

OVERPROMISING AND UNDERPERFORMING?

Understanding and Evaluating New Intergovernmental Accountability Regimes

Public reporting has been used experimentally in federal-provincial relations since the mid-1990s as an accountability mechanism to promote policy effectiveness, intergovernmental cooperation, and democratic legitimacy. Our understanding of how well it is working, however, remains limited to very specific policy sectors – even though this information is essential to policymakers in Canada and beyond. *Overpromising and Underperforming?* offers a deeper analysis of the use of new accountability mechanisms, paying particular attention to areas in which federal spending power is used.

This is the first volume to specifically analyse the accountability features of Canadian intergovernmental agreements and to do so systematically across policy sectors. Drawing on the experiences of other federal systems and multilevel governance structures, the contributors investigate how public reporting has been used in various policy fields and the impact it has had on policymaking and intergovernmental relations.

PETER GRAEFE is an associate professor in the Department of Political Science at McMaster University.

JULIE M. SIMMONS is an assistant professor in the Department of Political Science at the University of Guelph.

LINDA A. WHITE is an associate professor in the Department of Political Science and the School of Public Policy and Governance at the University of Toronto.



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Understanding and Evaluating New Intergovernmental Accountability Regimes

EDITED BY PETER GRAEFE,
JULIE M. SIMMONS,
AND LINDA A. WHITE



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Foreword

We live in the age of accountability: Never before have demands for detailed reports of government and business policy and actions been so often articulated. It must be recognized that states in most parts of the world have made giant strides over the past few decades in revealing what they are doing and how they are spending money. Those demands have led, in this country, to easily accessed records of who prime ministers, premiers and mayors, and most senior executives meet so that lobbyists can be tracked. Their expense accounts for travel and hospitality are made easily accessible on a quarterly basis. The freedom of information acts are invoked every day to access details on internal communications. Parliament has equipped itself with a wide variety of agents who inspect myriad aspects of the work of government, ranging from its financial accounts to how well it protects the individual privacy of citizens. Governments have adopted new processes to allow employees to 'blow the whistle' and report wrongdoing without fearing that this gesture will impair their careers, but that gesture has not been very effective. The media, hungry for revelations about errors in government, continue to be the addresses for plain brown envelopes filled with convincing evidence of malfeasance. The Internet, no less, has become a forum to reveal secret documents. Transparency International has created an index on how accountable governments are, and as I write this, Canada ranks tenth in the world. This is a good result, but not a great one. Governments still appear opaque in some areas. In sum, it is impossible not to recognize that, either through its actions or through those of others, the state in Canada is more accountable than ever.

And yet students of government can still claim that governments in this country are not kept sufficiently accountable for their actions. Their cry is a modern echo of those who protested the Quebec Act of 1774, or of those who complained two hundred years ago that the government structures created in 1791 were not compatible with emerging ideas of democracy and that only governments that were 'responsible,' or accountable, could be legitimate. They have a kinship with the fathers of confederation and with every brand of reformist that has helped shape the modern state.

Accountability is indeed the holy grail of democratic government, and it can never be too perfect. Canada has gone further in experimenting with methods and institutions that should help governments account to each other and to their citizens on how monies transferred from one order to the other are actually spent. This book does pioneer work in exploring the nature of these mechanisms and in exploring the degrees to which these new instruments of accountability actually work.

What makes this book so interesting for me is that it stands at the intersections of the processes that make Canadian governance complex. It tracks the problems of accountability, particularly the ability of governments to compel other jurisdictions to provide the 'full story' of how they spent the funds entrusted to them. The sovereignty of provinces in areas of exclusive jurisdiction has made it practically impossible for the federal government to coerce the subnational order to provide a full accounting. Federalism, indeed, is critical to this Gordian knot, and this book sheds a new light on the practices that have been adopted, abandoned, and piloted to make governments more accountable. The story of the New Public Management is also perceived in these stories: the notion that government works best by pushing administration 'down and out,' or to the levels closest to the population, decentralized as it may be. The final frontier is public reporting: the notion that governments can be held accountable by means of the new Internet technologies now made available to Canadians.

There is bold thinking, and even bolder dreaming, in the idea that information made available to the public will compel governments to spend money where it was committed. It assumes a great deal in the idea that Canadians will find benefit in this new data 'dashboard.' That quasi Athenian optimism may one day be reached, but more realistically, it launches a challenge to those who have the time, expertise, and ability to respond to these reports and thus keep governments

accountable on how they use scarce resources. Among 'those,' I join the editors and contributors of this fine book in the hope that the person reading these words will also dedicate time and effort to keeping governments accountable.

