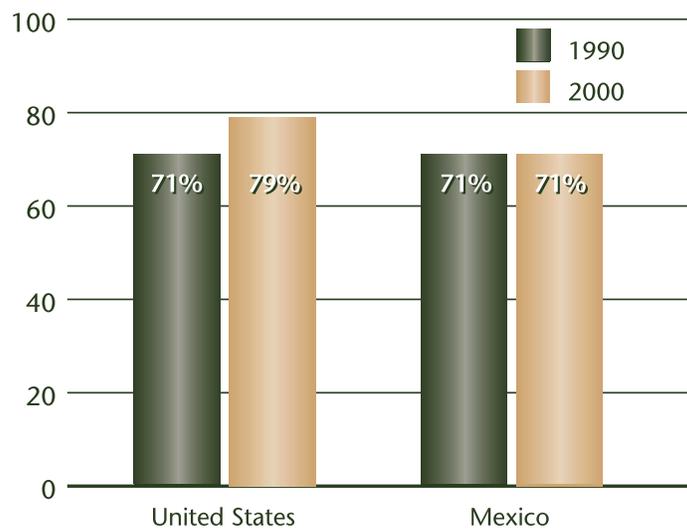
*To better understand public attitudes toward North American integration in Canada, the United States and Mexico, the Policy Research Initiative asked Neil Nevitte, Professor in the Department of Political Science at the University of Toronto, to conduct a longitudinal study using data from the World Values Survey (WVS).*

The last 15 years have witnessed a considerable increase in the economic integration of North America. Undoubtedly, this process has had an important impact on this continent's well-being. Understanding public attitudes toward this state of events offers a sense of the potential impetus for further integration. Do Canadians, Americans and Mexicans support closer economic ties? How did the level of support change during the 1990s? How can we account for the structure of public attitudes toward economic integration? Has the experience of increased

economic integration in turn generated support for closer political integration? Answering these questions may give us a sense of where North Americans, generally, and Canadians, in particular, are headed.

To better understand public attitudes toward North American integration in Canada, the United States and Mexico, the Policy Research Initiative asked Neil Nevitte, Professor in the Department of Political Science at the University of Toronto, to conduct a longitudinal study using data from the World Values Survey (WVS). Nevitte's final research report, *North*

**FIGURE 1:**  
**Canadian Support for closer economic ties with the United States and Mexico: WVS 1990–2000**



Question: "In your opinion, should Canada have closer or more distant economic ties with the US/Mexico? Much closer, somewhat closer, somewhat distant or much more distant."

Note: 'Much closer' and 'somewhat closer' were combined into one category, as well as 'somewhat distant' and 'much more distant'. 'Don't Knows' and 'Refused' are excluded from the analysis.

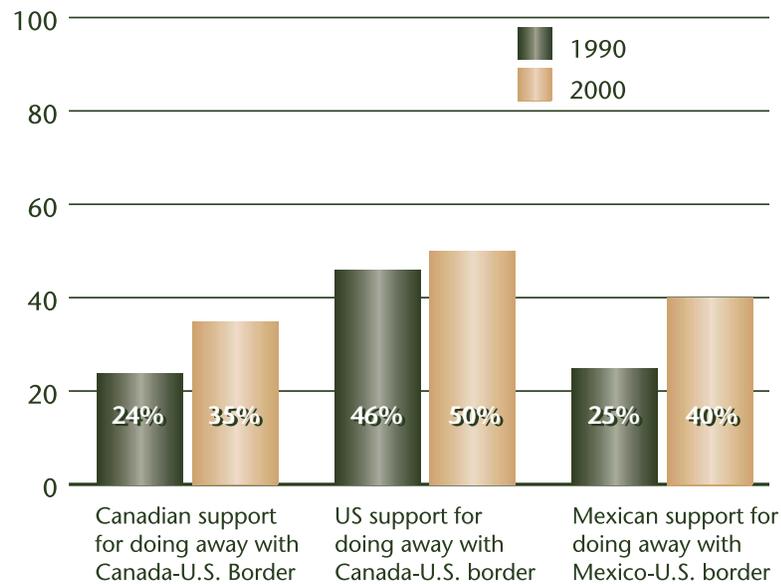
Source: World Values Surveys (Canada) 1990, 2000.

*American Integration: Evidence from the World Values Survey 1990-2000*, presents some intriguing findings.

WVS data (see figure 1, for example) suggest that in 2000 there were strong levels of support among Canadians and Mexicans for closer economic ties with the United States. This represented a significant increase from 1990 levels. Over the same period, American support for closer economic ties to both Canada and Mexico remained relatively stable and highly favourable.

The survey results also shed some insight into the structure of public attitudes toward closer economic integration and how these views might be explained. In his report, Nevitte tests the support for four prominent theoretical explanations for variations in public attitudes. Structural explanations suggest that public attitudes may depend on whether one belongs to a segment of the population that has either benefited or lost out as a result of the integration process, in which case support or opposition to closer economic ties should vary with socio-demographic characteristics. Explanations based in classic integration theory might suggest that the experience of increased volumes in trade and contact may have, in turn, engendered higher levels of mutual trust and a convergence in values. A third possibility is that increased global communication, social mobility and education levels may have fostered increasingly cosmopolitan attitudes and identities that are more open to stronger ties with others. Finally, shifts in ideological perspectives may be a key explanation of public support for closer economic

**FIGURE 2:**  
**Support for “doing away with the border” between Canada and the United States, Mexico and the United States: WVS 1990–2000**



Question: “All Things considered do you think we should do away with the border between the United States and Canada? Favour or Oppose.”

Note: ‘Don’t Knows’ and ‘Refused’ are excluded from the analysis.

Source: World Values Surveys (Canada) 1990, 2000.

ties. Some proponents of this perspective might suggest it was no mere coincidence that the North American free trade agenda arose at a time when public support for big government had softened and moved toward a greater enthusiasm for market-based governance.

The WVS data provide varying degrees of support for each explanation. For example, in looking at Canadian support in terms of socio-economic factors, one finds that education and income emerge as important

predictors of attitudes toward closer economic ties with the United States. Those with higher levels of education and income were significantly less supportive of closer ties than their less educated and lower income counterparts. Second, there is a strong correlation of trust with support for closer ties; those Canadians who trusted Americans completely were five times more likely to support closer economic ties than those who did not trust Americans at all. Interestingly, the data reveal that strong levels of

national pride among Canadians do not present an obstacle to support for closer economic ties. Indeed, there is even evidence of a modest positive relationship between national pride and support for economic integration. Finally, one finds that ideological orientations are the strongest predictors of support for closer economic ties. Those Canadians on the far right, those who are satisfied with democracy, and those with materialist values are far more likely to support closer economic ties with the United States. Canadian support for closer ties with Mexico is structured similarly with the notable exception of ideological self-placement: those on the left are far more likely to support economic integration with Mexico than those on the right.

Given the high levels of support for economic integration in North America and the experience of closer economic ties over the last decade, what might this mean for political integration? WVS data (presented in Figure 2) seem to represent a striking increase in support for political integration in all three countries from 1990 to 2000. Looking at the Canadian data, it is perhaps unsurpris-

ing that those who favour closer economic ties generally are more positively disposed to eliminating the border with the United States. What is particularly interesting to note in the Canadian case, however, is that a

*Interestingly, the data reveal that strong levels of national pride among Canadians do not present an obstacle to support for closer economic ties. Indeed, there is even evidence of a modest positive relationship between national pride and support for economic integration.*

high level of national pride is a strong predictor of opposition to eliminating the border. This stands in marked contrast to economic integration attitudes where national pride is a modest predictor of support for closer relations.

These results are intriguing and, as Nevitte notes, worth further research. In terms of the Canadian data, the impact of national identity on the future of North American integration deserves greater exploration. The WVS data suggest the common perception that Canadian nationalists necessarily oppose greater economic integration appears to be false. On the other

hand, a strong sense of national identity is a significant predictor of opposition to closer political integration. Investigating the potential tensions in these two orientations may reveal important indications

of where Canadians are prepared to take North American integration.

For more information on Neil Nevitte's report, *North American Integration: Evidence from the World Values Survey 1990-2000*, please contact Frédéric Pilote of the Policy Research Initiative [f.pilote@prs-srp.gc.ca](mailto:f.pilote@prs-srp.gc.ca).

# Promising Avenues in Integrated Decision Making for Sustainable Development

**Mathieu Mellon**  
Policy Research Initiative

*Without a doubt, the most important factor in implementing sustainable development principles is to plan for the environmental, social and economic impacts of public policies.*

Implementing sustainable development is still a major challenge for governments today. Despite commitments made at the 1992 Earth Summit in Rio, progress remains modest at best in most countries around the world. Deforestation, the degradation of arable land, a decrease in biological diversity, climate change and the increase in socio-economic inequities in many parts of the world present enormous challenges in times of sustained demographic growth and the globalization of trade.<sup>1</sup>

Increasingly, governments and experts in various fields are turning to governance as a way of explaining problems in implementing sustainable development principles and of finding possible solutions. Have our institutions adapted to meet the challenge of sustainable development? In 1987, the Brundtland report noted that government institutions tended to be fragmented, to operate independently and to have closed decision-making processes.<sup>2</sup> Over the past 10 years, several governments, including Canada's, have established many institutions and mechanisms to promote integrated decision making. What does the research say about these governance models and their effectiveness? Is there an analytical framework for evaluating them?

## The Keys to Decision Making for Sustainable Development

The Organization for Economic Co-operation and Development (OECD) working group on sustainable development and governance recently published a document entitled "Improving Policy Coherence and Integration for Sustainable Development: A Checklist."<sup>3</sup> Drawing on five case studies and the opinions of a forum of experts, the report offers

some 30 criteria to help public decision makers adopt a coherent and effective approach to sustainable development. Some of the criteria, supported by examples from countries at the forefront of sustainable development, may offer possible solutions to the problems encountered by the Canadian government.

## A Common, Long-Term Vision

To begin with, sustainable development has to be part of a common, long-term vision that is held by government and shared with other stakeholders in society. All parties must have a clear idea of what sustainable development is, its principles must be operational, and its advantages must be demonstrable. In 1989, the Netherlands brought forward its National Environmental Policy Plan. The goal of the Plan was to make sustainable development attainable within one generation. One of the first major efforts at long-term planning, it is also notable for creating mechanisms for stakeholder participation and program evaluation tools and, in particular, for setting quantitative objectives with fixed deadlines.

Two main lessons can be drawn from the Dutch experience: setting national objectives enabled various ministries to implement joint policies, and identifying clear, long-term objectives encouraged innovation and led to the development of several complementary policies (e.g., the negotiation of agreements with industry). This national plan, which is renewed every four years, could be a useful guide for Canada.

## Leadership and Co-ordination

Next, firm political commitment must foster strong leadership at the highest levels of government. Government

decision makers must maintain a sense of urgency in the face of long-term challenges. In Canada, as in most other countries, keeping the complex issue of sustainable development at the top of the policy agenda can be difficult, and recent concerns over security do not make the task any easier.

However, some institutional innovations seem promising. In the United Kingdom, 20 “green ministers” (usually secretaries of state) are responsible for identifying the environmental impact of each ministry’s operations, improving ministry performance in terms of sustainable development and reporting to the Environment Committee.<sup>4</sup> They exercise collective and individual leadership and are responsible for coordinating activities within their respective ministries and for all of government when they meet as a Cabinet sub-committee. The European Union integrated the principles of sustainable economic growth that respects the environment in its Treaty on European Union, and it launched a series of meetings aimed at integrating sustainable development principles in nine separate sectors.

### Proactive Decision Making

Without a doubt, the most important factor in implementing sustainable development principles is to plan for the environmental, social and economic impacts of public policies.

Since 1999, Canadian federal departments must complete a strategic environmental evaluation of the plans, policies and programs that may have significant environmental impacts and must be submitted for ministerial or Cabinet approval. This Cabinet directive is seen as an important tool in proactively assessing the environmental impacts of government activities.

