

# *Contract Governance and the Canadian Public Sector*

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*This essay examines the changing character of public sector work in the Canadian federal public service context. It is based on an empirical examination of various forms of contractual relations currently operative within the Canadian state and on a comparative approach of other western liberal state reform initiatives. We argue that contract governance is an ongoing process involving distinct interrelations between the public and private sectors. In this context, we identify various forms of contract governance and flexibility schemes that have been enfolded and refolded into the conventional structures of governance, and unfolded into a liminal space between the state and civil society through the establishment of nonstandard work and the creation of alternative service delivery programmes.*

In the current era of liberalism, many western states have retreated from the provision of public welfare through the management of a stable, merit-based labour force, instead choosing to concentrate on the provision of public services through various contractual relations that promote flexibility. This pattern of workforce governance has been termed “contract government” (Dominelli and Hoogvelt 1996) or “control by contract” (Marshall, Richardson, and Hopkins 1999). The shift from merit governance to contract government, or *contract governance* as we prefer to call it, is a shift that reflects changes in the way business is done and work is

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managed beyond the state. Rather than analysing “government” in terms of the state apparatus or state activities that are legitimated by parliament or laws, governance centres on the many programmes or strategies that seek to direct or shape the actions of others. Governance includes but is not limited to programmes conducted by the liberal state, for it can also involve the many voluntaristic ways we act upon ourselves (see also Cruikshank 1999; Rose 1996, 1999; Larner and Walters 2000). The state apparatus and the programmes conducted by the liberal state are elements in a variety of complex assemblages of liberal governance.

The shift toward consumerism, downsizing, and lean production means that more and more organizations, both within and beyond the liberal state, rely on contractual arrangements and increasingly flexible workforces to promote the efficiency and competitiveness deemed necessary in a global marketplace. The growth in contract governance and the corresponding demand for flexible working arrangements are indicative of the qualitative shift in the regulation of workforce relations (O’Connor and Ilcan 2004). When these patterns of change find their way into domains of the state, governments also become consumers, rather than producers, of services and expert knowledge provided by private industry. While we acknowledge these trends in liberal governance, current patterns of service delivery and workforce transformation are not simply a reflex of external changes. Rather than advancing a perspective forecasting the wholesale transition of federal government services to the private sector, we examine the processes of unfolding, enfolding, and refolding, as outlined by Dean (2002), that take place between the liberal state and civil society. In this context, we identify various forms of contract governance and increased flexibilities that have been enfolded and refolded into the structures of governance, and unfolded into a liminal space between the formal governmental domain and civil society through the creation of special agencies and alternative service delivery programmes. While Dean’s framework provides us with an understanding of the relations between the liberal state and civil society in terms of a series of “foldings,” our analysis contextualizes and applies his framework to the reform initiatives of the Canadian public sector. This analysis is also based on thirty field interviews conducted with Canadian federal public service employees who work within the formal and quasi-governmental domains of the federal government<sup>1</sup>

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1. As part of an ongoing research project, the first two authors interviewed knowledge-work professionals in the federal public service sector. Since this is a very difficult group to study, a chain-referral technique was used to trace various dimensions of knowledge work in this sector. This ascending methodology provided us with an expanding set of potential contacts and proved especially useful in identifying and studying the group dynamics of this transitory population. In accordance with ethical guidelines and to protect

and on a comparative approach of other western liberal state reform initiatives, most notably the U.K., Australia, New Zealand, and the U.S., to highlight the common rationalities and practices driving public sector restructuring in terms of liberal governance.

***LIBERALISM: INTERRELATIONS BETWEEN THE STATE  
AND CIVIL SOCIETY***

This paper examines liberalism and liberal governance, not simply as a normative philosophy or as an ideology but, as an assemblage of programmatic efforts aimed at managing social conduct (Rose and Miller 1992). These programmatic efforts consist of various rationalities and technologies, or theories and practices of rule. They are not undertaken merely for reasons of the state, but on behalf of something external to the state (Dean 2002: 40). Some researchers suggest that liberalism is often treated as a residual category and more attention needs to focus on the differences in the way liberalism is embodied in institutional design and social policy within various countries (O'Connor, Orloff, and Shaver 1999). In light of this concern, we understand liberalism not as representing a type of society or state apparatus but rather as a formula of rule that shapes and informs programmes and strategies of governance, making it possible to discern core elements of contemporary liberal governance that underpin the programmes and policies set out by western liberal states (Rose 1996). Although it is possible to identify defining theories and practices of liberal governance, the processes of public sector reform adopted by western liberal states and sub-sectors are heterogeneous and complex. The pace of public sector reform and the direction of change vary widely from country to country according to political, economic, legal, and institutional factors.