Patrice Dutil
Ryerson University
Editor, IPAC Series in Public Management
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Acknowledgments

The idea for this project arose – as many good ideas do – from a panel at the Canadian Political Science Association annual meeting in Vancouver in June 2008. Several of the contributors to this volume presented papers on the success or failure of intergovernmental accountability agreements in specific policy areas. It seemed worthwhile to bring scholars working on these issues together to discuss them more expansively and to see whether the experience with public reporting in particular was similar across all policy areas where it was being utilized. Thanks to the generous support of the Social Sciences and Humanities Research Council of Canada (SSHRC) Workshop Grant program, and the Institute of Public Administration of Canada's Study Team program, we assembled a fabulous group of scholars and practitioners to present and discuss their work at the School of Public Policy and Governance at the University of Toronto. This included the contributors whose work appear in this volume, as well as Matthew Mendelsohn, director of the Mowat Centre for Policy Innovation, School of Public Policy and Governance, University of Toronto; and Reto Steiner, an assistant professor at the Center of Competence for Public Management, University of Bern, and member of the Upper House of the Swiss Parliament for the canton of Bern.

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Peter Graefe
Julie M. Simmons
Linda A. White

Glossary of Acronyms

AG	auditor general
AMO	Association of Municipalities Ontario
ATA	Alberta Teachers' Association
AYP	adequate yearly progress
BCP	Building Canada Plan
CAP	Canada Assistance Plan
CCAAC	Child Care Advocacy Association of Canada
CCAF-FCVI	Canadian Comprehensive Auditing Foundation / La Fondation canadienne pour la vérification intégrée
CCTB	Canada Child Tax Benefit
CEA	Canadian Education Association
CESC	Canadian Education Statistics Council
CETA	Comprehensive Economic and Trade Agreement
CHA	Canada Health Act
CHST	Canada Health and Social Transfer
CIHI	Canadian Institute for Health Information
CMEC	Council of Ministers of Education, Canada
CST	Canada Social Transfer
CTB	Child Tax Benefit
CUPE	Canadian Union of Public Employees
DEA	Dominion Education Association
DFAIT	Department of Foreign Affairs and International Trade
DG	Directorate General
EAPD	Employability Agreement for Persons with Disabilities
ECD	early childhood development
ECDA	Early Childhood Development Agreement
ECDLC	Early Childhood Development, Learning & Care

EES	European Employment Strategy
EI	Employment Insurance
ELCC	Early Learning and Child Care
EMCO	Employment Committee
ESEA	Elementary and Secondary Education Act
EU	European Union
FCM	Federation of Canadian Municipalities
FMC	First Ministers' Conference
FPT	Federal-Provincial-Territorial
GATT	General Agreement on Tariffs and Trade
GDP	gross domestic product
GST	Goods and Services Tax
HELP	Human Early Learning Partnership
HRDC	Human Resources Development Canada
HRSDC	Human Resources and Skills Development Canada
IASA	Improving America's Schools Act
IMF	International Monetary Fund
IO	international organizations
LMA	Labour Market Agreement
LMAPD	Labour Market Agreement for Persons with Disabilities
LMDA	Labour Market Development Agreement
MAMROT	Ministry of Municipal Affairs, Regions and Land Occupancy
MTC	Making the Connections project
NA	National Assembly
NAFTA	North American Free Trade Agreement
NAP	National Action Plan(s)
NCB	National Child Benefit
NCLB	No Child Left Behind Act
NDP	New Democratic Party
NPM	New Public Management
OAG	Office of the Auditor General
OECD	Organization for Economic Cooperation and Development
OMC	Open Method of Coordination
OMN	Omnibus Agreement
PCAP	Pan-Canadian Assessment Program
PIRC	Performance Indicator Reporting Committee
PISA	Programme for International Student Assessment
PSAB	Public Sector Accounting Board

PT	provincial-territorial
QUAD	quality, universal, affordable, developmental
SAIP	Student Achievement Indicators Program
SOFIL	Société de financement des infrastructures locales du Québec
SUFA	Social Union Framework Agreement
TBS	Treasury Board Secretariat
TIOW	Targeted Initiative for Older Worker
UNESCO	United Nations Educational, Scientific and Cultural Organization
VRDP	Vocational Rehabilitation of Disabled Persons
WIS	Working Income Supplement
WTO	World Trade Organization

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PART ONE

Establishing Benchmarks

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1 Introduction:

Accountability and Governance

PETER GRAEFE, JULIE M. SIMMONS,
AND LINDA A. WHITE

The headline in the *Globe and Mail* could not have been more devastating: ‘Funds for Medical Machines Buys Lawn Tractors’ (Priest 2002). According to this and other newspaper reports, a portion of the New Brunswick government’s \$24.5 million share of monies that the federal government earmarked in the early 2000s for hospital diagnostic equipment was spent on a number of equipment purchases that fell outside of the ‘medical equipment’ category, such as lawnmowers and floor scrubbers. Although the New Brunswick government defended the hospital purchases as necessary for the operation of hospitals in the province, in the media stories that followed, many observers – including the head of the Commission on the Future of Health Care in Canada, Roy Romanow – stated categorically that provincial governments should account strictly for how they spend federal transfers for health care (Laghi 2002). And, in fact, the federal and provincial governments agreed in 2004 to more performance reporting on health-care spending (see Patrick Fafard’s chapter 2 in this volume). But eight years later, the auditor general would publicly complain that the lack of monitoring of how provinces spent \$25.4 billion in federal health transfers meant ‘we don’t know if we’re getting good value for money,’ leading the Canadian Medical Association president to demand that ‘improving accountability should be a precondition for future cash transfers’ (Picard 2010).

Much further from the media spotlight, and more recently, a citizens organization in Hamilton used the planning and reporting requirements of the federal Gas Tax Fund to point out that funds that were initially intended to support ‘environmentally sustainable municipal infrastructure projects’ had, in the case of Hamilton, largely been spent on roads. While the existence of public reports allowed citizens to question city

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priorities, the lack of clear, binding, and detailed federal program requirements led a local councillor to argue that the program had evolved into 'basically whatever you want' (Citizens at City Hall 2010). Where could citizens who supported the announced goals of the program turn for accountability? They could hold their elected officials to account in future elections, but was the fault mostly that of road-crazy local councillors, or of federal and provincial parliamentarians who had agreed that funds for environmental sustainability could be used for 'whatever you want'?

Public reporting as a means to hold provincial governments to account for federal transfer spending has become increasingly popular since the late 1990s, and commitments to public reporting have been made in a number of federal-provincial-territorial agreements covering a vast swath of policy areas. Yet, after over a decade of experimentation with this new form of accountability in Canadian federal-provincial relations, little sustained scholarly reflection on that experience has emerged. We do not understand how – and indeed if – these accountability mechanisms are working to promote policy effectiveness or whether they provide adequate benchmarks to ensure that tax dollars are spent in the most efficient manner. Similarly, how these accountability arrangements affect intergovernmental relations has not been assessed: do they make for more cooperative or conflict-ridden encounters? Finally, do these arrangements affect the public's involvement in and awareness of the policy process?

This edited volume fills this scholarly lacuna and contributes to a greater understanding of the use of accountability mechanisms within federal systems. These accountability questions are especially crucial to scholars of federalism. In federal systems, an important aspect of public administration involves the planning and delivery of policies across orders of government. When one order of government is funding a program and another is delivering it, or when decisions taken by one order of government affect the legal authority of another order, accountability concerns suggest the need to develop institutions and practices to ensure that governments coordinate their efforts, fulfil their substantive obligations, and account for their expenditures – or, in the absence of a will to coordinate, to disentangle their efforts. Scholars must also look beyond institutional mechanisms to consider the effects of accountability measures and processes on proximate issues, such as policymaking processes in general, decision-making transparency, and the public's right to know. Finally, all institutional mechanisms demand normative

reflection, as they are bound to serve certain conceptions of the political good rather than others. Beyond their effectiveness in policymaking and beyond their legitimacy with stakeholders and the broader public, they privilege particular mixes of democracy and federalism. Therefore, there is a need to consider how the institutions and practices crafted to manage questions of administration relate to broader values.

It is from this vantage point that we seek to understand the public policy agreements since 1996. Following the 1995 budget and its significant cuts to federal cash transfers to provinces for health, education, and social services, the form of federal-provincial agreements changed. While some academic observers portrayed the 1995 budget as the end of 'social Canada,' by 1996–8 the federal government was concluding agreements with the provinces for social policy renewal initiatives in child benefits, labour market policy, and policies for persons with disabilities. Nevertheless, these new agreements differed from older ones in how they approached the issue of accountability. Whereas earlier policy agreements required direct provincial reporting to the federal government on the use of federal money and made the federal contribution conditional on fulfilling specified program commitments, the post-1995 agreements were more open-ended and less binding. They involved provinces in developing annual plans and annual reports to be distributed to the public, but the reporting relationship was explicitly not from one order of government to another.

The new accountability regime is therefore quite different from traditional hierarchical accountability arrangements and does not rely on government-to-government relationships so much as the government-citizen relationship and, by extension, the ability of citizens to hold governments to account at the ballot box. Having such a reporting relationship was important, given that, at the time, the extent to which provincial governments could or should be accountable to the federal government came under question. Over a decade later, however, there has been little sustained evaluation of this regime, either of how it has been implemented into policy agreements in different social policy sectors, or how it has worked in practice.