This type of tool has been extended to the budget process in some countries, such as Denmark, which has been conducting environmental evaluations of its budget for more than five years. Preliminary results indicate that, with this approach, the economic efficiency of environmental policies can be analyzed, and policies can be made to perform better economically without affecting the environment in a negative way. The strategic environmental analysis of the budget required the ministries concerned to exchange information, and it encouraged the sharing and use of common analytical tools (such as cost-benefit analytical methods).<sup>5</sup>

### Performance Reporting and Measurement

Effective reporting mechanisms and precise, thorough performance indicators are the only way to truly measure the progress made in implementing sustainable development, both in government and in society in general. In this last respect, many countries have developed, in addition to traditional economic indicators, indicators to measure the state of natural, social and human capital.

In Canada, the National Round Table on the Environment and the Economy is to submit a report in the coming months proposing the creation of five to ten indicators for the environment and sustainable development. Other countries and several Canadian provinces have, in general, developed more indicators, which place greater emphasis on the social aspect of sustainable development.

### What Should Canada Do?

Our thinking on governance models for sustainable development has

evolved a great deal over the past three or four years. Through the work of the Commissioner of the Environment and Sustainable Development and ongoing departmental discussions through the Interdepartmental Network on Sustainable Development Strategies, the Canadian government is now well versed in the strengths and weaknesses of existing mechanisms. It must be noted that the federal structure of the country also adds to the challenge of implementing sustainable development.

While the experiences of other countries offer promising and innovative approaches to increasing integrated decision making, we know very little about the actual impact of these tools and models. Some useful findings would likely emerge from a comparative research program that examines the results of experiments in countries that are more advanced in sustainable development governance.

### Notes

- 1 United Nations Environment Programme, Global Environment Outlook 3, GEO-3 (London: Earthscan, 2002) and the United Nations Development Programme, Human Development Report 2002. Available at <http://www.undp.org/hdr2002>.
- 2 World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987).
- 3 OECD, *Improving Policy Coherence and Integration for Sustainable Development: A Checklist* (2002). Available at <http://www.oecd.org/pdf/M00035000/M00035366.pdf>.
- 4 For more information on the United Kingdom’s green ministers and their overall approach to sustainable development, please see <http://www.sustainable-development.gov.uk/sdig/index.htm>.
- 5 OECD, *Policies to Enhance Sustainable Development* (Paris, 2001).

# The Cost of Climate Policy

**Mark Jaccard,  
John Nyboer,  
and  
Bryn Sadownik**

*The book also guides policy design by describing recent, innovative policy experiments that provide long-run signals to producers and consumers without the dramatic increases in average energy prices that politicians are understandably reluctant to impose.*

Mark Jaccard is a professor in the School of Resource and Environmental Management, Simon Fraser University. He is also Director of the Energy and Materials Research Group. John Nyboer is Executive Director of the Canadian Industrial Energy Efficiency Data and Analysis Centre and Research Director of the Energy and Materials Research Group. Bryn Sadownik is a research associate in the Energy and Materials Research Group. They co-authored *The Cost of Climate Policy*, published last year by UBC Press for which they received one of the two Outstanding Research Contribution Awards as part of the 2002 National Policy Research Conference. They present here an overview of their book.

Addressing climate change risk is a major environmental challenge, yet advocates and even experts disagree on the costs and lifestyle impacts of reducing greenhouse gas (GHG) emissions. One side argues that a concerted effort to reduce GHGs will launch a new era of technological innovation, productivity gains and job creation, while the other argues that economic output will decline and unemployment rise. The public and politicians don't know whom to believe. Two major factors cause these contrasting cost estimates.

First, analysts apply different definitions of cost. One group only looks at the financial cost differences between technologies that provide the same service, such as efficient light bulbs versus inefficient light bulbs, transit versus cars and windmills versus coal plants. More energy-efficient technologies and switching to low-GHG energy sources usually have a high investment cost, but this is offset by a lower operating cost. Thus, the widespread adoption of these technologies would reduce GHGs at what appear to be modest costs and, in some cases, financial

benefits. The other group notes that competing technologies are not always perfect substitutes. Lighting from a compact fluorescent light bulb differs from that of an incandescent and, because of its higher price, presents a greater financial risk from accidental breakage or early failure. For various reasons, most commuters prefer private vehicles to public transit. A windmill is not as dependable as a coal plant for generating power when needed. Because of differences like these, the full cost of adopting low-GHG technologies should include both financial cost differences and the extra risks and losses in value that consumers and businesses associate with switching to low-GHG technologies. Using this approach, GHG reduction appears costly.

Second, reducing GHGs is a long-run objective that requires years and even decades of effort over a period during which technologies and consumer preferences will change; but the direction of change is uncertain. One set of assumptions about technologies and preferences leads to low costs of GHG reduction, while an alternative set leads to the opposite conclusion. Will energy intensity increase with growing demand for larger and more powerful personal vehicles, instant-on electronic equipment, air conditioning, patio heaters and as yet unknown energy-using devices? Or, will businesses develop and consumers embrace a new generation of inexpensive, low-GHG technologies?

Using Canada's Kyoto target as a focal point, this book quantifies how divergent cost definitions, and different assumptions about the uncertain evolution of technologies and preferences lead to contrasting estimates of the cost to Canadians of reducing

GHG emissions. However, the book goes beyond this aggregate cost estimate — which is where most studies stop — to detail the changes in technologies and lifestyles necessary for Canadians to hit a target, such as Kyoto. Major actions, detailed on a sectoral and regional basis, include:

- energy efficiency improvements in all buildings, production processes, heating devices, vehicles, appliances and electronic equipment;
- increased use of renewables, municipal waste and natural gas in electricity generation;
- switching toward ethanol and some hydrogen in vehicles;
- evolution of urban form and transportation infrastructure that encourages reduced personal vehicle use;
- penetration of low-GHG technologies in all aspects of industry;
- development of technologies that separate and store CO<sub>2</sub>; and
- changes in forestry and agricultural management practices.

These actions are costed using a hybrid approach (the CIMS model) that bridges the cost definition dispute by combining the full potential for technological change with the inertia resulting from current business and consumer preferences. According to base case modelling assumptions, if a GHG cap and tradable permit system (or GHG tax) were applied nationwide to achieve the Kyoto target of six percent below 1990 emissions by 2010, the permit price (or tax) would be about \$120/tonne CO<sub>2</sub>. For Canadian households, this translates into consumer price increases for electricity

of 2 to 85 percent (depending on the region and pricing policy), natural gas of 40 to 90 percent, and gasoline of about 50 percent. These significant price increases reflect the cost of motivating action but, if permit auction (or tax) revenue were refunded to Canadians in proportion to their initial payments, the total cost impact would only be the incremental cost of switching to low-GHG technologies. This cumulative present value cost of \$45 billion reduces economic growth by three percent by 2010, the equivalent of a one-year recession. (These results match estimates for the United States calculated with that government's NEMS model, which uses a similar hybrid approach.)

In the dispute over the definition of cost, these results are closer to the high cost estimates, because they include the value losses of businesses and consumers, while the Kyoto time frame is too short for the significant technological innovations and preference changes that can lower costs in the long run. The slow turnover rate of most equipment stocks inhibits the penetration of many low-GHG technologies by 2010, even if policies were launched in 2000 as assumed in this study.

How does this book contribute to Canada's debate about Kyoto ratification or the negotiation of an alternative national target? The book shows that Kyoto's tight time frame results in relatively high costs (that increase with each year of inaction). However, Canada can fulfill some or almost all of its Kyoto commitment by purchasing reduction credits from other countries at a price that may be as low as \$10/tonne CO<sub>2</sub> according

to most experts, and this is what the Canadian government intends to do as part of its Kyoto implementation plan. The cost curve in this book shows the costs associated with each level of domestic reduction, so different combinations of domestic actions and international purchases can be summed to produce a single national cost estimate.

The book also guides policy design by describing recent, innovative policy experiments that provide long-run signals to producers and consumers without the dramatic increases in average energy prices that politicians are understandably reluctant to impose. Tradable GHG permits (or a GHG tax) drive GHG reduction by increasing the price of different forms of energy in step with their CO<sub>2</sub> intensity. Applied only moderately — as is likely — such policies will not drive the fundamental innovation that is needed in the long run. Market-oriented, technology-specific regulations, in contrast, require a minimum market share for dramatic innovations — renewable electricity generation, zero emission vehicles — but allow producers sufficient time and flexibility to lower long-run costs. Also, because the high initial costs of these innovations are blended with the lower cost of conventional products, the prices seen by consumers do not change dramatically, thus improving the prospects of political acceptability. These types of policies can and should be quickly adopted as it is only through such relatively low-cost experimentation that uncertainty, and endless debate, about GHG reduction costs will be reduced over time.

# A Basic Income for All

**François Blais**  
Université Laval

*An unconditional income would be more effective against poverty since it would be paid to unemployed and employed persons and would avoid the negative impacts of traditional income support policies.*

François Blais is a tenured professor in the Faculty of Political Science at Université Laval and one of the two winners of Outstanding Research Contribution Awards presented at the 2002 National Policy Research Conference. In this article, he outlines the issues in his book *Ending Poverty: A Basic Income for All Canadians*, published in 2002 by James Lorimer.

The main purpose behind the book, *Ending Poverty: A Basic Income for All Canadians*, is to help an informed but not necessarily expert public to better understand the various aspects of this proposal to reform our welfare state. While many well-known organizations and intellectuals support the concept of a basic income, most people regard it with scepticism.

The universal basic income (guaranteed minimum income or citizen's income) is paid to each citizen unconditionally and is non-withdrawable. In principle, introducing it should lead to a greater integration of taxation and transfers to citizens, a more simplified welfare state, and broader and more complete protection by the social safety net.

The book is divided into three parts. The first reviews the limitations of current forms of income security. Their shortcomings are well known. They are complicated, act as a disincentive to employment and marginalize recipients. There is a lack of integration, especially between assistance to the unemployed and the working poor. They lead to various "traps" that discourage initiative and compartmentalize recipients. In this context, the universal basic income really looks like a radical alternative to the "social assistance" and "targeted" approaches of the anti-poverty policies

of the past two decades. An unconditional income would be more effective against poverty since it would be paid to unemployed and employed persons and would avoid the negative impacts of traditional income support policies.

The second chapter focusses more on theory and sets out the main economic and ethical arguments for a universal basic income in modern Western societies. A credible social policy must try to reconcile two central values: efficiency and equity. The Canadian welfare state managed to do so fairly well after World War II, but is now running out of steam and lacking in vision. The economic justifications for a universal basic income are many and varied, most notably administrative simplicity, a more equitable sharing of the tax burden, the urgent need to support activities that are low paying but socially useful, and greater flexibility in the organization of work. The book also focusses on ethical arguments since the main objections to this type of reform stem from deep moral differences. The idea of a universal basic income divides both the left and right, often for similar reasons. It is often suggested that the basic income would not respect the "worth ethic" or that it may run contrary to the requirement for "reciprocity" that is a fundamental of society. The book explores these and other objections, maintaining that the "right to work" as well as the right to require some type of social commitment from each citizen are not compromised by the basic income. On the contrary, it could help to support these rights. The book also examines social justice issues and offers clear reasons why each citizen should be able to count on a concurrent basic income that

would offer choices in life. The place of such a mechanism in relation to other forms of social solidarity is also clarified.

The third chapter examines the important issue of the feasibility of a universal basic income in Canada. This is not a new proposal, and respected task forces have already

*The cost to taxpayers is the same and probably even lower than its targeted and more administratively restrictive counterpart.*

recommended it in the past. However, reforms stalled and, in recent years, there has even been an erosion of universal income security mechanisms in favour of targeted programs. The cost of implementing the basic income is regularly cited as the main argument against its introduction. However, the many debates over cost usually fail to recognize the very different circumstances at play. This type of mechanism should finance itself by progressively replacing various programs and by an “income effect” typical of all universal mechanisms. According to this effect, the poor, not the rich, would be the main beneficiaries of the basic income. The cost to taxpayers is the same and probably even lower than its targeted and more administratively restrictive counterpart. This does not mean that it would be easy to introduce. Rapid

implementation would have major redistributive impacts, some of which could negatively affect a sizable section of the population. This is due mainly to the fact that in a society such as ours, where there are already transfers to citizens, melding a wide range of mechanisms into one system would have its winners and its losers. It is for ethical, not financial, reasons

that I, like many other contemporary defenders of the basic income, opt for a gradual introduction of this policy, which involves a transition period for administrative as well as political reasons. Other more radical scenarios are conceivable, but the book presents the reasons for choosing a partial introduction, which would also have the advantage of costing the government nothing.