It is well documented that the programmes of public sector reforms launched in both the U.K. and New Zealand have been more comprehensive than in other western liberal states (Pollitt and Bouckaert 2000; Dell'Aringa 2001; Borins 2002). The dramatic restructuring of the public sector in each of these countries has been explained in terms of three interrelated factors: both countries experienced strong economic pressure to change, both had high-level political commitments to change, and both had a clear set of ideas implying radical solutions (Borins 2002). Although

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the confidence of our interviewees, we have made the transcribed interviews anonymous by removing all names and references to specific departments, agencies, programmes, and projects. In accordance with the national Tri-Council Statement on "Ethical Conduct for Research Involving Humans," this study received ethics clearance by the University of Windsor's research ethics board. The research herein has been supported by research funds from the Social Sciences and Humanities Research Council of Canada.

deeply held political and ideological commitments developed to a lesser degree in Canada (Aucoin 2002), intense economic pressure during the late 1980s and early 1990s significantly influenced the further development of liberal-based policies and programmes for public sector reform. Furthermore, and perhaps more importantly, the degree of decentralization in Canada's political and administrative systems is particularly unusual in comparison to other British Commonwealth nations. The political and administrative systems of Canada are governed constitutionally, dictating the separation of powers between the federal and provincial governments (Thompson 2001). Therefore, public sector reform in Canada is more incremental and anti-doctrinal than the reforms undertaken in both New Zealand and the U.K. The governments of the latter countries are characterized by centralized political systems and relatively unrestrained constitutional positions, thereby permitting the implementation of major reform initiatives despite parliamentary opposition or dissent from the populace (Pollitt and Bouckaert 2000).

As a theory and practice of rule, liberalism emphasizes a minimal state (Ericson, Barry, and Doyle 2000: 532–533) and yet constitutes forms of governance deemed to operate beyond the state (Rose and Miller 1992). In order to accomplish maximal governance with a minimal state, liberalism, rather than simply enacting state regulations and laws, “employs techniques and agencies located in civil society and thus must rely on knowledge of economic, social and other processes outside the formal sphere of the state” (Dean 2002: 42)—such as agencies of private governance that have grown in tandem with liberalism (Lippert and O'Connor 2003). For example, the Organization for Economic Co-operation and Development (OECD) plays a prominent role in identifying ways to restructure the public service in industrial and “developing” countries. Its liberal-based reform plans include the transfer of public organizations into private hands, the introduction of market-like mechanisms of governance into the provision of public services, the enfolding of private sector management practices aimed at increasing efficiency and effectiveness, and the devolution of administrative responsibilities to lower levels of the government (Dell'Aringa 2001). These plans are promoted by the IMF and the World Bank to stipulate the terms of financial assistance packages for “developing” countries.<sup>2</sup> Financial assistance from such international lenders has been made contingent on adopting privatization initiatives to reduce the size and role of the state and to increase competitiveness in several countries, such as Jamaica, Trinidad, and Tobago (Rose, Chaison, and de la Garza 2000).

2. See Ilcan and Phillips (2000, 2003) and Phillips and Ilcan (2003) for a critical analysis of the ways in which other international agencies have attempted to govern groups, populations, and economic activities in “developing” countries.

One of the central, and much researched, aspects of liberalism is its capacity to govern through freedom, that is, to create individuals who do not need to be governed by others, but will govern themselves (Rose 1996; Larner and Walters 2000). Another central, but under researched, aspect of liberalism is the way in which the state articulates with and implements programmes of liberal governance. Dean (2002) has developed an analysis which promises to bring about this articulation by examining the authoritarian dimensions of the limited sphere of the formal liberal state, brought about by different conceptions of what is exterior to it, i.e., civil society. Dean proposes a three-fold articulation (unfolding, enfolding, and refolding) of the relation between the liberal state and civil society. The first is the *unfolding* of the formal state into civil society and upon non-state agencies. State organizations establish linkages with the commercial, local, and voluntary bodies found in civil society. This involves making the agents and agencies of civil society more responsible and includes the downsizing/outsourcing of formal state activities and the creation of various semi-autonomous agencies to govern in civil society. The unfolding of the formal state domain into civil society helps to allay the liberal concern “that the state is doing too much governing” (Dean 2002: 42). To allay these concerns, the Canadian government first adopted a system of merit governance to separate the staffing of administrative, service delivery, policy and research functions from the already existing formal government, and later introduced equity measures to ensure the face of administrative governance resembled working populations within civil society. Recently, it has begun another phase of unfolding the administration of public life by engaging in various forms of internal and external contractual relations including the constitution of special agencies through processes of government devolution.

The second is the *enfolding* of the processes of civil society into the formal state domain. This involves the incorporation of values and modes of conduct found in civil society. Recent changes, such as the market-testing of government services, serve as a means of incorporating private sector best practices for governing public sector business and work, and have, in some venues, transformed the character or commitments of work relations through the adoption of post-panoptical (Bauman 2000: 11) models of contract governance. Under this regime, the market becomes the central disciplinary mechanism for governing the conduct of individuals within civil society by making, for example, their activities more responsive to both consumer demands and management needs. Many of the perceived rigidities associated with bureaucratic processes of the federal government have been sidestepped by the enfolding of contract governance. In many instances, bureaucratic processes are no longer conceived as the sole or primary mechanism for shaping disciplinary practices in the provision of

public services. The introduction of incentive structures based on systems of competitive tendering and internal markets, the devolution of managerial authority to the level of individual departmental agencies, and the development of performance-related pay are contemporary modes of liberal governance that work through market-based disciplinary practices in the provision of public services. In this regard, contractual relations have produced new modes of governance that aim to promote the development of certain human capacities, such as the capacity to be “autonomous” and self-regulating (Yeatman 1996).