This lack of evaluation may stem in part from the 'high politics' focus of much work on Canadian federalism, and the interest in actors' performance (that is, 'whose ox got gored') in any given agreement (for example, did the provinces or the federal government get the upper hand in the 1999 Social Union Framework Agreement (SUFA) or the 2004 Health Accord?). But even where more policy-driven scholars have

delved into the nitty-gritty of this new accountability regime as part of their study of specific issue areas, there has been little comparative analysis in Canada of how it is similar or different across issue areas or across time. For instance, while a preliminary survey of various social policy areas notes the emergence of this regime in all of them (Graefe 2006), it does not systematically disentangle generic features from the specific features of particular policy areas. Similarly, while studies of particular policies, such as Friendly and White's (2008) analysis of child care, demonstrate significant changes in the conduct and form of intergovernmental relations since the mid-1990s, they lack the comparative scope to determine whether those changes apply across policy areas in Canada. Instead, the scholarly literature in Canada addresses a number of disparate questions: How effective have the new reporting measures been in ensuring accountability (Anderson and Findlay 2007; Kershaw 2006)? Have the new reporting measures spurred learning and the sharing of best practices (Graefe and Levesque 2006; Saint-Martin 2004)? Have the new reporting measures allowed the federal government to shape provincial policy choices (Boismenu and Graefe 2004; Day and Brodsky 2007)? Is the new accountability regime consistent with normative principles of democratic accountability (B. Cameron 2007) or federalism (Boismenu 2006; Noël 2003)?

This volume seeks to bring together many of those who have been working in this area around a common set of questions and concerns. While the particular factors that led to this new form of accountability are unique to Canada, the need for intergovernmental cooperation and intergovernmental accountability are not unique. This volume's first objective, therefore, is to explore these questions through comparative reflection within Canada by leading scholars on accountability and governance across a number of policy areas, and through reflection by scholars of accountability regimes in other federal and multi-level political systems – the United States and the European Union. The chapters in this volume examine variation in the use of intergovernmental accountability mechanisms, drawing on the experiences across a number of policy sectors both within Canada and abroad. Contributors to this volume evaluate these accountability mechanisms using empirical and normative criteria such as effectiveness, intergovernmental cooperation, policy learning, and democratic legitimacy. A number of contributors also reflect on alternative accountability arrangements, such as benchmarking and the use of the Office of the Auditor General (OAG) and other accounting officers.

In mapping all the areas and perspectives together, the volume reveals the broader processes of constructing accountability regimes and clarifies which elements are common across the policy fields and jurisdictions and which ones remain idiosyncratic. It also addresses the question of whether there is a temporal dynamic. In other words, is there evidence that the forms of accountability and reporting are changing, and is there evidence that some of the initial differences between policy fields are narrowing as experience with the new regime favours the development of some generic approaches?

A second objective of this volume is to consider the proximate effects of this accountability regime at the federal-provincial interface along two policy-related dimensions. The new mechanisms arise out of federal-provincial negotiations, but they in turn shape the conduct of policymaking, and their impact here needs to be more fully elucidated, now that they have been in place for some time. Part of the promise of reporting as a form of accountability was that it might enable the sharing of information and best practices, and thus allow for enhanced policy-learning between jurisdictions (Saint Martin 2004). Another purported benefit was that reporting to the public would empower citizens to demand high-quality programs that delivered results (for a discussion, see Phillips 2003). After over a decade of experimenting with such mechanisms, this volume asks if there are lessons to be learned across policy areas on the ability of these new mechanisms to promote inter-provincial bureaucratic policy learning, or to empower citizens in policymaking. Have any lessons been learned to improve mechanisms of learning and participation? In other words, how have these agreements performed and how effective have they been?

Beyond trying to map these agreements and assess their proximate effects, the third objective of this volume is to encourage normative reflection about how this new regime lines up with principles of federalism and democracy. Examining the linkage of the new institutional mechanisms and their proximate effects with larger values and principles opens space for a dialogue about how these mechanisms could be reinforced to better realize certain values, or configured differently in order to satisfy a different set of principles.

While the scope of this volume is large, it does not encompass all policy sectors. Attention in this volume is placed particularly on government programs where the federal government transfers money to provincial governments to fund programs and services, in return for provincial commitments to report to the public on both how they

disposed of the funds and with what results. The choice to look at these agreements means the volume analyses those areas of intergovernmental relations where the spending power looms large, including health care, child care, children's benefits, education, labour market training, and infrastructure funding, and not more regulatory areas such as the environment or the financial sector. Similarly, a volume of this size cannot engage in comparative analysis of the intergovernmental accountability mechanisms in place across all federal systems in the Organization for Economic Cooperation and Development (OECD).¹ Instead, we draw on two key intergovernmental accountability regimes – the federal No Child Left Behind educational provisions in the United States, and the Open Method of Coordination (OMC) mechanisms in the European Union (EU) – to explore whether lessons can be learned from those experiences. We comment further on the comparative lessons drawn in the concluding chapter in this volume.