In summary, the universal basic income can be seen as a full alternative to the strategy of employment grants that governments have increasingly favoured in recent years. There is another way to support employment, especially more precarious and less well-paid employment. And that is to guarantee from the outset that each citizen is financially secure enough to accept or keep such a job.

## Thirty critical years

The third report of the United Nations Environment Programme on the state of the global environment (GEO-3) emphasizes that the next 30 years will be as crucial as the past 30 for shaping the future of the environment. The increasing pace of change and degree of interaction between regions and issues has made it more difficult than ever to look into the future with confidence. On top of providing an authoritative report on the state of the global environment, GEO-3 presents four scenarios to explore what the future could be, depending on different policy approaches.

The full report is available electronically at <http://www.unep.org/geo/geo3/index.htm>

# The Tools of Government: A Guide to the New Governance

Lester M. Salamon, ed.,  
(Oxford: Oxford University Press,  
2002), xii, 669 pages.

Reviewed by  
Roderick A. Macdonald  
F.R. Scott Professor  
of Constitutional  
and Public Law  
Faculty of Law,  
McGill University

...The Tools of  
Government stands as a  
beacon for public and private  
institutions embarking on the  
governance endeavour...

For the last 50 years, what is now known as the “legal process” approach has reigned as the outstanding indigenous contribution to legal theory in the United States.<sup>1</sup> While initially focused on problems of domestic governance, during the 1990s process theory was reinvigorated and reoriented by the burgeoning set of institutions, procedures and norms of international legal regulation.<sup>2</sup> For process theorists, “law is the enterprise of discovering and deploying processes of social ordering to promote ends accepted as valid by society.”

The architects of the process conception of law were professors at the Harvard Law School. In 1949, Lon Fuller published a text entitled *The Problems of Jurisprudence*,<sup>3</sup> the last chapter of which was devoted to the study of what he came to call “eunomics” — the theory of “good and workable social arrangements.” He pursued this inquiry for over 30 years in several other essays — notably on contract, adjudication, mediation, custom, managerial direction and legislation. Together, they were meant to provide a menu of the forms and limits, the potential and perversions of each of the key processes of social ordering found in democratic societies.<sup>4</sup>

Fuller was not the only legal scholar at Harvard to puzzle about the principles and processes of social ordering, and their optimal use in the pursuit of public policy. In 1958, Henry M. Hart and Albert Sacks published a tentative edition of a course book on which they had been working for a decade: *The Legal Process: Basic Problems in the Making and Application of Law*.<sup>5</sup> Hart and Sacks believed that each legal institution — courts, legislatures, agencies — had a special competence

for handling problems of social organization. The task of the jurist to ensure the appropriate allocation of tasks to these institutions to best achieve desired social purposes.<sup>6</sup>

A common theme of Fuller and Hart-Sacks’ postwar collections was that institutional arrangements for the management of social tasks are not infinitely pliable. Some legal forms and processes are better suited to addressing some types of public problem than others. Two decades later, this realization spawned a radical reconception of the aims and objectives of the “access to justice” movement. Scholars of civil disputing began to consider alternative sites besides courts and alternative modes besides adjudication of resolving conflict — conciliation, negotiation, mediation, arbitration, etc. For alternative dispute resolution (ADR) specialists, the idea was that finding the right disputing process will inevitably produce socially preferred outcomes.<sup>7</sup>

In a similar vein, the criminal law regime came under critical scrutiny. New procedural models, such as sentencing circles, and substantive conceptualizations, such as restorative justice, took their places beside traditional adversarial hearings and repressive sanctions.<sup>8</sup> At about the same time, public law scholars took up the challenge of theorizing procedural fairness, spurred by a judicial recognition that administrative governance occurred in multiple modes besides adjudication.<sup>9</sup> Achieving effective and just governance in diverse agency processes and, more broadly, in diverse forms of business organization and diverse contexts of associational life, emerged as a central concern of process theorists in both public and private law domains.<sup>10</sup>

The 1980s also saw the flourishing of a “law and economics”-inspired public law literature focussed on the “choice of governing instrument.” From the early essay by Michael Trebilcock et al., *The Choice of Governing Instrument*<sup>11</sup> through critical research studies published for the Macdonald Royal Commission on Canada’s Economic Prospects,<sup>12</sup> debate was engaged about the efficiency of different forms of governance. The Canadian Institute for Advanced Research funded an interdisciplinary law and society program that generated two collections of essays: *Sanctions and Rewards in the Legal System*<sup>13</sup> and *Securing Compliance*,<sup>14</sup> meant to explore the legal challenges of regulatory management.

In a manner paralleling the scholarly convergence of public regulatory law and the theoretical work of Fuller, and Hart and Sacks on institutional design, students of public administration have been pursuing numerous new paradigms of governance. Since the 1970s, the editor of the collection under review has been puzzling about how best to organize collective action to address public problems.<sup>15</sup> In this continuing intellectual enterprise at the intersection of public law and public administration, *The Tools of Government* stands as a signal achievement. While I do not propose to review the contents of the book in detail, I should nonetheless like to suggest four reasons for my effusive conclusion.

First, as reflected in chapters 1 and 16 to 22, the collection is explicitly theoretical. Just as mainstream public law scholarship has moved beyond sophomoric fascination with instrument choice and reinventing government as sanitized surrogates for a politics of deregulation and

privatization, so too the new governance paradigm set out in this collection is far more sophisticated than approaches like the new public management. The central characteristics of the new paradigm are: it understands governance as a collaborative endeavour between state, citizen and intermediaries; it acknowledges that governance is not self-executing; and it recognizes that government often works best by indirection.

Adherents of the new governance perspective actually go further. They claim that traditional public administration, with its focus on public agencies organized hierarchically, and on delivery programs modelled after the command and control regimes of military bureaucracies, has been gradually giving way to a model of third-party governance in which collaboration with non-governmental actors becomes the key strategy for addressing public problems and pursuing public purposes. The new governance emphasizes tools and instruments rather than agencies and programs; it privileges interdependent networks of institutions and actors over centralized bureaucratic hierarchies; it emphasizes public-private partnerships rather than unidirectional public intervention in market activity; it replaces top-down command and control with negotiation and persuasion as modes of regulation; and it imagines a public service focussed on enablement rather than management. In these new directions, one sees echoes of the critical perspectives characteristic of the new legal process in legal scholarship.<sup>17</sup>

Second, these theoretical claims are tested in a series of carefully elaborated case studies of different instruments

(chapters 2 through 15). Each study follows a standard pattern — defining the tool, patterns of tool use, basic mechanisms, tool selection, management challenges and potential responses, overall assessment, future directions and suggested readings. The tools reviewed are direct government, government enterprises, economic regulation, social regulation, government insurance, information, taxes, charges, tradable permits, subsidies, contracting, loan guarantees, tax expenditures, vouchers, tort liability and purchase of service contracting. In itself this is a remarkably rich inventory of policy instruments. Each reveals the key tensions in governance whenever programs are put into operation. As a matter of institutional design, how does one reconcile statist and deregulatory aspirations, or communitarian and libertarian goals? Each of these chapters denies a rigid separation of the public and the private, and each illustrates why policy makers now reject the simple means-ends dichotomies that have so vexed the literature on the choice of governing instrument in both law and public administration.<sup>18</sup>

Third, the final six chapters address a central insight of the new legal process and institutional design literature. Chapters 16 to 18 focus on managerial capacity, accountability mechanisms and legitimacy concerns in third-party governance. Chapter 19 acknowledges that tool choice is political, not just a *techné*. Chapter 20 directly tackles the relationship between instruments and democracy, asking whether certain tools are more or less apt to build civic capacity, enhance democratic interactive engagement and enfranchise human beings as rational agents.<sup>19</sup> In a final chapter, the general editor concludes there is a knowledge gap

that it seeks to fill — about tools, program design and operational knowledge. He challenges the reader to rethink the role of government, to accept that a neat division of labour between “rowing and steering” is no longer possible. Recasting the metaphor of the new public management literature, he asserts that governments should not always row nor should they always steer. Citizens, governments and third-party intermediaries collaborate through different means, at different times, and in different sites, to render democratically decided purposes into legitimated policy outcomes.<sup>20</sup>

Finally, a strength of this volume is its extensive footnoting and bibliographic apparatus. Notwithstanding the almost complete absence of citations to the strands of legal literature noted in this review, the work is a gold mine of suggestions for further reading and inquiry. I would hope, in any second edition, that the editors reach out to analogous literature in administrative law, civil disputing and legal theory.

For the moment, *The Tools of Government* stands as a beacon for public and private institutions embarking on the governance endeavour — an endeavour best characterized as the iterative public enterprise of identifying goals and objectives, designing policies, selecting processes and instruments, deciding particular programs, targeting sites and systems, and identifying actors by and through which human aspirations and actions may be rendered into achievements and accomplishments.

## Notes

1 For an intellectual history of the legal process approach see Roach, K. (1997) “What’s New and Old About the Legal Process,” *University of Toronto Law Journal*, 47: 363.

- 2 Eskridge, W. and P. Frickey (1994) “*The Making of The Legal Process*,” *Harvard Law Review*, 107: 2031.
- 3 Fuller, L.L. (1949) *The Problems of Jurisprudence* (temp. ed.), Brooklyn: Foundation Press.
- 4 Fuller’s several essays on the economics theme were collected in 1983 in a posthumous volume, *The Principles of Social Order* (K.I. Winston, ed.), first edition (Durham: Duke University Press, 1983); second revised edition (Oxford: Hart Publishing, 2001).
- 5 See Hart, H.M. and A. Sacks, *The Legal Process* (unpublished tentative edition, 1958), as revised and edited by W. Eskridge and W. Frickey (St. Paul: West Publishing, 1993).
- 6 For many followers of Hart and Sacks, and contrary to the economics ideas advanced by Fuller, the logic of legal process also compelled the search for non-political “neutral principles” to constrain judicial activity. See, for example, Peller, G. (1988) “Neutral Principles in the 1950s” *Michigan Journal of Law Reform*, 21: 561.
- 7 The pathbreaking work on models of civil disputing is Sander, F., S. Goldberg and N. Rogers (1992) *Dispute Resolution* (second edition) Boston: Little Brown. See also Roach, K. (1991) “Teaching Procedures: The Fiss/Weinrib Debate in Practice,” *University of Toronto Law Journal*, 41: 247.
- 8 The literature on restorative justice is extensive. For an overview see Cragg, W. (1992) *The Practice of Punishment: Towards a Theory of Restorative Justice*, New York: Routledge.
- 9 See Chayes, A. (1976) “The Role of the Judge in Public Law Litigation” *Harvard Law Review*, 89: 1281. A thoughtful summary of contemporary theorizing of procedural fairness may be found in Bayles, M.D. (1990) *Procedural Justice: Allocating to Individuals*, Dordrecht: Kluwer.
- 10 One of the best collections dealing with public law dimensions of institutional design is published as the “Symposium: Law and Leviathan” (1990) *University of Toronto Law Journal*, 40: 305-686.
- 11 Trebilcock, M.J., D. Hartle, R. Prichard and D. Dewees (1982) *The Choice of Governing Instrument: A Study Prepared for the Economic Council of Canada*, Ottawa: Supply and Services Canada.
- 12 Bernier, I. and A. Lajoie (co-ordinators) (1986) *Law, Society and the Economy*, Toronto: University of Toronto Press,

being volumes 46-51 of the collected research studies for the Royal Commission on the Economic Union and Development Prospects for Canada. See especially volumes 46 and 48.