The third is the *refolding* of values and conduct found in civil society, at least ideally, into the formal state domain. This involves replicating the values and expectations, such as conditions of obligation, characteristic of civil society and making these the basis for government programmes and interventions by the liberal state (Dean 2002: 39–40). In this regard, contract governance regimes seek to construct a new image for administering public life, one that complements the liberal image of civil society as relations of abstract individuals pursuing their own interest, coupled with various strategies of governance that operate at a distance and aim to make individuals and governmental agencies more responsible.

We suggest that these three folds are not necessarily sequential, nor do they imply an historical development of the relation between the liberal state and civil society. What is of concern is the specific articulations of these folds that can be said to occur at any historical juncture. For our purposes, these foldings of the liberal state and civil society provide a useful analytic to explain the changing character of work relations in the Canadian public sector.

### ***FROM MERIT GOVERNANCE TO CONTRACT GOVERNANCE***

Dating as far back as 1868, at a time when the Civil Service Act was passed in Canada, the liberal state implemented merit as a governing principle and practice in the provision of public services. Merit comprises a set of programmatic efforts, that is, theories and practices of rule, aimed at minimizing the role of nepotism in the administration of liberal welfare and at making systems of rights and entitlements more inclusive for marginalized populations. The Civil Service Act aimed to constitute a new civil service whose employment relations would mirror the values and conduct regulating civil societies’ mass production enterprises, communications, transportation, and wholesale trade and service industries (Carnoy, Castells and Benner 1997). The employment relationship that prevailed in Canada and elsewhere was characterized by full-time employment, for an indefinite period, for a single employer who was primarily responsible for

the conditions of employment. Normative stress on authority, order, predictability, and loyalty to the organization (Machado and Burns 1998: 365) formed part of the long-term commitments and strategies of engagement (Bauman 2000: 10) of new public sector management.

As part of this system of administering conduct, the Civil Service Act was designed to ensure the appropriate qualifications of candidates for positions in public departments by establishing classification schemes and criteria for promotion through the ranks without unduly expanding government (Adie and Thomas 1987). In effect, the Act instituted the first Civil Service Commission (CSC) that had the power of appointment and protection from undue influence. The majority of appointments were made through restriction of access protocols (Baumann 2002), that is, through open, competitive, job-related examinations. The principle of selection by merit as established by competitive examination allowed civil servant positions to be distributed by merit and not by favour. As such, market-based recruitment sought to minimize the political character of appointments in liberal states and to promote a careerist orientation to public service. This system established long-term commitments as the employment norm and absorbed the costs associated with ongoing training.

In light of “new management realities,” several commissions were appointed to analyse the organization and operation of the civil service. The Glassco Royal Commission on Government Organization (1962), in particular, identified problems with the operation of the merit system, especially the excessive number of controls that resulted in long delays in filling positions. In the name of efficiency, the Commission recommended that government departments be given wide financial authority, be held responsible for the management of resources at their disposal, and be authorized to recruit and select their own staff for those positions with salaries above a specific minimum amount per year (PSC 1972). The idea here was to have merit vary according to one’s position in the hierarchy and to “let managers manage,” a sentiment of liberal governance still espoused by the Commission (PSC 1998: 10) and one that promotes the autonomy and flexibility of managers with regard to public service staffing and budgets (Chodos and Sulzner 1995: 98). In 1967, the Canadian Parliament passed legislation incorporating several of the Glassco Commission recommendations and implemented the Public Service Employment Act (PSEA).

Merit governance coordinated the administration of social welfare programmes by managing the distribution of skill-based public service work through recruitment and promotion. But the effect was to produce a culture of merit that precluded the mobility of many groups within civil society from moving into the security of public service work. Since the 1970s, and under the banner of “representative bureaucracy” and “employment

equity representation,” numerous equity policies have been put in place with the aim of increasing the representation of certain marginalized groups to better reflect their employment distribution in the external labour market. The ideal of making the public service bureaucracy mirror the external labour market is another example of refolding civil society into the formal state domain. That all federally regulated employers, such as financial institutions and universities as well as those who contract with the government, are required to do the same, exemplifies the unfolding of the state into civil society. This also highlights the increasing responsibility placed on individuals in civil society to govern their own conduct in ways that align with the programmatic efforts of the liberal state.

While the new hybrid system of merit/equity aimed to promote the representational profile of previously under-represented groups, it also made staffing actions more cumbersome because of the many checks undertaken to eliminate barriers. The response from public service managers was that management needs were not being met and that a new system should be put in place to move human resources to demand areas (according to management protocols). A new section of the PSEA, section 34, now gives deputy heads the exclusive authority to deploy employees from one group and level in the public service to any other group or level by mutual agreement of the employee and the recruiting manager (Chodos and Sulzner 1995). This amendment signals the incorporation of what is termed “functional flexibility” (Zeytinoglu and Muteshi 2000: 140), that is, the ability of organizations to distribute employee competencies across a range of tasks.