The Concept of Accountability

Accountability – that is, the requirement that governments be answerable for their responsibilities and conduct – has assumed an important place in discussions of modern governance. Even well outside the corridors of politics, folk-punk troubadour Billy Bragg has suggested 'No power without accountability' as a mantra for re-democratizing political and economic decision-making. There are accountability relationships at myriad levels in government. Klassen and Wood in their chapter in this volume distinguish between administrative, political, and democratic moments in accountability relationships. Traditionally, accountability relationships are perceived between administrators in the permanent executive and their administrative superiors, their political 'masters,' and the public. Administrators and elected officials also have a duty to uphold the rule of law and professional norms and institutions. The political executive in turn needs to account to the legislature on its activities to implement initiatives. And, ultimately, citizens require the ability to hold their governments to account to ensure state activities are in accordance with societal demands and expectations.

Accountability continues to give rise to a voluminous literature in public administration, for several reasons. First, as public administration has embraced the contracting out of services or the development of arm's-length agencies, determining who is ultimately responsible for the use of public authority and funds (and problems in that use) is

difficult. Second, as the size of government has grown, the traditional bargain of ministerial responsibility has broken down, or at least is being redefined. Scandals such as the one related to the federal government's sponsorship program have given rise to debates about whether accountability relationships need to be restructured in order to better reflect current realities (Commission of Inquiry 2006; Jarvis 2009; Savoie 2006).

Sperling (2009, 8) writes that accountability really comprises two aspects: answerability and enforcement: 'First, public officials are obliged to provide information about their actions, and to explain and justify publicly the decisions on which their actions are based.' Second, 'powerholders who have violated their public duties are subject to sanctions such as impeachment or elections ending their term in office.' Ebrahim and Weisband (2007, 5) thus argue that accountability comprises four core components:

- Transparency – collecting information and making it available and accessible for public scrutiny
- Answerability or Justification – providing clear reasoning for actions and decisions, including those not adopted, so that they may reasonably be questioned
- Compliance – monitoring and evaluation of procedures and outcomes, combined with transparency in reporting those findings
- Enforcement or Sanctions – imposing sanctions for shortfalls in compliance, justification, or transparency

Ebrahim and Weisband (2007, 5) go on to state, 'Because each of these components builds on the others (with transparency being necessary for compliance, and enforcement depending on all), accountability relies on the presence of all four. But for numerous observers, what underlies the power of accountability mechanisms is enforceability.' Control, however, needs to be balanced by another factor: legitimacy. In other words, without legitimacy, control is not possible. As Sperling (2009, 10) argues, 'Technically, it is only when both the principals and the agents acknowledge their relationship that accountability can be said to exist.' If a government does not ascribe to the logic of a principal-agent relationship, it will feel less pressure to be answerable to citizens or another level of government.

This classical understanding of accountability nevertheless misses more instrumental dimensions to accountability when applied to relationships between formally autonomous or independent actors, such as

in federal systems. One way to think systematically about accountability in a federal system is to use the tools of rational choice institutionalism. Studies of federalism in Canada have tended to neglect incorporating game theoretic observations explicitly into their analyses, with some exceptions (e.g., Brander 1985; James 1999; Sproule-Jones 1993).² Certainly, federalism and constitutional scholars have been aware of the game theoretic dynamics at play and often work deductively on the basis of imputing preferences for governments and analysing how these preferences produce particular outcomes when filtered through institutional rules. We find it useful to incorporate these rational choice frameworks into our introductory discussion of accountability, because understanding these dynamics as instrumental and incentive-based may help practitioners design better accountability mechanisms – to move from competitive to cooperative games while retaining some modicum of accounting for actions.

As Ebrahim and Weisband (2007, 4) point out, the problem with accountability in a federal system is that it connotes at its core a *principal-agent relationship* that consists of a lead actor (or principal) who sets goals and then employs agents to accomplish them. As Brown (1983, 634) observes, ‘Accountability requires a “locus of authority,” a centre of definitive power and responsibility.’ A federal system of government, however, provides for two loci of authority, ‘and neither one is able to authoritatively coerce the other.’

When it comes to demanding accountability for the allocation of federal expenditures on pan-Canadian priorities, the federal government in Canada has little substantive jurisdiction over social policy outside of unemployment insurance and pensions. It has instead used its spending power to extract compliance from provincial governments in other social policy areas such as health care and social assistance. Typically, the federal government offers to pay a share of provincial expenditures on a given program, provided that the program is consistent with specific standards set by the federal government. That is, the federal government tries to ‘hire’ agents (that is, provinces) to deliver services in order to promote a particular policy agenda. The ‘agents,’ in return, get paid in provincial transfers and/or tax points.