- 13 Friedland, M.L. (ed.) (1989) *Sanctions and Rewards in the Legal System: A Multi-disciplinary Approach*, Toronto: University of Toronto Press.
- 14 Friedland, M.L. (ed.) (1990) *Securing Compliance: Seven Case Studies*, Toronto: University of Toronto Press.
- 15 For an earlier iteration of these themes, see Salamon, L. (ed.) (1989) *Beyond Privatization: The Tools of Government*, Washington: Urban Institute Press.
- 16 The parallels between the theoretical concerns of this collection and the institutional design preoccupations of the Harvard legal process approach are apparent in several of the essays published in Witteveen, W. and W. van der Burg (eds.) (2002) *Rediscovering Fuller: Essays on Implicit Law and Institutional Design*, Amsterdam: Amsterdam University Press.
- 17 See the line of scholarship running from Eisenberg, T. and S. Yeazell (1980) “The Ordinary and the Extraordinary in Institutional Litigation,” *Harvard Law Review*, 93: 65 through Minow, M. (1987) “Foreword: Justice Engendered,” *Harvard Law Review*, 101: 10, to Eskridge, W. and G. Peller (1991) “The New Public Law Movement: Moderation as a Postmodern Cultural Form,” *Michigan Law Review*, 89: 707.
- 18 I have attempted to apply this type of analysis in a recent paper analyzing legal policy options that was prepared for the Senate Committee on Illegal Drugs. See Macdonald, R.A. (2002) “The Governance of Human Agency,” unpublished.
- 19 In this respect the concerns of *The Tools of Government* closely track those explored by the Law Commission of Canada in its Strategic Theme: Governance Relationships. See Law Commission of Canada (1998) *Strategic Agenda*, Ottawa: Supply and Services Canada.
- 20 Of course, the model of the tools of government remains statist. The assumption is that governments can often usefully conscript private actors into the regulatory endeavour, not that truly democratic collaboration may involve deference to non-governmental mechanisms of governance. For discussion of “regulatory absence” as a legitimate policy option, see van Praagh, S. (1996) “The Chutzpah of Chasidim,” *Canadian Journal of Law and Society*, 11: 193.

# PREPARING FOR THE RISKS OF THE FUTURE

## PLENARY HIGHLIGHTS FROM THE 2002 NATIONAL POLICY RESEARCH CONFERENCE

**Robert Judge**  
with assistance from  
**Pearl Eliadis,**  
**Jeff Frank and**  
**Paul Halucha**  
Policy Research Initiative

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**M**utant genes, new plagues and waves of terrorist attacks: might these risks come to dominate the agendas of our governance institutions in the future? In October 2002, the National Policy Research Conference, organized by the Policy Research Initiative, explored these and other risks that may very well be central to the public policy agenda in the years ahead.

The 2002 National Policy Research Conference consisted of 28 concurrent sessions, 20 learning workshops and five plenary sessions which were largely organized around the three sub-themes of the conference: developments in biotechnology and other areas of transformative science, the spread of infectious diseases and other new challenges to governance, and new issues of geopolitical security. This article highlights some of the material presented in the five plenary sessions that anchored the conference and touches briefly on some common ideas about preparing for future risks, as presented at the conference.

Modern history has witnessed the growth of the ability of governments and, indeed, ordinary citizens to exert more control over their future and the risks they face through prudent management of the present. Indeed, the language of risk has widely spread throughout modern society and now dominates the language of governance. We know that preparation for certain risks, particularly those deemed to be most threatening or challenging, can play a pivotal role in shaping our institutional and governance structures. Resources are most easily mobilized for those issues that are widely identified and accepted as constituting particularly grave risks. Thus, for example, the risks of another world war, of Soviet expansionism,

of nuclear annihilation and of a return to the economic collapse and social devastation of the Great Depression dominated public agendas in the West in the years following World War II.

The 2002 National Conference considered the challenges posed by various risks that may well dominate future agendas. In some ways, the risks examined were extremely divergent in nature. The ability of humanity to intervene fundamentally in the building blocks of life through new developments in biotechnology may be opening up a new world heretofore only dreamed of in science fiction. On the other hand, the potential spread of new epidemics of infectious disease threatens to re-open a chapter in our history that many had thought concluded. The new geopolitical security challenges represented by the 9/11 terror attacks on the United States, not to mention attacks in Kenya and Bali, pose all sorts of uncertainties. Does this new reality represent a need to return to basic principles of national security or does it demand a very different approach from those followed in the past?

Despite the differences in these issues, we must also note a number of similarities. The scale of each is literally global, both in terms of the threat and any possible solutions. Each involves complex phenomena, voluminous amounts of often conflicting information, new developments in science and technology (as in new forms of biotechnology, medicine and weapons of mass destruction), stretched public resources for coping with the challenges, potentially enormous and deadly hazards, and a great deal of public debate and insecurity over current assessments of the risks involved.

The challenges posed by these risks are daunting. How best to prepare to meet them was a central issue of the conference. Of course, not all risks can be eliminated from our lives, and we cannot entirely prepare for all risks. Nevertheless, the conference's plenary sessions pointed to the need to face the possible role of these risks in our future.

### Finding Hope in Africa

If preparing for future risks of plagues, terror and god-like genetic powers seems particularly formidable to Canadians residing in one of the wealthiest countries in the world, consider how grave the challenges are for a continent such as Africa. Many hazards and threats that are only potential global risks for Canadians are already daily realities for millions of Africans. The nature of the risks at play in the future of African development, and the continent's place in the world, was the topic of the conference's opening plenary.

The poorest region of the world, Sub-Saharan Africa has increased its share of the world's absolute poor from 25 to 30 percent over the last decade. (Africa is the only continent where poverty is on the rise.) Over 340 million people, or more than half of Sub-Saharan Africa's population, live on less than US\$1 per day. Life expectancy in Sub-Saharan Africa is the lowest in the world and, since 1990, has decreased by three years, from 50 to 47 on average (compared to a life expectancy of 63 years for the next lowest region and 79 years for Canada). Two hundred million Africans have no access to health services; 250 million lack access to safe drinking water, and more than 140 million young people are illiterate

in Africa. Africa is disproportionately affected by the HIV/AIDS pandemic with over 70 percent of the global population of people infected with HIV/AIDS, and 80 percent of global deaths from AIDS. Twenty percent of Africans are directly affected by armed conflict, and the number of civilian casualties of war is higher than anywhere else in the world. More than 100 million small arms are in circulation in Africa — 20 percent of the world's total. The trade in small arms in Africa is often closely linked to the illicit trade in natural resources. There are six million refugees and internally displaced persons in Africa — more than a quarter of the world's total. (Source: <http://www.g8.gc.ca/kananaskis/afrrfact-en.asp>.)

In the face of this difficult situation, the panelists on the conference's opening plenary nevertheless found grounds for cautious optimism about Africa's development prospects, because of a new political plan — the New Partnership for African Development (NEPAD). Frequently (if somewhat misleadingly) described in the media as a Marshall Plan for Africa, NEPAD was developed and adopted by African leaders in 2001, and endorsed by the G8 at Kananaskis, Alberta in June 2002. NEPAD is a vision and program of action for sustainable development in Africa that represents more than just an economic plan. It also embraces political, social, health and governance reform. Under the NEPAD framework, the developed world has agreed to ease access for African goods to their markets and increase aid for infrastructure projects, debt relief and education. At the same time, African states have committed themselves to the principles of good governance, including respect for human rights, liberal economic

reform, a new security framework and transparent, accountable and democratic government.

Dr. Constance Freeman, Regional Director for the International Development Research Centre's office in Nairobi, Kenya, underlined the importance of three key aspects of the new partnership. First, NEPAD represents a bold and unprecedented declaration by African leaders of Africa's own responsibility for the continent's future rather than relying on the old rhetoric of blame. While not ignoring the very real legacy of foreign conquest and exploitation of Africa, Freeman noted that too often Africans have suffered the harms of irresponsibility of their own governments who have excused their misgovernance by blaming others. NEPAD alters this dynamic. It asserts the obligation of Africans to determine the course of their own development, acknowledges a record of corruption and misgovernment in many countries, and outlines practical measures of reform.

Second, Freeman drew attention to NEPAD's provision for peer review of the performance of African governments and leaders by other African governments. African leaders have now pledged to be held accountable by their peers to higher standards of government. This marks a major normative change on a continent where non-intervention and the rights of sovereignty have been zealously defended values. Dr. Jacqueline Nkoyok, President of Partnership Africa Canada, echoed this point in her comments noting a new spirit in Africa whereby the continent's leaders, engaged in a greater dialogue with civil society and with increasing respect for democracy, are frequently

more willing to listen to criticism of any misgovernance.

The third key element underlined by Freeman is NEPAD's emphasis not simply on aid, but also on mobilizing Africa's own resources. While the partnership does call for more aid, it also calls for more private investment and liberalized trade. Most important, it looks to African resources as the major source for development capital. Freeman noted that Africa is a continent of immense wealth as well as tremendous poverty. The World Bank estimates that some 40 percent of African capital is held by Africans offshore. Repatriation of a fraction of this capital would far surpass current aid flows to the continent.

Nevertheless, the panelists also acknowledged potential problems for the realization of NEPAD. Nkoyok, for example, noted that this new partnership is hardly the first great plan for the continent's development in recent decades. The Lagos Plan of Action in the 1980s and various declarations of other UN conferences on Africa were frequently launched with much fanfare only to end in near failure. Freeman added that there is the very real potential that the political will behind NEPAD may evaporate. This plan, initiated by a small group of African leaders without prior parliamentary or popular participation, must now bring the rest of the continent's leadership, and indeed its citizenry, on side if it is to move forward.

However, even if the political resolve to carry out the NEPAD plan of action remains firm, the program may still founder through inadequate capacity to implement the program

quickly and efficiently. Many state governments and regional bodies lack strong public administration institutions, have weak legal and regulatory regimes, poor education and public health systems, and are weak in the procedural rudiments for accessible government. Freeman observed that it is here that Canadians and others have a chance to make a lasting contribution through support for the expansion of indigenous capacity for effective public administration.

Though NEPAD calls for stronger efforts to halt conflict on the continent through the establishment of a new security framework, it remains to be seen how this will take shape. In his comments, Lieutenant-General Roméo Dallaire spoke strongly against the existing approach by the world community in managing conflict and its consequences in Africa, noting that short-term strategies for conflict management and development assistance are completely unsustainable. Dallaire closed the session with an impassioned plea for development assistance and approaches to international leadership from developed nations based on humanitarian considerations and long-term investments rather than "strategic" approaches to intervention calculated on the basis of "national interest."

### **The Future of Biotechnology**

Almost every day we find another headline in the newspaper heralding the engineering of a new super crop, or public concerns over genetically modified food products and labelling. Indeed, the appropriate regulation of developments in biotechnology is increasingly the subject of polarized debate. Some fear that tampering with our bodies and the world around us

through new tools of biotechnology will unleash medical or environmental disasters. Others suggest that the unreasonable fear of such relatively implausible outcomes could well blind us to the vast potential of biotechnology to improve human health and well-being. Add to this the tremendous ethical complexity posed by the seemingly vast potential to intervene in the basic building blocks of life, and it is not surprising that disorientation and uncertainty abound.

In the first of two plenary issues exploring the future of biotechnology, Dr. Francis Collins, U.S. Director of the Human Genome Project, spoke about how genetics is about to revolutionize the way we practise medicine. "I believe we are on the verge of a revolution," he said. "Genetics has already become the central science for medical research...but it will soon move into the mainstream of the practitioner."

The unravelling of the three billion letters that make up the human genome will provide an indispensable tool for addressing many complex diseases, including cancer and mental illness. Over the next 10 years, we will have uncovered the genetic component to those diseases, and patients will be able to pay about \$1,000 to have their complete genome sequenced. And within 20 years, he said, a regime of gene-based designer drugs should be available to treat a host of diseases.

Our increasing ability to test for genetic predispositions to certain diseases will raise a number of ethical dilemmas. Recognizing this, Collins spoke about how the Human Genome Project has set aside significant funds to address ethical, social and legal

issues. Those issues include the risk of genetic discrimination and a misguided acceptance of genetic determinism.

By 2010, Collins foresees the emergence of predictive genetic tests for at least a dozen conditions, including diabetes, heart disease and Alzheimer's. We will also start to see the emergence of targeted interventions, including pharmaceuticals, based on genetic profiles. By 2020, the "therapeutic implications of the genome revolution are really going to hit the big time." By then, we should have many, many gene-based designer drugs like Gleevec, which has recently been approved for the treatment of chronic leukemia. Gleevec was developed by studying the molecular abnormality of this particular type of leukemia, which led to an understanding of the abnormal protein produced in leukemia cells, which in turn led to the design of a drug that blocks the action of the protein. Now, 95 percent of the people given the drug go into remission. "It's a wonderful success story and one we want to see reproduced over and over again. It happened with leukemia because of 20 years of hard work. We're not that far along with Alzheimer's, or diabetes, or heart disease, but if we keep at it, we'll get there. And then that same pathway of rational drug design can kick in. And I think it will."