The move to increase the flexibilities of organizational structures can be seen as a derivative of the lean production system established by Toyota in the auto industry as characterized by Womack, Jones, and Roos (1991). One characteristic of the Toyota system is the reliance on multi-skilled and “dynamic work teams” and the ability to assemble and move teams to high activity or problem areas. In a rough approximation of this system, a service sector in one government department is experimenting with a form of flexible administration that involves assembling temporary project work teams based on a “grid of employee expertise and interest.” The grid encompasses all employees in several directorates. When a project arises, a team is assembled by matching people with activities and interests. According to an area manager, the grid is utilized to manage major projects: “managers borrow some of my employees for a few months or for three days a week to work on a specific project that they need to finish or implement quickly.” The degree of mobility promoted by these temporary work teams requires a mode of governance to coordinate the activities and responsibilities of individuals and managers. The use of “project charters”

facilitates the coordination of employees from various functional areas of expertise within the organization. These charters are contracts that determine the project plan, the scope of the project, its members, deliverables, and the team leader responsible for the project. They enable functional flexibility by contracting experts from the department and assembling them into temporary groups on limited-term projects.

In another example of “contracting” for expertise within the federal government, we found several instances of permanent government employees who were temporarily contracted to work in other departments on limited-term projects through a Memorandum of Understanding. A Memorandum of Understanding is a contract for services between government departments. In these cases, the employee’s home department acts like a temporary employment agency by supplying professional expertise to government departments under contract. In line with private sector practices, temporary agencies enable governmental organizations to remake themselves into consumers who purchase temporary services rather than employers who hire permanent workers (Gonos 1997). While the enfold-ing of temporary agency “practices” into the formal governmental domain may signal a reversal of the long-standing practice of “growing” rather than “buying” expertise, these “temporary” workers are also permanent government employees. This hybrid status is said to entail certain advantages, such as cost efficiency. According to one employee, “My department works on cost recovery, so our fees are significantly lower than industry. . . . For the [contracting] department, it is more cost efficient to go to [my department] to get [my expertise].” The work of this employee, and other employees whom we interviewed, involves moving from one project to another, working in various work teams, in various departments.

The instances noted above illustrate some of the ways in which contract governance works. In some administrative domains, it is possible, under certain conditions, to contract-out work by means of project charters or “temping” by means of Memorandums of Understanding without going as far as tendering bids on the external market. These processes convey the ways in which normative practices, typically associated with market-based relations, have been enfolded, transformed, and refolded into the formal governmental domain without directly involving private industry. In the following section, we examine other deployments of contract governance in both formal and quasi-governmental domains.

### ***NONSTANDARD EMPLOYMENT AND ALTERNATIVE SERVICE DELIVERY***

Contract governance is part of a broad strategy to manage the risks of market uncertainty by maximizing organizational flexibilities. This strategy

for managing the risks associated with volatile and changing global markets has led to the increasing employment of nonstandard labour in an effort to achieve flexibilities (Zeytinoglu and Muteshi 2000) and to the rise of ideologies that view labour flexibilities as the precondition of economic success (Touraine 2001: 94). The management of risk through contracted, non-standard employment is primarily a programme for shifting risks and uncertainties to a newly constituted insecure working population and in so doing, to externalize the risks associated with changing market demands and unstable future funding levels (Sahin 2000; Peck and Theodore 1998; Allen and Henry 1997; Hoggett 1996). The general willingness to experiment with the terms and conditions of employment is an effort to regulate the risks and uncertainties inadvertently created by market-based governmental practices and global processes.

The shift to contract governance has led to a radical alteration in the “character” of work relations (Sennet 1998) and work commitments (Bauman 2000). The “strong-ties” (Granovetter 1973) or long-term standardized work “engagements” that characterized traditional relations of labour and capital have been disengaged (Bauman 2001) and replaced with weak ties and temporary work arrangements. What this means for work and employment relations is that standardized secure employment scenarios, premised on long term engagements between labour and management, are becoming increasingly tenuous as patterns increasingly deviate “from the tradition of lifelong full-time employment” (Ferrara, Hemerijck, and Rhodes 2001: 123).

Recent studies in the U.K. and Ireland found that the character of public sector employment has shifted away from a traditional, permanent, pensionable format (Morley, Gunnigle, and Haraty 1995: 49–56; Marshall, Richardson, and Hopkins 1999; Green, Krahn, and Sung 1993; Dominelli and Hoogvelt 1996). The U.K. public sector has tended to rely on non-standard workers in an effort to reduce the role of the state in service delivery, to improve the efficiency of service provision, to move to a less hierarchical form of organization that would allow greater private sector involvement in service delivery (Marshall, Richardson, and Hopkins 1999), and to promote flexibility in management. The use of temporary and contingent employment in the U.S. is less pervasive in the public sector than the private sector, most notably because of statutory prohibitions that forbid contracting-out services traditionally performed by government employees. Nevertheless, temporary appointments have been used by U.S. public sector authorities to keep individuals working for extended periods without the benefits and securities guaranteed to regular government employees (Brock 2001) through union agreements.