The spending power is controversial, because it involves the federal government setting policy priorities in areas of provincial jurisdiction. While provinces could always refuse the federal offer, to do so would have the effect of provincial citizens paying federal taxes in support of a program available only to people in other provinces. Since 1965, the

federal government has permitted provincial governments to opt out, with fiscal compensation, of some federal-provincial shared-cost programs, provided provincial governments establish a program comparable to the federal one. Under such circumstances, provinces are still 'hired agents,' as the federal government remains the architect of the broad contours of provincial policies. Quebec, the only province to routinely make use of this provision, has argued that compensation is frequently insufficient to mount a provincial program (Banting, 1988; Telford 2003). Given that the federal spending power amounts to 'a deal that you can't refuse,' provinces may accept its use but try to subvert some of the hierarchy implicit within it.

One dynamic that arises out of attempting to establish such a principal-agent accountability relationship through the use of the federal spending power is a *collective action problem*. As with all principal-agent relationships, it is not easy for the principal and agents (that is, the provinces) to cooperate, despite the prospect of mutual gain. Moe (2005, 216) argues, 'The agent has interests of his own ... that give him incentives not to do what is best for the principal. He also has an informational advantage that makes such shirking possible ... As a result, the principal has reason to distrust his agent.' Moe (216) argues, 'The way around the [collective action] problem is for the principal to devise an efficient set of rules, incentive structures, and monitoring mechanisms that – by mitigating the information asymmetry and bringing the agent's interests into alignment with the principal's – represents a mutually beneficial arrangement to which both parties can credibly commit, and is either self-enforcing or enforceable by a third party such as the courts.'

The challenge is designing just such rules and incentive structures to recreate a form of principal-agent accountability, especially where avoiding it is a first-order preference for some or all of the purported 'agents' (such as the provinces). Thus, the very act of demanding an account can create hierarchical relationships between actors where there are no formal hierarchies. This can occur in several ways. For instance, the very act of demanding certain forms of accounting can alter the behaviour, ideas, and identity of the reporting party. The fact of having to report on a particular indicator can lead to policy goal displacement with attention turned exclusively to that dimension at the expense of broader objectives. Another consequence is mission creep – the expansion of an initiative beyond the initial goals. The requirement to prepare reports may also lead to a reassignment of resources to the task, and potentially to changes in expertise valued in an organization or department. This

concern is the classic critique of accountability provisions tied to funding for non-profit organizations: the organizations come to hire specialists and to focus on reporting at the expense of the representational and mobilization activities that were at the heart of their original creation (e.g., Taylor 2003).

Another form of hierarchy arises from a move from process-based accountability to results-based accountability. If actors are held accountable, not on the basis of acting within the bounds of particular programs or agreements but on their capacity to meet certain goals, the actor receiving accounts is potentially able to steer activities towards certain ends or objectives. In American foreign aid policy, for instance, some have looked to the Bush administration's Millennium Challenge Account, which required states to provide data on indicators related to sixteen criteria of good governance, as a form of 'imperialism,' pushing developing countries to adopt American understandings of what constitutes good political, social, and economic governance (e.g., Mawdsley 2007; Soederberg 2004). The Open Method of Coordination in the European Union has likewise drawn attention for its use of benchmarking, results reporting, and peer review, and the capacity of such forms of accountability to steer divergent national welfare models towards a 'European' social policy model (Jacobson 2004; Zeitlin 2005). This may lead to domestic political accountability, should citizens and interest groups make use of the information provided or turn the consultative stages of the process into windows of policy influence. While this is a weak form of 'accountability,' in that member states simply commit to reporting and peer review, it is in this less heroic sense that we can observe how even a soft form of accountability through reporting can rework relationships in multilevel governance.

These dynamics may explain why scholars portray the institutional rules of the game in federal systems as promoting not just collective action problems but also *joint decision-making traps*. As Scharpf (2006, 848) points out, decentralized bargaining models that presume negotiations between self-interested actors can achieve the same outcome as those imposed by a (benevolent and omniscient) dictator, so long as one can transform self-interested bargaining into solidaristic problem-solving – 'either by a procedural separation of co-operative problem-solving from distributive bargaining or by a solidaristic transformation of preferences' (849). Agreements that are 'welfare improving' can occur in voluntary negotiation systems, because 'all participants must prefer the outcome to the status quo,' or else 'the liberty of individual action will

continue to prevail if negotiations should fail' (848). A problem arises, though, in compulsory as opposed to voluntary negotiation systems, 'where certain purposes can be realized only through agreement': 'the veto of one or a few governments' is 'likely to generate sub-optimal policy outcomes – resulting either in blockages or inefficient lowest-denominator compromises' (848). When accountability can be used instrumentally to influence the choices of other actors, a series of political questions can be raised about the normative justifications of such power, but also more prosaically about how the actors themselves negotiate and navigate those power relations. These aspects of hierarchy are obviously of interest in federal systems, since federalism as a normative principle calls in part to the values of non-hierarchy and non-subordination in relationships between federated entities.