A second plenary session, focussing on agricultural developments offered a nuanced account of the potential risks and future regulatory requirements for biotechnology.

Dr. Lynn Frewer, Research Chair in Food Safety at the University of Wageningen in the Netherlands, emphasized that the development

and implementation of effective science-based policy can no longer ignore public attitudes. In the past, she argued, risk management policy has largely been driven by expert opinion on novel scientific developments and technical risk assessment. Recent scares and "crises" in food production and agriculture (e.g., mad cow disease) have resulted in a decline in consumer confidence. In particular, public acceptance of scientific and government information and regulation has been shaken. The challenge now is to think through how the wider public should be better involved in the debate about risk management and technological development. She noted that people are most likely to be threatened by the risks over which they have no control. These are technological rather than natural in origin, and deeply entwined in fundamental ethical debates. A lack of transparency in regulatory systems has led to public perceptions that the "truth" of biotechnology is being hidden from them which, in turn, increases both public risk perception and distrust in the regulators and communicators. Indeed, this distrust has deeply undermined the legitimacy of scientific judgment and the regulatory system in the eyes of the public. As a consequence, risk management and scientific governance must change to better involve public stakeholders in policy development and risk management. She concluded that such involvement would only work if it went beyond simple consultation to incorporating the public concerns represented.

Dr. Richard Jefferson, Chief Scientist at the Centre for the Application of Molecular Biology to International Agriculture (CAMBIA) in Australia, suggested that scientific developments

in agricultural biotechnology are not nearly as revolutionary, or potentially destructive environmentally, as some sceptics would argue. That said, he contended that patterns of ownership, the intellectual property regime and regulatory frameworks in the area of agricultural biotechnology are harmful to development of this industry in the best interests of humanity. Rather than fostering the freedom to innovate and to operate, the current system has created large barriers to entry to the biotech field and has led to "catastrophic constipation" within the industry. Jefferson's extensive experience advising the World Bank and the UN's Food and Agriculture Organization (FAO) have convinced him that developments in agricultural biotechnology must be guided by the needs of grass-roots farmers, particularly in the South. Instead, developments in agricultural biotechnology are predominantly funded and controlled by commercial interests in the North. Commercial ownership is not a problem per se, but the tangled and expensive system of intellectual property rights too often forecloses the potential development and use of the most promising biotechnology developments.

Dr. Mark Winston, a professor of biological sciences at Simon Fraser University and author of *Travels in the Genetically Modified Zone*, concluded the session by navigating a path between the extreme positions advocated by industry, seeking new products and markets, and the consumer and environmental movement, which fears the potential for disaster. While we know the potential implications of biotechnology are profound, we have yet to determine whether genetically modified (GM)

crops will turn out to be beneficial or harmful. What is the responsible course of action in the face of this uncertainty? What is the proper balance between benefit and risk? From one perspective, GM crops are only an incremental change in a history of human crop breeding already thousands of years old. From the other perspective, we are tampering with the building blocks of life in a way that could spell grave danger for our health and our environment. We have arrived at a state where scientific innovation has surpassed our ability to manage the debates it raises. The best choices for future development will likely lie somewhere in the middle ground between technological benefit and environmental risk, yet it seems that the debates have been polarized to the extreme edges. The rhetoric and posturing will only end when we accept the validity of each perspective in a move back to the middle ground.

In general, the plenary and other conference sessions on biotechnology suggested that, given the “transformativeness” of biotechnology, we would be well advised to step back and think very widely about the implications of this emerging set of technologies — to think about them not just as another policy issue revolving around government, but as a truly transformative force around which all other institutions and issues might eventually revolve. Optimistically, biotech may eventually help to transform our world and redefine the currently unsustainable trajectory of world population and economic growth. As we begin to travel down this road, however, the transformative nature of the biotech revolution will undoubt-

edly hold many unintended and unknowable consequences.

### The Spread of Infectious Disease

A century ago, the Western world could proudly reflect on advances in health and longevity thanks to developments in technology, medicine and science. The discoveries of Joseph Lister earlier in the 19th century had dramatically improved hygienic conditions in hospitals and helped eradicate puerperal fever, the main cause of death of women in childbirth. The work of Louis Pasteur and Robert Koch had shown bacteria to be the cause of many previously incurable diseases that could now be controlled through inoculations, medication and hygienic measures. As a result, the coming decades would eventually see the elimination of four major causes of child mortality: smallpox, diphtheria, typhoid fever and scarlet fever. Continued improvement in health care and the control of disease was a major trend over the 20th century, contributing to a spectacular increase in population and life expectancy at birth. The development of immunization resulted in the control of many infections and, recently, was the primary factor in the eradication of smallpox. Two decades ago, it looked as if we could soon eliminate infectious disease as a major threat to humanity.

This optimistic forecast is now in doubt. An undesired consequence of the dramatic explosion in international trade, migration and travel in recent decades has been an increased threat to local ecosystems, local economies and human health from diseases, pathogens and exotic species which migrate huge distances. Infectious diseases are a leading — and

growing — cause of death, accounting for a quarter to a third of the estimated 54 million deaths worldwide in 1998. The trends are disturbing: diseases such as malaria, tuberculosis and cholera are re-emerging or spreading geographically; HIV is spreading rapidly in the developing world; and there are more frequent outbreaks of new or newly recognized diseases such as Ebola for which no cure is known. Nor should we be concerned only with diseases affecting humans. As the foot and mouth outbreak in Great Britain has demonstrated, the economic costs of outbreaks can be dramatic, and the need to demonstrate definitive action before a public that has a low tolerance for any risk can be overwhelming. This is especially the case where the threat is unexpected, where the risk can form in an instant and where the risk can be transmitted quickly on a regional or even global scale. How can the risks from infectious disease be managed? What is the role of global institutions such as the World Health Organization? How well we respond to the challenges we face in managing current and emerging threats to health will be a critical determinant of the risk frontier we face in the 21st century.

Dr. David Heymann, Executive Director for Communicable Diseases at the World Health Organization (WHO), led the discussion in the conference plenary on the new risks of infectious disease and worldwide challenges. The WHO is now tracking the emergence or re-emergence of many infectious diseases around the world. This is occurring in an era of massive increases in worldwide travel and refugee flows. Human vectors are not the only means of increased

transmission, however. Just as humans are travelling more, so too can mosquitoes travel on planes and infect airport workers with malaria. Agricultural vectors are also important through the shipment of livestock and the trade of medical products. The WHO is also studying the potential threat of deliberate use of biological agents to spread fungal, bacterial, viral and/or rickettsial infections. Public health systems must be prepared to respond quickly to the new threat of disease outbreaks. To this end, the WHO is promoting a better system of reporting. Currently, the vast majority of its information does not come through state agencies, but is generated through informal sources. The most important of such informal sources is the Global Public Health Intelligence Network developed by Health Canada that constantly searches the World Wide Web for notice of disease outbreaks. In addition to better monitoring, the WHO is working to make sure we have the capacity to respond quickly to outbreaks, working for better influenza vaccines, and making sure vaccines are ready to be used. The growth of multi-drug-resistant diseases is of particular concern, and will require greater research investments from industry. The urgent need to make drugs available and create new drugs requires more public-private collaboration. Moreover, planning for our future exposure to infectious diseases requires the right balance between preparing for known disease risks and potential unknown disease risks (such as those which might come from a terrorist attack). Ultimately, this will require global partnerships working together to strengthen the response to, and control of, naturally occurring infec-

tious diseases which, in turn, will be the best preparation for unknown but potential intentional attacks.

In her address, Laurie Garrett, medical and science writer for "Newsday" and author of *The Coming Plague*, argued that public health preparation for infectious diseases has been too neglected. Various events in the United States since September 11 (particularly during the period of anthrax attacks and scares) have demonstrated how quickly the public health system can be overwhelmed in coping with potential attacks. The United States requires better infrastructure to respond to emergencies, including long-term funding for sustainable programs that will continue long after the recent media spotlight has moved on to other issues. We must be concerned about deliberately engineered diseases (as were developed in the former Soviet Union — the status of which are unclear in Russia today). Various problems make preparations for potential outbreaks — natural or deliberate — difficult. The wealth gap both within the United States and around the globe exacerbates the difficulties of coping with disease outbreaks for the growing portion of the world living in poverty. At the same time, the richest countries are not investing sufficiently in global public health efforts. The current gap in global life expectancy (almost 50 years between Africa and Japan) is unprecedented. The world is witnessing a massive growth of mega-cities, mostly in the South, which simply do not have adequate resources to support their population (including inadequate water and sewage systems). The massive explosion of HIV in Sub-Saharan Africa is devastating in its scale. While

new drug therapies have helped to manage HIV/AIDS in North America, they are having little impact globally. In parts of Africa, it has come to be known as "grandmother's disease" as those of reproductive and productive age are dying, and grandparents have to look after the children and teenagers. This is a major cause of the unfolding famine in Africa.

Is global warming exacerbating the new (or renewed) risks of infectious disease? Dr. Tony McMichael, Director of the National Centre for Epidemiology and Population Health at the Australian National University and author of *Human Frontiers, Environments and Disease: Past Patterns, Uncertain Futures*, suggested in his talk that this might well be the case. He presented a history of the emergence of infectious diseases for humanity consisting of a number of major transformations in our exposure, and then suggested that climate change may be producing the next great transformation in humanity's vulnerability to infectious diseases. For example, one transformation in the nature of our risk of infectious disease occurred when humanity began to practise agriculture 10,000 years ago. As we began living in denser, settled areas with greater direct contact and exposure to animals, our exposure to infectious disease was profoundly affected. Similarly, the period of European expansionism (1500-1900) was also a period of the spreading of European disease worldwide, and globalization has further transformed patterns of disease exposure. Climate change may now be producing another major transformation. Many vector-borne infectious diseases are responsive to climate change, and have found recent warmer temperatures to be

more hospitable for their reproduction and spread. While it is still too early to be certain that warming is increasing the incidence of these diseases, and there are potential alternative explanations, a number of reports suggest that future warming may well create much more hospitable conditions for the spread of diseases. Thus, we may indeed be witnessing the next major transformation in humanity's relationship with infectious disease.

### The War on Terror

The terrorist attacks on the United States and the continuing war on terrorism have placed traditional (realist) national security issues (sovereignty, threat of physical attacks against the state and civilian populations) at the top of the public policy agenda. This has occurred after a decade in which the security debate was expanded to include non-traditional threats such as environmental degradation, undemocratic governments, population growth, the emergence of new infectious diseases, migratory diseases and even the spiral of poverty in the South. During the 1990s, the notion of human security moved onto the policy agenda, especially in Canada. This broadening was made possible by the end of the Cold War, which enhanced our confidence in security, and the processes of globalization, which heightened our sense of connectedness to the rest of the world. The result was a decade of liberal internationalism in which foreign policy could be largely decoupled from narrow calculations of geo-strategic interests. The terrorist strikes on the United States have opened a new chapter of international politics in which the U.S. response through its war on terrorism now dominates the international security agenda. Yet a

great deal of uncertainty remains as to the precise nature of the risks involved, and the best way in which to counter them. How will the war on terrorism shape geopolitics and the security agenda? How permanent is the new American security agenda and what does it mean for Canada? Exploring these issues was the task of the conference's closing plenary.

Leon Fuerth, former national security adviser to American Vice-President Al Gore, opened the plenary with his assessment of the National Security Strategy of the United States set forth by the Bush administration in September 2002. (See <http://www.whitehouse.gov/nsc/nss.pdf>.) Fuerth urged the Canadian audience not to dismiss the new strategy or to read the document too literally. Even if there are elements in it with which we are not comfortable, he pointed out that much of the strategy was not inconsistent with the foreign policy principles of the earlier Clinton administration. Fuerth suggested that instead of criticizing the strategy for its shortcomings, we should identify those elements we feel the United States has "got right" and begin to work with those. Eventually, quiet American voices urging caution and the need for multilateralism will work their way through the system. Friends and allies will also be able to gently influence the U.S. doctrine if they do so quietly, at the peer-to-peer level, rather than through the media. Fuerth argued that we should only be forceful with the Americans in private if we wish to have real influence. Fuerth also urged the audience to keep in mind that the United States may have a point. While the American government may be overstating its own importance and its ability to

act unilaterally, Canadians must nevertheless question our own approaches to world security if they remain unchanged by the legacy of September 11. Fuerth argued that there were real lessons to be learned: there is a real threat from low-level, non-state forces that are deeply anti-Western and prepared to resort to a maximum level of violence and destruction. As part of the Western world, Canada's values and interests are also under threat. We must now search to find a way of working with the United States and our other allies to build a common approach to the new security threats; a mistake in approach could prove to be unimaginably devastating.