The trend toward contract governance developed during the late 1980s when private sector companies in North America and Europe followed a

pattern of workforce adjustment designed to cut costs and produce lean and efficient corporate enterprises. These cost cutting measures included practices such as downsizing the workforce. However, downsizing alone is limited. To redress the limits of these restructuring efforts and to compensate for shortfalls in service delivery, many private and public sector organizations have experimented extensively with strategies to increase flexibilities buttressed by a range of contract governance options such as outsourcing. These options are embedded in alternative service delivery (ASD) programmes that aim to improve the delivery of government services “to clients by sharing governance functions with individuals, community groups and other entities” (Ford and Zussman 1997: 6).

The programmes of ASD encompass a broad range of implementation methods for governing the delivery of public services. Such methods include collaborative contract arrangements or partnerships both within the federal government itself (i.e., between departmental units via MOUs and project charters) and between the federal government and other levels of government or the private sector. ASD programmes also involve the creation of special operating agencies and service agencies, and the use of market-driven mechanisms (i.e., performance-pay incentives, competitive tendering) in the delivery of programmes and services. The increasing shift to alternative forms of service delivery not only preserves the core policy and regulatory functions of the formal governmental domain but also real-locates the implementation and delivery of public programmes to the most appropriate service providers. The key objectives of ASD initiatives include improving service efficiency, increasing management flexibility and autonomy, and developing partnership arrangements between the formal liberal state and civil society in the design and delivery of public goods and services. These goals are not to be understood as separate or distinct from one another, but rather as indicative of the core elements of liberal governance that shape the theories and processes of public sector restructuring in western liberal states.

Outsourcing or “structural flexibility” (Chun 2001: 129) is an ASD option and pattern of management that complements other strategies for improving labour flexibilities, such as numerical flexibility, which is the ability to expand and contract the workforce, and functional flexibility, which entails enhancing the mobility of workers across operational tasks and is oriented towards internal labour markets (Smith 1994). Outsourcing has transformed many private and public sector organizations from producers of goods and services to consumers where the “responsibility for commissioning and purchasing services is separated from the responsibility for providing them” (Ahmed 1996: 81). These programmatic efforts also found their way into public sector initiatives in Canada during the

1990s. The transfer of activities and assets from the public to the private sector can take several forms. For example, the government may transfer responsibility for programme or service delivery to a private or not-for-profit organization and yet maintain policy, regulatory, and monitoring roles. One example of this initiative is Navigation Canada, a non-profit corporation owned by the users and employees of the air navigation system (Zussman 2002). Alternatively, the government may abandon and sell off a programme's assets, such as in the cases of Air Canada and Petro-Canada (Borins 2002; Thompson 2001). What is particularly striking is that between 1985 and 1995, the Canadian government privatized 24 corporations, including the "strategic repositioning" of Canada Post (White and Janzen 2000: 41), which resulted in transferring approximately 80 thousand employees to the private sector (Watters 1995: 51). Such liberal governance efforts characterize other public service sectors. A recent comparative study on public sector restructuring in western, industrialized countries found that the privatization of state-owned enterprises is most comprehensive in the U.K. and New Zealand (Borins 2002). For example, in 1990, Britain's Conservative government sold 47 state-owned enterprises, including British Petroleum, British Steel, and British Airways. These trends have led to the rapid unfolding of the responsibility for public security to private corporate entities that have spread into the spaces left in the wake of a receding state (Rigakos 1999: 383, 389).

### ***GOVERNING AT A DISTANCE***

While outsourcing service delivery to the private sector is inseparable from the trends of contract governance, this is only one form of governance structure in the repertoire of current liberal-state governments. The Canadian government is currently experimenting with other alternative, though related, governance structures. In addition to those previously mentioned (i.e., memoranda of understanding, project charters, and outsourcing), the current formal government has also "devolved" several special agencies to govern at a distance. Formed at the juncture of the liberal problematic of "too much governing," the necessity to respond to the demands for flexibility, and the need to manage the potential opportunism of contracted firms, the government has unfolded several key government services to special agencies.

The creation and establishment of semi-autonomous governmental agencies encompass two distinct types in the Canadian federal government: special operating agencies and service agencies. In Canada, eighteen special operating agencies (SOAs) exist (Zussman 2002) and employ almost five percent of the public service (Borins 2002: 12). These agencies fall along

a continuum between a line department and an arm's length agency; they are situated within a particular department, and hence are subject to public policy and accountability standards of the ministerial department, and, at the same time, are granted negotiated flexibilities, such as management flexibilities in allocating and reallocating departmental resources. Unlike executive agencies in Britain and minister-chief executive relations in New Zealand, the administrative heads of SOAs do not report directly to the minister but rather function under the administrative authority of a host departmental deputy (Zussman 2002).

The creation of (SOAs) in Canada is based on theoretical models and reform initiatives adopted by governments in several other countries, most notably New Zealand and the U.K. (Zussman 2002). The reform of New Zealand's core public sector involved dividing large departments into smaller units with specialized functions. The State Owned Enterprises Act (1986) sought to establish government-owned trading organizations as successful businesses along private sector lines (Pollitt and Bouckaert 2000), with managers exercising a broad degree of autonomy and flexibility in managing resources that is comparable to the private sector (Walsh, Harbridge, and Crawford 2001). The separation of policy-making functions from operational functions was further formalized through the State Sector Act (1988). Operating agencies became formally separate from the responsibilities of ministries (e.g., to provide policy advice to ministers) and chief executives became the managers of their own departmental staff and were given greater autonomy and flexibility over appointments, promotions, and dismissals (Borins 2002). Likewise, in the U.K., under the Next Steps programme (1988), the government created service-oriented "executive agencies" operating at arm's-length from departments with substantial managerial autonomy. Within ten years of the programme's establishment, more than 140 executive agencies had been created and employed nearly three quarters of the public service in Britain (Pollitt and Bouckaert 2000; Aucoin 2002).