The Canadian Experience of Intergovernmental Accountability

As many scholars have observed about the exercise of power in Canada, even though the two orders of government are constitutionally sovereign and there is no hierarchy or subordination so long as the two orders of government exercise jurisdictional authority within their own watertight compartments, 'hierarchy has never been lacking in Canadian federalism' (Simeon and Nugent 2008, 92). The shift to an accountability system built around public reporting in Canada in fact reflects a partial relaxation of hierarchy in intergovernmental accountability relationships, at least in comparison to the instruments used previously. One obviously needs to be careful with nuances here, and with distinctions between the formal structuring of accountability arrangements and the ongoing implementation and monitoring of those arrangements. We see some merit to arguments that accountability mechanisms have never been that strong in Canada in the first place (Graefe 2006, 3) and that the conditions that were or are in place, such as in the Canada Health Act, have been ruled not justiciable (Choudhry 1996) and thus only politically enforceable. In many instances, the federal government has chosen not to enforce rules (see, for example, Flood and Thomas 2010; Graefe 2006, 4). As Biggs (1996, 12) argues, observing the case of the Canada Assistance Plan, 'For its part, the federal government has not used its leverage to insist on a national information strategy' for CAP program spending, so there was little way to determine 'program effectiveness and the impact of policy and program changes' (11). In sum, the current regime based on reporting should not be compared with a mythical past

of frictionless hierarchical accountability. But this story of the politics of non-enforcement risks presenting an overly flat history, as federal-provincial conflict has produced softer forms of accountability arrangements. The present arrangements have characteristic ways of working that differ from earlier ones, and these are brought out by historical comparisons with earlier arrangements.

As Barbara Cameron illustrates in chapter 12, the post-war pattern in areas where the federal government transferred money to the provinces to deliver specific social policies (what Keith Banting [1997] refers to as 'shared cost federalism') was to create fairly hierarchical accountability arrangements between the federal and provincial governments to ensure the accountability of the political executive to Parliament. In the period after the Second World War, an important segment of the Canadian welfare state (social assistance and social services, hospital and physician insurance, post-secondary education) was built with conditional federal grants. Often referred to as the 'federal spending power,' these grants usually took the form of the federal reimbursement of a share of eligible provincial expenditures. The grants were 'conditional' in the sense that provinces sent their accounts to the relevant federal department, which would then verify whether they fit within the program parameters agreed upon, and reimburse only those in conformity. As Cameron (2007) has indicated, these agreements had a firm statutory basis at both the federal and provincial level, such that this accountability, while providing the central government with substantial hierarchical leverage with the provinces, could be justified in ensuring that the federal department could provide comprehensive accounting to Parliament on the use of federal financial resources.

Provincial governments resented these arrangements, both for the bureaucratic bother of preparing accounts and then haggling over them with the federal department, and more broadly for enabling the federal government to set the parameters of public policy in areas of provincial jurisdiction, in the process upsetting provincial priorities, plans, and programs (Smiley 1962). With the growing power of provincial governments, both in building bureaucratic capacity and in developing nationalist (Quebec) and regionalist (the West, Newfoundland) identities that challenged a pan-Canadian sense of the national community, shared-cost federalism proved less legitimate as a means to group provincial policies within a shared pan-Canadian agenda. By the 1980s, the federal government no longer attempted to structure accountability around matching federal and provincial statutes and the sending of provincial

accounts to Ottawa. With the 1984 Canada Health Act, Canada entered a period of 'political accountability,' again to use Cameron's characterization, where the federal executive was determined not to transfer health funds to provinces that did not comply with the conditions set out in the federal statute.

The greater unilateralism in this formula made its use much more contingent on political readings of power, and on the willingness to have public arguments with provinces over what constituted compliance with the Act and what sanctions were appropriate for non-compliance. Given that the federal government was stealthily reducing its share of health funding over the 1980s and early 1990s through partial indexation, its legitimacy to demand provincial compliance was diminished. The coup de grâce occurred with the 1995 federal budget. In that budget, the federal government eliminated the CAP, bundling transfer payments for health and social assistance into the Canada Health and Social Transfer (CHST) and drastically cutting the size of overall transfers. Recognizing that cuts to federal transfers meant less legitimacy of federal oversight, the federal government revoked all conditions for receipt of social assistance transfers, save for the prohibition on residency requirements. It did, however, maintain the Canada Health Act. In one fell swoop, then, the forms of accountability elaborated over the preceding forty years were suddenly exhausted: the biggest program on the administrative model, the CAP, was gone, while the political accountability of the CHA lacked legitimacy in the eyes of most academic observers. After all, how could the federal government withhold money to provinces in violation of the CHA when it had just cut the transfer by a third, and when the remaining cash transfer to the provinces was eventually scheduled to run to zero, given how the health transfer was calculated at the time (Courchene 1995).