Patrick Martin, Comment Editor for *The Globe and Mail*, presented a much more critical analysis of the new American National Security Strategy, or so-called Bush doctrine. Martin suggested that the new strategy is dangerously overblown and vastly overstates the threats from rogue states and terrorist networks, which, unlike the Soviet Union during the cold war, do not in fact represent an existential threat to the United States. The document has replaced the American principle of deterrence with a new mandate for pre-emptive action against perceived and actual threats. This move vastly expands the United States' room for military action by reducing the standard for "proof of threat" the American administration must provide before it takes military action. Even the potential to acquire weapons of mass destruction could now be a sufficient condition for military action. Martin also argued that this new strategy was not a principle-based approach: if this were true, the United States would be as

prepared to attack North Korea as it is evidently prepared to take on Iraq. Martin suggested that we should be greatly concerned about when and where the Americans are now prepared to use military force.

Dr. Janice Stein, Harrowston Professor of Conflict Management at the University of Toronto, staked out a position between the first two speakers in her comments. She argued that the new National Security Strategy of the United States does reflect important new threats revealed by recent events. It is clear that the West now faces a network of terror with global reach — one that is not state sponsored, that is resilient, flatter and with built-in redundancy so eliminating any single part of it does minimal damage to the network's overall abilities. Advances in biological and chemical warfare offer a host of new weapons of mass destruction that do not respect civilian and military boundaries. In the face of this difficult situation, we must be prepared to counter uncertain threats rather than readily calculable risks. Stein suggested that there were positive elements to the American strategy document including the discussion of the South and its demands, and the importance of open economies. Nevertheless, there are also serious problems with the strategy. The United States has set the principle that it has the right, and duty, to pre-emptive action where and when a threat of attack on American interests is imminent. A charitable view might suggest that this would require good and clear intelligence. However, Stein suggests that the definition of who poses an imminent threat, as laid out in the strategy document, relies on evidence of "bad character." Clearly, the United States is not prepared to attack all states

that have, or may potentially have, weapons of mass destruction. The U.S. decision to avoid military action against North Korea means that not all states run by tyrants and possessing weapons of mass destruction may be considered legitimate targets for pre-emptive attack. Instead, there is a need for evidence of bad character, as displayed by Iraq in its previous invasion of Kuwait, attacks on its Kurdish population, its harbouring of terrorists. Stein suggests that legitimating pre-emptive strikes on the basis of "bad character" establishes an extraordinarily dangerous precedent for the international security environment. If this is sufficient cause to go to war, can Russia hit Georgia for its display of "bad character" in failing to crack down on Chechnyan rebels operating there? Should India or Pakistan, two mutually hostile nuclear powers, be allowed to attack based on claims of bad character? The trouble with this principle is that it sets a far too subjective basis for military action and thus fails to serve the world's long-term security interests.

### Conclusion: Lessons Learned

It is clear that we do not yet have all the answers as to the potential significance of the risks discussed at the 2002 National Policy Research Conference. Coping with them may well strain our public resources to the limit in the decades ahead, or we may find that other risks play a much more dominant role in the public agenda. Nevertheless, some key general lessons may be drawn:

- A great deal of uncertainty surrounds many of the most potentially serious risks. Continued investment and improvement in intelligence and monitoring are

essential to reduce uncertainty and enable prudent planning.

- Most of the major risks considered at the conference were complex and multifaceted. Effective preparation to avert, control or minimize the hazards involved requires closer integration of our risk management institutions.
- The capacity to cope with hazards which may be unprecedented in impact and occur with little or no warning requires a healthy investment in strong, responsive and adaptable public infrastructures with the flexibility to recognize quickly and cope with dangers (e.g., the health system, which may be at the front line in the event of new disease epidemics or an attack by a weapon of mass destruction).
- Public confidence in our risk management and governance institutions will be a key element in their success. At the moment, confidence levels are frequently strained. The development of policy and institutions to meet future risks must therefore strive to be socially responsive and transparent. They must also welcome public participation.
- Many of our future risks may be global in nature and, therefore, require a global response. We need to build on and support our infrastructure of international institutions to achieve better global co-operation in preparing for and dealing with our future risks.

These steps, and others, may prove vital as we prepare for a future of risk.

# The State of the Art: Aboriginal Policy Research in Canada

**Roger Roberge**  
Policy Research Initiative

*The Aboriginal Policy Research Conference took place in Ottawa November 26-28, 2002, with over 500 individuals participating in 52 sessions on a broad range of topics. The conference was jointly organized by Indian and Northern Affairs Canada and the University of Western Ontario.*

The first national Aboriginal Policy Research Conference marked an important step in the integration of the diffuse body of knowledge relating to Aboriginal policy issues. Recent findings, indigenous knowledge and conventional wisdom were vetted and contextualized by members of the policy research and Aboriginal communities. This process lent itself well to the other stated goal of the conference: provide an interface between researchers, policy makers and Aboriginal peoples to draw out the policy implications of the presented research.

Much of the research presented underscored the many challenges facing Aboriginal communities, including a burgeoning youth population, endemic on- and off-reserve poverty, mortality/morbidity inequities, low education attainment, overrepresented crime statistics, natural resource disputes, cultural assimilation and self-governance issues. The full range of these challenges is succinctly revealed in an analysis of the oft-quoted United Nations Human Development Index. Canada's number one ranking is well known and much heralded; however, the troubling circumstances of Aboriginal peoples in Canada, and the inequities that exist between Aboriginal and non-Aboriginal people, are revealed by applying the HDI separately to on-reserve (ranked 68th) and off-reserve (ranked 36th) Registered Indians. On a more positive note, when linked through time (1981-1996), the HDI gap between Registered Indians and non-Aboriginal Canadians consistently narrowed for all three elements of the index (per capita income, life expectancy and educational attainment).

In addition to the "food for thought" served up by the research, a number of policy possibilities were identified. Of particular note, a social capital based approach that emphasizes the role of community emerged as a potential avenue of exploration. Research by Dr. Michael Chandler (Department of Psychology, University of Toronto) found cultural continuity as an important hedge against suicide in First Nations communities. While some communities experienced suicide rates 800 times the national average, in other communities, suicide was relatively unknown. Communities that actively, and collectively, rehabilitated and protected their cultural continuity were much more likely to have lower suicide rates.

Successful economic development in Aboriginal communities was also linked to a number of the tenets of social capital. Dr. Joe Kalt (Harvard Project on American Indian Economic Development, John F. Kennedy School of Government) spoke of political sovereignty, effective and culturally appropriate governance institutions, and strong community leadership as key contributors to successful economic development. Communities rich in natural and financial resources were not necessarily the ones doing well in an economic and social sense. The strength of communities, particularly in terms of social capital, was a much better predictor of economic success.

Given the wealth of material presented at the conference, efforts are underway to publish conference proceedings. The University of Western Ontario, the Department of Indian and Northern Affairs, the Policy Research Initiative and the Privy Council Office (Aboriginal Affairs) have partnered to support the publication slated for 2004. Further information can be obtained from Daniel Jetté of the Policy Research Initiative ([d.jette@prs-srp.gc.ca](mailto:d.jette@prs-srp.gc.ca)).

# Instrument Choice in Global Democracies

**Pearl Eliadis  
and Margaret Hill  
with assistance from  
Benoit Leduc  
and Richard Tate  
Policy Research Initiative**

Improving the effectiveness of policy design and implementation is a perennial challenge of governance. Over the last two decades, the diversification and proliferation of policy instruments has received wide attention. It is, though, apparent that the complexity and nuances of the transformation that has taken place in how public policy goals are achieved are not yet well understood. What innovative instruments are available to contemporary policy makers? What is really known about the comparative effectiveness of different instruments and different mixes of instruments to address the diverse policy challenges and opportunities facing Canada, now and in the medium term? What factors help determine what instruments work best and in what circumstances? In short, what strategies can be put in place to govern better the design and implementation of policy choices?

In September 2002, the Policy Research Initiative and Justice Canada, with support from the Law Commission of Canada, organized a conference to address these questions.<sup>1</sup> Held at the Faculty of Law, McGill University, and timed to coincide with the 20th anniversary of the publication of a landmark study on instrument choice in Canada, *The Choice of Governing Instrument*,<sup>2</sup> the conference brought together approximately 125 scholars and senior government officials from Canada, the United States and Europe to assess critically the current state of knowledge about policy instruments and instrument choice.<sup>3</sup>

The purpose of this report is to capture the intellectual capital generated from the conference and, in so doing, draw principal

conclusions to the attention of policy makers.<sup>4</sup> The following conclusions were especially noteworthy.

- Solely economic perspectives are inadequate to inform instrument choices, which should be primarily a function of governance criteria and not only (or even primarily) about cost, technical effectiveness or economic efficiency.
- The legitimacy of particular choices is bound up with political, legal, ethical, programmatic, social and economic factors that operate across both domestic and global dimensions.
- The debate must move from individual instrument choice to instrument mixes, thus recognizing that instruments are context sensitive and rarely, if ever, designed or implemented in isolation.
- All instruments, particularly those designed and implemented at arm's length from the legislative process, have important repercussions for the legitimacy and accountability of public action.
- Governance strategies and frameworks are needed to ensure both legitimacy and optimality in instrument design and implementation.

These conclusions are examined in more detail below, as are implications for policy making. A number of issues for future research are also identified.

## Background

The development of what has come to be called the instrument choice perspective is well documented.<sup>5</sup> It is rooted in a commitment to understanding policy formulation and implementation, as well as the policy-making process writ large, through the lens of instruments

of government action, rather than policies and programs. Implicit in this view, is the proposition that “some forms of public action are more likely to address successfully certain public problems or social issues than others” (Macdonald). These forms of action or instruments may take the form of one or several of law and regulation, subsidies and grants, organization and privatization, and information dissemination and taxation.

In the Canadian context, the aforementioned 1982 study, *The Choice of Governing Instrument*, is a pioneering

*One of the most significant insights from the last two decades of work on instrument choice is that improving the design and implementation of government action requires a heightened appreciation that instruments can shift and change depending on the contexts in which they are used.*

contribution to the instrument choice perspective. The study presented instrument choice as a technical exercise, maintaining that policy makers undertake a calculus of choice, and then adopt particular instruments, to promote overall “political rationality.”

From its point of departure over 20 years ago, the instrument choice perspective has continued by many accounts to provide an analytically and practically useful way of thinking about government action.<sup>6</sup> While the original focus was on individual instruments and their attributes, there is now significant interest in how the choice of instrument is made, as well as in instrument mixes or ensembles. In addition, and as the recent conference confirmed, it is increasingly evident to scholars and policy makers alike that instruments are not self-governing. Instead, their effectiveness depends on the context (i.e., the

governance system and the network of policy actors) in which they are applied.

### The Nature of Choice

An overarching theme at the conference was the importance of carefully examining overly simplistic assumptions and truisms that have often become part of the instrument choice perspective. The notion, for example, that a single instrument choice can be found to be inherently superior to another is untenable. Participants instead emphasized the complexity,

richness and multi-faceted environments in which instrument choices are made and implemented.

Trebilcock, for instance, acknowledged that policy actors possess diverse cultures or frames regarding instruments, and that these are, in turn, critical determinants of the instruments selected to achieve policy objectives. He maintained, moreover, that these cultures and frames play essential roles in stability and change in the choice of preferred instrument, especially changes that are non-incremental in nature. He referred specifically to the significant shifts that have taken place in countries around the world over the last 20 years when one looks at the disaggregated level in the areas of economic deregulation, the privatization of state-owned enterprises and the delivery of government services.

From another perspective, Peters and others pointed out that instrument choices are often a function of how the policy problem is perceived, and the research shows that the same problem is often perceived differently in different environments. In short, there is a complex relationship between the perceived policy problem, the appropriate instrument and the intended policy effects. Or, put differently, there is a complex relationship between *causation*, *instrumentation* and *evaluation*.