In response to pressures to reduce expenditures and improve service efficiency, and in situations where the scope of service mandate is beyond the SOA model, service agencies have been created in the Canadian federal government. Examples of service agencies include the Canadian Food Inspection Agency (CFIA), the Canada Customs and Revenue Agency, and Parks Canada. Unlike SOAs, service agencies are established under legislation and, in turn, are granted statutory flexibilities. These flexibilities permit greater staffing authority, the right to enter into partnering arrangements with other levels of government or the private or third sectors, and the ability to retain revenue (Zussman 2002). Enhanced flexibilities in the area of staffing enable service agencies to move away from the "old public

service regime” based on the “order of merit” to a new flexible regime based on minimum standards within a candidate pool, and other criteria such as best fit with the organization, relocation costs, productiveness, and efficiency. In effect, service agencies are made responsible for the recruitment and marketing of the organization. From the new public management point of view, this allows the agency to separate itself from the cumbersome staffing regime of the PSEA and the brand of the public service:

Before we were linked with the public service. We had their application forms . . . you had to advertise through the Public Service Commission and had to make your advertising tied to public service work. They had to approve our ads and so on. . . . Now we have flexibility to go directly to [potential employees] and to advertise and recruit. . . . Now we can say we’re [Agency X], we’re not the public service. I think it’s given us a distinct image . . . where people see us as a separate entity, moving away from that stodgy [public service] image.

Having the status of a service agency allows agencies to unfold their own brand in the labour market; it allows the agency to separate itself, at least symbolically, from the image of public service and to market itself like a private sector firm.

The governance structures of both SOAs and service agencies have changed under the framework of ASD as they have enfolded both practices and personnel from beyond the liberal state. The most senior officials of service agencies, that is, those who form their “boards of management,” are recruited largely from the private sector and are comparable to the boards of directors in private corporations. Similarly, the creation of a Senior Executive Service in Australia, under the Public Service Reform Act (1984), aimed at making recruitment to senior public service appointments more open and competitive. Executive agencies in both the U.K. and New Zealand are headed by chief executives who are hired through a process of open competition and appointed on a fixed-term contract of up to five years. By 1997, approximately one third of executive agencies in the U.K. had chief executives hired from outside the civil service (Borins 2002). The appointment of private sector managers to high-profile positions in the public service reflects the enfolding of private sector best practices and personnel, through market-based mechanisms, into the provision of public services in many western liberal states. This is further exemplified by the increasing client-based and consumer-driven rationales that guide the activities and standards of management. In line with private sector best practice, boards of management are said to have a different management orientation, an orientation that is different from the public servant’s “mind set,” one that emphasizes efficiency in terms of clients and consumers, performance indicators, and business plans.

### MARKETING PUBLIC SERVICES

In several western, industrial countries, initiatives to raise the quality of public services have led to a wider scope of performance measurements, focussing more on results and outputs rather than on inputs and internal processes. In Canada, the 1994 Declaration of Service Quality and the 1995 Quality of Services Initiative specify particular accountability measures, such as the production of annual business plans, multi-year strategic plans, and yearly reports addressing predetermined performance standards (Zussman 2002). Under the U.K.'s Citizens's Charter (1991), departments and agencies are required to publish explicit service standards and results detailing whether those standards are being met. In the U.S., the Government Performance and Results Act (1993) effectively mandated performance indicators for every federal agency (Radin 1998). Over 4000 standards for 570 departments are now in place (Borins 2002). The attempts of various liberal-state governments to implement performance indicators in the delivery of public services reflect a mode of liberal governance steered by the logic of the market. The devolution of management and the increasing use of performance measures, market-testing, and competitive tendering in the governance of public service delivery introduce new techniques of political control, such as those of monitoring, audit, and regulation (Rose 1996; Isin 2000; Peck 2001).

Recent state policies in Britain and Australia require public service agencies to compete with private sector organizations for contracts in delivering government services and programmes. These policies and practices of compulsory competitive tendering, "best-value," and "market-testing" suggest that the "special agency" can be a transitional and short-lived organizational form. Once given the opportunity to act as independent agents, the activities of agencies can be "market-tested," that is, subject to the so-called "disciplining effects of competition" (Kleiman and Sahu 1999: 156). Under market-testing policies, quasi-government agencies, and even formal government departments, are forced to bid for the services they provide alongside private sector companies. The threat of substituting in-house production with that of outside agencies requires in-house providers to demonstrate strategies for increasing efficiency and disseminating "best practices" (Braddon and Foster 1996: 104–105).