The question of how one could imagine a legitimate and workable form of accountability in the post-1995 period, especially where the federal government lacked the money to 'purchase' much provincial answerability with the spending power, was answered by the 1999 Social Union Framework Agreement between the federal government and the governments of all provinces except Quebec. Most contemporary academics and practitioners treat the SUFA a bit dismissively as a stepping stone in a longer process of bringing the federal and provincial governments into a more productive dialogue after the recriminations about unilateral deficit shifting of the early and mid-1990s, rather than as an enduring framework for managing federal-provincial relations. For our purposes,

though, the SUFA is highly significant, as it sets out the governments' thinking, at that period, about accountability, and the language and vision laid out in SUFA is very similar to what is found in the sectoral social policy agreements of the late 1990s and early 2000s. The agreement contained language that demands 'transparency and accountability' to constituents, which, it is argued, strengthens the social union. In this context, each government agreed to 'monitor and measure outcomes of its social programs and report regularly to its constituents on the performance of these programs,' as well as to share information and best practices and participate in developing joint indicators. They also agreed to 'use third parties, as appropriate, to assist in assessing progress on social priorities' (Government of Canada and Governments of the Provinces and Territories 1999).

Nevertheless, these new agreements differed from older ones in how they approached the issue of accountability (see Phillips 2003). Whereas earlier social policy agreements required direct provincial reporting to the federal government on the use of federal money and made the federal contribution conditional on fulfilling specified program commitments, the post-1995 agreements were more open-ended and less binding. In some cases, provinces had to provide proposed annual plans to the federal government, although these were often 'for information purposes only.' Provinces no longer were bound to report to the federal government, but instead were committed to providing annual reports to the public on their use of federal monies, and for their success in meeting certain mutually determined indicators. The new accountability regime does not rely on government-to-government relationships so much as the government-citizen relationship, and by extension the ability of citizens to hold governments to account at the ballot box (Cameron 2007). Certainly, the elements of Ebrahim and Weisbrod's definition of accountability were all here: *transparency* in annual reports, *answerability* in annual plans, *compliance* in monitoring and reporting on progress on stated goals, and *enforcement* in being held to account by citizens. But in the absence of much legitimacy for a hierarchical role for the federal government, there were a number of weak connections between the elements, as the chapters of this collection indicate. Most notably there is the heroic linkage between the first three elements and the ability of citizens to sanction a government through elections, but also in the weakness of institutions to ensure *answerability* in terms of participating in setting plans or in discussing reported outcomes.

While this story of declining federal hierarchical authority followed by attempts to rebuild a form of legitimate federal social policy leadership sets the context for the adoption of public reporting, it does not explain why this particular instrument was chosen. It is generally accepted in the Canadian literature that this emphasis on reporting is evidence of the influence of New Public Management thinking. This point was made originally by Susan Phillips (2003; see also Saint-Martin 2004), who emphasized how public reporting fit well with the managerial thinking then in vogue in the federal public service. At a broad level, reporting is consonant with the idea of moving the attention of public administration from process (e.g., whether the provinces spend money in conformity with the relevant intergovernmental agreement) to results and outcomes for 'clients' (e.g., what services the provinces provided with the money, and with what effects for users). It also fit with a citizen-as-consumer-driven public service, as presumably reporting to citizens would enable the latter to make informed choices and thereby push governments to be more responsive to shortcomings. In a blunt form, the comparison of provincial outcomes could lead to interprovincial 'beauty contests' whereby citizens in an underperforming province could shame their government and ultimately put electoral pressure on it. In a more sophisticated form, citizens and bureaucrats could observe the best practices of high-performing provinces and seek to mimic or adapt them.

A final element of the New Public Management thinking was the individualization of state-society relationships. While a number of intergovernmental agreements mention 'stakeholders' and see their engagement as leading to better policy outcomes, the headline language is one of reporting to 'Canadians.' This again is in keeping with the de-legitimization of intermediary organizations such as interest groups that characterized the federal bureaucracy during this period (Laforest and Phillips 2007).³ The linkage was also noted and taken up soon after by Alain Noël (2003) to provide a normative critique of the federalist shortcomings of such an approach: the hierarchy implied in 'steering rather than rowing,' and of seeing provinces as service delivery agents to be managed by an outcomes-oriented federal framework, sat poorly with federal values of autonomy and non-subordination.

However, just as the concept of New Public Management needs to be treated with caution, given divergent understandings of what practices and ideas it contains, so too must claims that the new regime is largely