Harrison, Toope and Landry focussed on the reciprocal nature of the relationship between domestic and international spheres. While international legal norms can influence the use of policy instruments domestically (e.g., international human rights commitments may require the enactment of domestic legislation), decisions taken at home can also have impacts at the international level. At a practical level, this means international norms, transnational research and best practices should be systematically incorporated in instrument choice.

Deliberations at the conference left no doubt that the choice of policy instrument should not be viewed as a straightforward technical exercise of matching instruments with particular policy problems. In short, there is no magic bullet or one-size-fits-all solution. Instead, participants generally urged that more serious attention be paid to the “art” of instrument choice, and customizing instruments to policy challenges and opportunities.

### The Context of Choice

One of the most significant insights from the last two decades of work on instrument choice is that improving the design and implementation of

government action requires a heightened appreciation that instruments can shift and change depending on the contexts in which they are used.

As Ringeling, Doern and many others confirmed at the conference, the choice of policy instrument is profoundly affected by many factors:

- political institutions and processes;
- traditions related to public administration and the role of government and the economy (Ringeling);
- ideas and norms advanced by diverse policy actors (Cashore, Webb, Trebilcock); and
- the structure of associated policy subsystems or networks.

These factors condition and inform the options that are considered, the judgments that are made about the instrument proposed to address a given policy problem, and even the kinds of instruments employed and their effectiveness. It was remarked that policy makers seem to choose instruments as a function of how they perceive the problem and the kind of institutional culture in which they are working, rather than whether they have used the instrument before or even whether there is information about the effectiveness of the instrument (Peters). In Europe, identical policy problems have been shown to be treated quite differently in different jurisdictions. Again, this approach is largely a function of institutional and governance cultures or environments, rather than the perceived effectiveness of instruments (Ringeling).

Participants were reminded that the choice of instrument is but one of many factors that influence the course of policy processes (Ringeling). Contexts in which instrument choices occur are not normally static and,

consequently, should, over time, be expected to affect both the choices that are made and the effectiveness of policy design and implementation. Participants agreed that research is fundamentally important to better understand the independent effects different kinds of contextual variables can have for the choice of instrument and, ultimately, policy effectiveness. Research of this nature will give rise to important empirical questions about the relative size of impacts of different types of factors (e.g., institutions and policy actors) that affect the choice of policy instruments.

### From Instruments to Instrument Mixes

While recognizing the contributions that have come from detailed studies of individual policy instruments (e.g., typologies), participants advocated support for paying more attention to instrument mixes (instrument ensembles). They argued that this was necessary to better capture current patterns of instrument design and implementation, as well as the recognition since the 1980s of the changing nature of policy problems and the limitations of single-instrument strategies.

Deliberations at the conference confirmed that instruments are not inert, nor are they generally selected in isolation. Instead, they are designed and implemented in combinations and, equally important, sequentially over time. As Issalys emphasized, policy objectives are usually implemented through the interaction of multidimensional mixes or suites of instruments.<sup>7</sup> Furthermore, the number of combinations is infinite, and will change in substance and impact depending on the context and circumstances (Peters). This statement

means that careful consideration must be given to the variables of context, such as economic cost and efficiency, programmatic certainty and flexibility, political visibility and ethical issues, for instrument choice.

Participants suggested several additional lines of inquiry.

- To what degree can instruments be mixed or assembled to better achieve the designated public policy goals?
- What role can new knowledge-based instruments play in improving the effectiveness of particular mixes?
- How can the concept of mixes help improve the targeting of interventions at different levels and loci of decision making?
- Are the determinants of compliance with instrument mixes the same as found for individual instruments? Can compliance be improved with mixes?

In addition, and as several participants noted, shifting the focus from individual instruments to mixes puts a new priority on understanding the interactive nature of instruments. This type of understanding demands consideration of instruments in the following ways:

- how they complement, or can be substituted for, one another;
- the interactive effects of redundancy;
- the dynamics and consequences of optimality; and
- cumulative effects.

### Governance

As the preceding discussion has suggested, one major conclusion from the conference is that instrument choice and governance are intimately

connected. First, instrument choice takes place in, and is influenced by, the broader context of governance. Second, instruments play a critical role in structuring relationships between government and non-government actors and citizens. Third, instrument choices must be consistent with the rule of law, whether or not the instruments are “regulatory.” Finally, the design and use of instruments must be managed or governed within the relevant policy networks to optimize policy effectiveness and pursuit of collective goals.

Several participants stressed that considerably more attention must be paid to the perceived legitimacy of a government’s use of different instruments and ensembles. They contended that this attention is a key, albeit vastly under-appreciated, determinant of the effectiveness of policy design. Furthermore, it was suggested that priority should be placed on improving understanding of the determinants of legitimacy itself (e.g., adherence to the rule of law, effectiveness and the public interest) (Issalys, Cashore and, to a lesser degree, Tuohy).

A focus on instrument choice suggests a number of additional lines of inquiry. How, for example, can policy makers better manage the policy networks or subsystems invoked by different instruments and ensembles? What role do non-majoritarian institutions, such as courts and bureaucracies, and non-governmental actors, such as citizens and private firms, play in instrument choice? For example, it was observed that the courts play a fundamentally regulatory role and that this has consequences for legislative initiative and the capacity of

social interests to become concentrated through public interest litigation (Friedman).

Participants also stressed the importance of developing better analytical tools to assist in the development of governance frameworks for instrument design, selection and implementation. Elements of such a framework could include risk-based approaches (Hutter) and an international law “filter” that

*Transnational information sharing among scientists, non-governmental organizations and public servants is generating alternatives to traditional instrument choices, challenging particular choices at a faster rate and with greater effect, and increasing the range of instruments at our disposal*

allows international law and norms to shape instruments (Mackaay, Toope). Also advocated was the development of administratively oriented frameworks to guide decision making on the use of voluntary instruments (Lucas, Webb). Several participants urged a more comprehensive and cross-cutting (i.e., cross-instrument) approach. The benefits of such an approach — in terms of improved accountability, increased transparency and more disciplined decision making — have been reportedly achieved in the regulatory (e.g., regulatory analysis statements) and expenditure management areas of government.

Conference participants acknowledged that instrument choice as governance is more and more affected by international and global factors. Transnational information sharing among scientists, non-governmental organizations and public servants is generating alternatives to traditional instrument choices, challenging particular choices

at a faster rate and with greater effect, and increasing the range of instruments at our disposal (Harrison). The increasing complexity of legal obligations and regimes, and complexity arising from both regional and international sources influences how instruments should be chosen.

Indeed, it was suggested that Canada’s understanding of its own legal system has not yet adjusted to the changes in

global governance that are affecting the evolution of instrument design and implementation in this country. It was noted that these changes demand more policy coherence and integration between departments charged with crafting national and international policy for Canada (Toope).

### **Next Steps: Future Directions and Areas for Research**

This section is based on a synthesis presentation offered by Peters at the end of the conference, as well as critical insights offered by other speakers. All speakers emphasized the importance of a multi-disciplinary approach in this area, combining law, economics and political science. Not surprisingly, this acknowledgment of complexity means that “consumers” of academic work (e.g., government policy makers) must ask the right questions and avoid simplistic or formulaic approaches to instrument choice.

Central to this analysis is the notion that no single instrument is capable of responding to particular public issues and problems. The important role of values and ideas in instrument choices must be more transparent. In other words, instruments are not neutral, and they require legal, political and popular legitimacy. The question: “What is the best instrument for this problem?” is likely the wrong question. Peters proposed better questions.

- What is the appropriate mix of instruments for this problem in this context?
- How can instruments be combined?
- What are the unintended consequences?
- Why do some instruments not interact effectively?

Accepting the critical relationship between instrument choices and governance, there is basic research that must be pursued with respect to the appropriate governance mechanisms that should “regulate” the development and use of certain instruments, notably those that have no legislative base. As Friedman observed, “formal law is a substitute for informal norms and consensus.” However, these alternative forms of rule making generally lack the rigorous checks and balances found in law making.

The challenges and opportunities that globalization brings to public action generated comments from a number of participants at the conference. In particular, Webb, Ellis, Macdonald and Landry emphasized the importance of greater interaction between public representatives, communities and social groups in the design of strategic

economic policies, and the design of self-regulatory environments that allow for accountability and encourage respect for the law. Such interaction becomes central to the design of more flexible instruments in a globalized economy.

Future research should also be capable of addressing the following issues in a policy research context.

- Despite the fact that international law and international legal regimes are playing increasingly important roles, options for an “international law filter” that could assist policy makers in the systematic design and implementation of policy instruments have not been investigated.
- Since instrument choice debates tend to be heavily influenced by the “culture” of the particular level of government, research should be done in Canada on the interplay of federal, provincial and municipal instruments.
- While there is growing recognition that risk management in instrument choices must be tied to acceptable levels of compliance, those levels are rarely studied in relation to particular choices.
- Research is required into the appropriate boundary between the public and the private, especially with regards to the use of instruments, such as voluntary instruments, which have no clear standard or governance framework across the federal government.
- Much more work needs to be done on institutions as carriers of ideas, especially as to the role of non-majoritarian institutions, such as courts, bureaucracies and central

banks, and the relationship of these institutions to instrument choices.

- While the role of citizens in relation to public action is widely recognized as undergoing significant change, our understanding of the role of citizens in the design and implementation of policy instruments is limited at best.
- Quantitative and qualitative policy research is necessary on the impact of various instrument mixes, especially in combination with informational instruments.

## Notes

- 1 The full conference program can be found on the PRI's web site [www.policyresearch.gc.ca](http://www.policyresearch.gc.ca).
- 2 Trebilcock, Michael J. et al. (1982) *The Choice of Governing Instrument*, Ottawa: Economic Council of Canada.
- 3 The Law Commission of Canada was especially interested in the relationship between instrument choice and criminal law reform for its “What is a Crime?” project.
- 4 Throughout this report, in-text references refer to either papers presented, or comments made, at the conference by participants. Textual references are footnoted.
- 5 For example, see the following references.  
Howlett, Michael (1991) “Policy Instruments, Policy Styles, and Policy Implementation: National Approaches to Theories of Instrument Choice,” *Policy Studies Journal*, 19(2) (Spring): 1-21.  
Salamon, Lester M. and Odus V. Elliott (Eds.) (2002) *The Tools of Government: A Guide to the New Governance*, New York: Oxford University Press.
- 6 The validity of this perspective is not uncontroversial however. See, for example, Roderick A. Macdonald's “Book Review: The Tools of Government,” in this issue of *Horizons*.
- 7 See also Hood, Christopher C. (1983) *The Tools of Government*, London: Macmillan Press; and Salamon and Elliott (2002), *The Tools of Government*.

# New Paths to Justice: Instruments for Resolving Conflict

**Pearl Eliadis**  
Policy Research Initiative

*Alternative forms of conflict resolution are also being used to manage issues of public controversy and broader social conflicts. When traditional structures fail, governments create new institutions to help resolve conflicts.*

New and emerging instruments of governance have attracted a great deal of attention in recent years, and governments are especially interested in their potential to improve program effectiveness and reduce litigation. While instrument choice research has focussed on economic instruments, little has been done on “social” areas or regulation, such as access to justice (Prince, 1986; PRI, 2002). Even less has been written in Canada about conflict resolution from an instrument choice perspective. Do these instruments reduce litigation? How do parties and their representatives perceive them as alternatives to litigation? Can these instruments transcend traditional justice models and transform social relationships? What role, if any, should government have?

In November 2002, the Policy Research Initiative and the Law Commission of Canada organized a policy dialogue, *New Paths to Justice*, at the University of Ottawa to look at some of these issues in more depth. Sponsored by the Human Rights Research and Education Centre, the Dialogue brought together experts, including Julie Macfarlane of the University of Windsor and S. Glenn Sigurdson of the Morris J. Wosk Center for Dialogue. International speakers included Fatuma Ndangiza, Executive Secretary of the National Unity and Reconciliation Commission, Rwanda and Alex Boraine, President of the International Center for Transitional Justice and former Deputy Chairperson of the Truth and Reconciliation Commission in South Africa. This report reviews some of the main conclusions drawn from the policy dialogue.