In the Canadian context, market-testing of programmes and services is an option currently the subject of experimentation in conventional departmental structures. For example, one federal government department contracts out part of a government programme to a private sector partner firm, while the rest of the programme remains in-house, at least for the time being. One senior manager explains:

[Programme X] is done half internally by [departmental] employees and half externally by private agencies. We do that on purpose. Now our goal is to assess and evaluate who does what best and at the end of a couple years we're going to make a decision. We'll move all the business in-house, or we'll move it all out, or we'll go to a combination . . . there's a lot of options right now.

Turning liberal welfare agencies into "purchasers who can choose to buy services from a range of options available" (Rose 1993: 296) has the potential to transform agents of the formal government into powerful consumers. The implication of these decisions will be profound for the character of working relations within and outside the formal governmental domain. As this case illustrates, the business of providing government services could remain in-house, it could be contracted to a private firm, or be involved in some combination of in-house and outsourced delivery mechanism. Even if projects remain in-house, the form of governance that will manage them will be contractual. The option of delivering services through service agreements is an alternative form of contractual relations within the variety of contract governance mechanisms currently available within liberal governance.

The increasing reliance on contract governance and the use of market-like mechanisms in public service provision necessitates an assessment of accountability. It has been claimed that "good contracting arrangements stimulate beneficial changes including clarification of purpose, role clarification, task specification, reliable reporting of information, and freedom to manage" (Matheson 1997: 164). From this standpoint, the public service is considered to be more responsive to citizens and clients of governmental programmes, and much more cost efficient under conditions where accountability is increased through publicly available government business plans and by a management style that is market-based and results-driven. However, such a market-based management style is risky because of the potential for opportunism and reductions in the quality of public services offered. Following Tupper (2001), this explains why the public service can be viewed as understaffed, operating under questionable management principles, and, in turn, incompetent of developing and implementing effective public policy.

### ***CONCLUSION***

Although the provision of public services is undergoing profound changes in Canada, it would be misleading to assume that the formal governmental domain has abandoned direct responsibility for traditional activities, such as health care, social assistance, and public education. Apart from the traditional activities of the Canadian state, it would seem that it

has become an option, even desirable, to have Canadian government departments act as oversight agencies whose primary task will be to mediate the relations between a receding formal governmental domain and short-term contract service providers. These contract service providers can even be gleaned from other government departments. There is a range of possible and documented alternatives to deliver government services, but most, if not all, fall under the rubric of contract governance. Although contract governance has been claimed to have the potential to ease fiscal strain and to increase organizational competitiveness and efficiency, it raises new problems for workforce governance. In particular, the functions of the formal government are transformed from implementing policies and services to managing and auditing multiple contracts of relatively autonomous entities. With the increasing emphasis on performance and flexibility, contract governance also challenges the integral characteristics of organizational networks, specifically innovation and new learning and interaction processes. Long-term contractual relationships between the formal governmental domain and semi-autonomous or private agencies are characterized not by trust, but rather by strict control and contract enforcement. By separating policy formation from policy implementation, a variety of formal governments gain considerable control over the content of the contract and are able to establish more rules and incentives for compliance.

In several western liberal state reform initiatives, the deployment of contract governance as an option for delivering services is a function of the unfolding, enfolding, and refolding of normative practices between the formal apparatus of the state and civil society. In the Canadian context, merit governance promotes a professional, permanent workforce that mirrors the composition of specialist workforces beyond the state. It is bound to the mundane work of managing bureaucratic processes. Contract governance, on the other hand, emphasizes the development and deployment of flexible, short-term work teams and is closely associated with the management of fixed-duration projects. It lends itself to the unfolding of public service work through the formation of special agencies, market-testing, and perhaps the eventual outsourcing of public service work beyond the formal governmental domain. For now, it is clear that both governance regimes coexist within government departments, and even within specific programme areas. What is also clear is that a reliance on ASD options promotes the development of nonstandard, flexible working relations that are different in kind from the relations established under the merit model of governance. In its various guises—as project charters, memorandums of understanding, service agreements with internal or external service providers, or special agencies—contract governance is an alarming trend in the work of doing public sector work, a trend brought about through the folding of liberal governance.

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## **RÉSUMÉ**

### **La gestion des contrats gouvernementaux et le secteur public canadien**

L'époque actuelle marquée par le libéralisme a vu beaucoup de pays occidentaux retirer leur offre d'aide sociale en recourant à la gestion d'une main-d'œuvre stable et fondée sur le mérite, pour la remplacer par une offre de services publics faisant appel à diverses relations contractuelles favorisant la flexibilité. À la lumière de ces changements, cet essai aborde la régulation des contrats dans le secteur de la fonction publique du Canada en particulier et dans d'autres secteurs publics libéraux de l'Occident en général. Il examine comment le travail a été transformé par la gestion gouvernementale des contrats, c'est-à-dire par des aménagements contractuels qui visent à gérer les risques de l'incertitude du marché en optimisant la flexibilité organisationnelle. Nous illustrons la manière dont la gestion des contrats entretient une frontière commune avec la déstandardisation du travail, le développement d'une main-d'œuvre flexible, les aménagements de sous-traitance et la décentralisation des ministères au sein du secteur public canadien et à l'extérieur de ce dernier.

Notre analyse s'appuie sur trente entrevues sur le terrain effectuées avec les fonctionnaires du service public au niveau fédéral, ces derniers travaillant à l'intérieur du domaine formel ou quasi-gouvernemental du gouvernement fédéral. Dans notre étude, nous nous inspirons d'autres initiatives de réforme étatique du monde occidental et libéral, plus particulièrement de celles du Royaume-Uni, de l'Australie, de la Nouvelle-Zélande et des États-Unis, en les utilisant comme points de comparaison pour mettre en évidence les raisonnements et les pratiques influençant la restructuration du secteur public et les rapports avec la force de travail.

Au lieu de considérer le libéralisme simplement comme une philosophie normative ou une idéologie et en retenant les travaux de Rose et Miller (1992), nous le percevons avec la gouverne libérale comme un amalgame d'efforts programmés visant à encadrer la conduite sociale. Ces efforts programmés se présentent sous forme de rationalités, de technologies ou de théories et de pratiques qui ont force de règle. Ils ne sont pas entrepris simplement pour des raisons d'État, mais au nom de quelque chose qui est extérieur à l'État (Dean 2002). Des chercheurs insinuent que le libéralisme est souvent considéré comme une catégorie résiduelle et qu'il faut accorder plus d'attention aux différences dans la façon dont le libéralisme est intégré à la structure institutionnelle et à la politique sociale de divers pays. Dans la même foulée, nous envisageons le libéralisme non pas comme la représentation d'un type de société ou d'un appareil étatique,

mais plutôt comme un mode de gouvernance qui façonne et informe les programmes et les stratégies des gouvernements, de façon qu'on puisse reconnaître les éléments clef de la gouvernance libérale contemporaine qui sous-tend les politiques et les programmes mis de l'avant par les états libéraux de l'Occident (Rose 1996). Bien qu'il soit possible d'identifier les théories et les pratiques déterminantes de la gouvernance libérale, les processus de réforme du secteur public retenus par les états libéraux occidentaux et leurs composantes demeurent complexes et hétérogènes. Le rythme de la réforme du secteur public et la direction du changement varient largement d'un pays à un autre selon des facteurs d'ordre politique, économique, légal et institutionnel.

Comme une conséquence de la compréhension libérale du gouvernement comme une sphère circonscrite, nous laissons entendre que l'État opère par des modes de régulation qui se trouvent à l'extérieur de sa sphère et par des modes de régulation qui ont cours au sein de la société civile. Dans ce contexte, nous reconnaissons différents modes d'administration des contrats et une présence de flexibilité accrue, qui ont été intégrés aux structures de la gouvernance publique et qui ont été redéployés dans un espace restreint entre la sphère gouvernementale formelle et la société civile par le biais de l'élaboration d'aménagements non habituels du travail et par des programmes alternatifs de fourniture de services. Nous soutenons que le glissement vers la consommation de masse, la réduction de la taille de l'État et la production allégée se traduisent par de plus en plus d'organisations, tant à l'intérieur qu'à l'extérieur de l'État libéral, qui font appel à des arrangements contractuels et à des types de main-d'œuvre de plus en plus flexibles, cela afin d'accroître l'efficacité et la capacité concurrentielle jugées nécessaires dans un contexte de mondialisation des marchés.

Par le moyen d'une analyse des changements récents apportés aux secteurs publics canadien et à d'autres de l'hémisphère occidental libéral, nous montrons la façon dont la gouvernance des contrats fait partie d'une immense stratégie visant à réduire les incertitudes du marché et à maximiser la flexibilité des organisations. Cette stratégie de gestion des risques, inhérente aux marchés mondiaux volatiles et changeants, a amené le recours à une main-d'œuvre atypique dans un effort d'atteindre la flexibilité (Zeytinoglu et Muteshi 2000) et elle a entraîné une montée des idéologies qui considèrent la flexibilité de la main-d'œuvre comme un préalable à la réussite économique (Touraine 2001 : 94). La gestion du risque par le moyen d'une main-d'œuvre atypique et contractuelle constitue avant tout un programme visant à déplacer les risques et les incertitudes vers une population active récemment constituée et insécure. En ce faisant, le programme cherche à externaliser les risques associés aux demandes

changeantes du marché et aux niveaux de financement futurs et instables (Sahin 2000 ; Peck et Theodore 1998 ; Allen et Henry 1997 ; Hoggett 1996). La volonté générale d'expérimenter ces conditions d'emploi apparaît comme un effort en vue de réguler les risques et les incertitudes engendrés par des pratiques d'administration publique qui s'appuient sur le marché et des processus globaux. Les tentatives par divers gouvernements libéraux de mettre en œuvre des indicateurs de performance dans les services publics traduisent un mode de gouvernance libérale s'inspirant de la logique du marché. La délégation de la gestion et le recours grandissant à des mesures de rendement, au test de marché et à l'offre concurrentielle dans la gouverne de la fourniture des services publics amènent de nouvelles techniques de contrôle politique, tels que celles du « monitoring », de la vérification et de la régulation. Dans l'ensemble, nous soutenons que l'administration de contrats – dans leurs diverses manifestations comme des chartes de projet, des mémoires d'entente, des accords de service avec des fournisseurs internes ou externes, des commissions spéciales – constitue une tendance alarmante dans la façon de fournir un service public, une tendance qui a été alimentée par le repliement de la gouvernance libérale.

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