## Background

The effectiveness and legitimacy of policies and programs depend in large measure on whether program enforcement and competing interests can be effectively managed. Clearly, litigation is a risky and expensive way to manage policy and resolve conflicts for both government and the public. Alternative dispute resolution strategies have attracted the attention of policy makers around the world since the 1970s. In the criminal law context, restorative justice programs reconcile victims and offenders and, in some cases, also extend to the broader community. On the civil side, there has been an explosion of arbitration, mediation and conciliation mechanisms. Some, like court-ordered mediation, are imposed by the state; others are voluntary instruments, such as the emerging practice of “collaborative lawyering.”

Alternative forms of conflict resolution are also being used to manage issues of public controversy and broader social conflicts. When traditional structures fail, governments create new institutions to help resolve conflicts. For example, the new Center for Transitional Justice in New York is working with 15 countries to create new institutions to achieve social reconciliation, because traditional legal vehicles (such as the courts) cannot. Traditional approaches are perceived as overly complex and unable to reconcile the parties in a meaningful way. They leave some victims powerless and emphasize guilt rather than individual responsibility toward community. As the work of the Law Commission emphasizes, a system of justice that can move beyond these obstacles has more potential to foster moral growth

and transform society by enabling wider participation in the process of justice (LCC, 1999).

### Procedural Instruments: Court-Ordered Mediation

A popular instrument for reducing litigation is mediation. Many forms of mediation are voluntary and, for some experts, voluntariness is a key feature of the process (Sigurdson, 2002). Court-ordered mediation, on the other hand, is a mandatory system of resolving disputes in a step that is attached to the pre-trial process. Studies of court-based mediation in civil cases show that almost three quarters of Ontario litigants whose cases settled under a pilot project were very satisfied with the process; half of litigants whose cases did not settle reported being satisfied. Over 70 percent of lawyers and 75 percent of parties believed their case would have settled at a higher cost if it had not been referred to this process. Sixty-two percent of lawyers said they would not have done better at trial than in mediation (Macfarlane, 1995).

In recent interviews, some lawyers have stated that mediation changed their strategy in the early stages of a case to one more focussed on a solution than on the technicalities of pre-trial procedure. Counsel is more likely to consider and analyze the point of view of the other side and identify obstacles to negotiation. A number of lawyers acknowledged that mediation requires new skills and that the general attitude required in approaching a case differs, because “you are there to settle” (Macfarlane, 2001).

Participation in decision making and some control over process enhance the sense that fair outcomes were reached.

Interestingly, positive outcomes seem to be based more on the capacity of the mediation process to draw out fair and principled settlements than on the likelihood that one party or the other will win (Macfarlane, 2001).

### Institutional Instruments

Transformative justice models can go beyond individual disputes to address broad social issues, repair the social fabric and increase social cohesion. By moving the centre of authority to communities, the theory is that societal relationships stand a better

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chance of being reconciled, even after traumatic events, such as gross violations of human rights. At the same time, however, victims often point out that reconciliation cannot be achieved unless those responsible for the violations are brought to justice.

Conflict resolution thus requires a balance between reconciliation and justice. This balance is achieved in different ways in different places. In Rwanda, the government created two separate institutions on parallel paths. The first is a community-based procedure called *gacaca*, which has begun to adjudicate cases of the 110,000 genocide suspects who have been incarcerated without trial since 1994. Lawyers are not permitted, and the system relies heavily on the expectation that perpetrators will

admit to their crimes in exchange for reduced sentences. The second institution is the National Unity and Reconciliation Commission (NURC), established to help traumatized communities live together. Its mandate is based on awareness and public education. It has no judicial function and its constituting legislation has no sunset clause.

South Africa chose a different course. A single commission, the Truth and Reconciliation Commission (TRC), was established with a fixed term to

elicit widespread participation in a transparent process of justice (mostly focussed on truth in exchange for amnesty), while supporting public awareness and reintegrating both victims and perpetrators into society. A Nuremberg model centred on individual responsibility was viewed as practically impossible. Bringing all the perpetrators to justice in South Africa would have resulted in an all-out civil war. In its place, the architects of the TRC favoured a model of transitional justice that was both reintegrative and transformative (Boraine, 2002).

Comparing the two models is difficult, because the contexts are so different and the *gacaca* has just begun its work. However, some observations can be made. The limited term of the TRC meant that its public education work ended once the mandate was up.

While most people are of the view that the objective of truth was achieved, the reconciliation of South Africans is in doubt (Boraine, 2002). In Rwanda, on the other hand, the separation of judicial from public awareness functions has meant that the NURC has avoided much of the negative publicity the TRC attracted, especially within the country, and many people feel the NURC has achieved credibility through early successes. In both cases, speakers pointed out that the establishment

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of separate institutional structures by the government served as positive instruments of change.

### Conclusion

Using principles of transformative justice, alternative dispute resolution modules can reach beyond the limits of traditional legal structures to reshape relationships and reconcile parties or even communities. In terms of procedural instruments, governments have an interest in examining instruments, such as mandatory mediation, to shift cases away from the courts. In pilot projects, parties have expressed relatively high satisfaction rates in the process, while recognizing that such structures operate in parallel with, and not in lieu of, litigation.

Sometimes, traditional legal structures simply cannot cope with the nature of the conflict at hand. In such cases, there is a growing wealth of information about new institutional instruments, such as commissions, that are established with a range of functions

to achieve social conciliation. These and other emerging instruments provide policy makers with options to complement the justice system and affect positive societal changes.

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A complete copy of the PRI's report on the policy dialogue, *New Paths to Justice*, is available at [www.policyresearch.gc.ca](http://www.policyresearch.gc.ca).

## Destination Canada

"A country like Canada has a choice of policy to change its future course. It can adopt an isolationist position in order to safeguard its cultural and racial homogeneity, and it can reduce the admission of immigrants with the optimism that the country can continue to grow in an information age even without population growth. Alternatively, it can embrace the opportunity of becoming a truly multicultural and multiracial nation, and with its enriched cultural and economic endowment, can become actively engaged in a globalized world. The short-term cost of making a mistake is probably negligible, but in the long run, Canada may have to pay a heavy price for its lack of foresight in not being able to recognize how immigration can continue to contribute to the building of an economically and culturally diverse Canada that is adaptable to the twenty-first century and beyond."

From Peter S. Li, *Destination Canada: Immigration Debates and Issues*, Toronto: Oxford University Press, 2003, p.183.

## Publication Notices, Spring 2003

### ISUMA is Discontinued

The PRI is realigning its activities and products in order to refocus more resources on emerging policy research priorities. We regret to announce that the August 2002 edition of ISUMA (on Sustainable Development) was the last issue of that publication. *Horizons* will become the principle vehicle to highlight work from federal government policy researchers, and from external experts, on issues that relate closely to the PRI horizontal research projects and activities. In addition to *Horizons*, PRI will continue to produce reports and proceedings from thematic conferences linked to its horizontal research projects. For instance, a report based on the conference of June 6-8, 2002 in Toronto on Genomics and *Public Policy*, and a collection of papers on Urban Aboriginal Issues should be available soon.

We would like to thank all those who helped develop and who supported ISUMA, and look forward to continued collaboration through other PRI dissemination vehicles.

### Inclusion for All: A Canadian Roadmap to Social Cohesion

Exploring social cohesion, *Inclusion for All* reflects a structured conversation among leading authorities from different sectors. The report is the result of a collaborative effort between the Department of Justice Canada, Canadian Heritage and the Policy Research Initiative. Available on the PRI website at [www.policyresearch.gc.ca](http://www.policyresearch.gc.ca).

### Trends Project Series

- **Aging and Demographic Change in Canadian Context**

Edited by David Cheal. The contributors to this volume question whether an aging society is necessarily either inferior or problematic compared with the recent past, and they warn that exaggerated concerns about population aging may be harmful to rational policy making. Available in English from University of Toronto Press, and in French from Les Presses de l'Université de Montréal.

- **Social Differentiation: Patterns and Processes**

Edited by Danielle Juteau. *Social Differentiation* examines the economic, political, and normatively defined relations that underlie the construction and differentiation of social categories. Available in English from University of Toronto Press, and in French from Les Presses de l'Université de Montréal.

- **Street Protests and Fantasy Parks: Globalization, Culture, and the State**

Edited by David R. Cameron and Janice Gross Stein. The collection of essays in the book examine a series of compelling case studies – the entertainment industry, citizenship, social activism, and wired communication – to assess the choices states have under conditions of globalization and their consequences for culture and society. Available in English from UBC Press, and in French from Les Presses de l'Université de Montréal

- **Capacity for Choice: Canada in a New North America**

Edited by George Hoberg. This collection of essays examines selective trends in Canada's relationship with the United States and their economic, cultural and political consequences for Canadian life. Available in English from University of Toronto Press, and in French from Les Presses de l'Université de Montréal.

### March 17–18, 2003

#### Greening the FTAA? Towards the Protection of Ecological Integrity in our Hemisphere

International Institute for Sustainable Development  
(Montréal)

Environmental Law McGill will host this international conference designed to highlight issues of environmental governance and sustainable development in the context of the Free Trade Area of the Americas (FTAA). For more information, please visit the IISD web site at [www.iisd.org](http://www.iisd.org)

### March 18, 2003

#### Religious Communities in Pluralistic Societies: “Clash of Civilizations” or Sources of Social Capital?

(Ottawa)

Organized by Metropolis in partnership with the Multiculturalism Program, this panel will provide policymakers with valuable insights into how religious or faith communities contribute to the overall stock of social capital in pluralistic societies, and will tackle head-on the perceived linkages between religious communities and terrorism

### March 21–24, 2003

#### Sixth National Metropolis Conference

(Edmonton)

The overall theme of this conference is “Immigration and Diversity: Research and Policy in an Era of Globalization.” In recognition of the International Day for the Elimination of Racial Discrimination, the conference will begin on March 21, 2003. For further information, contact Terri Frebrowski by email at [pcerii@ualberta.ca](mailto:pcerii@ualberta.ca).

### March 27–28, 2003

#### What Do We Know and Where Do We Go? Building a Social Inclusion Research Agenda

The Canadian Council on Social Development and  
Human Resources Development Canada

(Ottawa)

The conference will include a series of expert panels and seminars on social inclusion research in such areas as health, income and food security, visible minorities, children and youth, and housing. To receive further conference information, email Sarah Zraggen at [szraggen@thewillowgroup.com](mailto:szraggen@thewillowgroup.com).

### March 31, 2003

#### Social Cohesion Workshop “Housing & Social Cohesion”

Sponsored by the Canada Mortgage and Housing Corporation,  
Co-operatives Secretariat, and Indian and Northern Affairs Canada.

(Ottawa)

This three-part seminar looks at discrimination faced by certain groups as they try to access housing, focuses on some issues specific to Aboriginal communities, and presents some successful examples of housing co-operatives creating inclusive communities. Please confirm attendance with Norma Lewis by email at [lewisn@inac.gc.ca](mailto:lewisn@inac.gc.ca).

#### Career Achievement

Dr. Ivan P. Fellegi  
Chief Statistician of Canada  
Statistics Canada

#### Graduate Student Prize

Carole Beaudoin  
William Bonner  
P.J. Devereaux  
John Egan  
Sean Kidd  
Gregory Klages  
Rachel Laforest  
Stavroula Malla  
Nancy Meilleur  
Dayna Nadine Scott  
William Smale  
Shirley Thompson  
Christine Till  
Gina M. Vincent  
Andrew Welsh

#### Knowledge Broker

LivingWorks Education, Inc.  
Calgary, Alberta

#### Media

Andrew Duffy, Shelley Page,  
Glen McGregor  
“Drug Habits”  
The Ottawa Citizen

Paul Kennedy  
“Oceans Explorations: Learning  
from our Oceans”  
CBC Radio

#### Outstanding Research Contribution – Main Award

Mark Jaccard, Simon Fraser University  
John Nyboer, Energy and Materials  
Research Group, and  
Bryn Sadownik, Energy and Materials  
Research Group  
*The Cost of Climate Policy*

François Blais, Université Laval  
*Ending Poverty: A Basic Income For All  
Canadians.*

#### Outstanding Research Contribution – Theme Award for International Development

Ian Smillie and Lansana Gberie,  
Partnership Africa Canada  
*Human Security and the International  
Diamond Trade in Africa*