



Office of the Ethics Counsellor Bureau du conseiller en éthique

22nd Floor  
66 Slater Street  
Ottawa, Ontario  
K1A 0C9

22<sup>e</sup> étage  
66, rue Slater  
Ottawa (Ontario)  
K1A 0C9

Telephone: (613) 995-0721

Fax: (613) 995-7308

Site: <http://strategis.ic.gc.ca/ethics>

Téléphone: (613) 995-0721

Télécopieur: (613) 995-7308

<http://strategis.ic.gc.ca/ethique>

## **Ethics and Governance**

**Notes for a presentation by  
Howard R. Wilson  
Ethics Counsellor**

**to the  
Canadian Centre for Management Development  
Conference on Changing Governance and Public Sector Reform  
in the Americas**

**Ottawa**

**May 2, 2001**

(Également disponible en français)

**Canada**

Canada

I am delighted to be able to participate in this Conference on Changing Governance and Public Sector Reform in the Americas. My topic today is ethics and transparency in government but more specifically I want to address ethics as a governance issue. Not only are public sector ethics a growing public challenge to governments around the world, it is my contention that, by dealing effectively with ethics and corruption, we create a self-sustaining motor that will strengthen our democratic institutions and thereby the well-being of our citizens. This creates, in my judgement, an unique opportunity as we begin this new century; an opportunity that holds out enormous promise for human security.

I'm going to begin my comments with a description of how ethics has become an important public policy issue in Canada and how we have gone about dealing with it. I then want to discuss the important role of the private sector as well as a number of international developments which are placing ethics and governance at the top of the agenda in a growing number of countries and international institutions.

### The Call for a Higher Standard of Ethics

Let me take a couple of minutes to expand on how my role came into being and what it includes.

In many democracies, the past couple of decades saw a general decline in citizens' trust of governments. Analysts have suggested many, many reasons for this turn of events. One was most certainly the gap between the ethical standards that citizens expected of people in public life, and what those citizens believed they saw in practice.

It wasn't that we lacked for laws banning corrupt practices related to government. The malaise ran deeper than that.

For example, there was a growing sense that private interest lobbying was crowding out the public interest in decision-making.

That climate led Canadian federal governments, beginning in the 1980's, to take a number of ethics initiatives including, in June 1994, the creation by the Prime Minister of the position of Ethics Counsellor. He appointed me, a career public servant, to that role.

### Enforced Compliance or Promoting Integrity?

In Canada's federal government, we have chosen to take an approach that assumes that public office holders want to take ethical actions. We assume that they want to earn a higher level of respect among citizens. After all, people in public life know that appearances count.

That means we have not chosen to take the other major approach to ethics, and that is by rigidly codifying ethical behaviour, usually through a series of “Thou Shalt Nots.”

There are two major risks with a strictly legalistic system. First, public office holders often forget what is truly ethical conduct in the real world of public life, and instead defend themselves by dwelling on what they understand to be the legal technicalities of words and concepts.

Second, the rules are often extremely detailed about what should be self-evident, leaving the average citizen with the impression that those appointed to public life have no moral sense. When this happens, it does more to corrode public confidence than enhance it.

### The Role of the Ethics Counsellor

In the Government of Canada, as I say, we have pursued a different approach to building and managing an ethics structure. It centres on avoiding possibilities for conflict of interest well before the fact. It centres on working with people based on the assumption that they want to do the right thing.

My office deals with potential conflicts of interest and other ethical issues for the people most likely to be able to influence critical decisions in our federal government. This covers all members of the federal Cabinet, including the Prime Minister. It covers their spouses and dependent children. It covers members of those Ministers’ political staff. It also covers senior officials in the Federal Public Service.

My office is also responsible for the *Lobbyists Registration Act* and the *Lobbyists’ Code of Conduct*. Those are designed to bring a level of openness to lobbying activities and ensure strong professional standards for the people involved in that work.

I should point out that my office does not replace the role of the police, prosecutors and judges when it comes to suspected breaches of the criminal law. I deal with the gray area of situations than could realistically appear wrong to citizens, without ever being illegal.

### Making an Ethics System Work

Structurally, our approach begins with a set of principles. Those principles are the basis for a select few rules and procedures.

Together these principles, rules and procedures clearly spell out reasonable expectations of people in public life. They offer those people the guidance they need to make intelligent decisions on organizing both their personal and public lives.

Our first principle states that “public office holders shall act with honesty and uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced.”

The second principle expands on the first. It states that “public office holders have an obligation to perform their official duties and arrange their private affairs in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law.”

We have a third principle that says that “on appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise between the private interest of a public office holder and the official duties and responsibilities of that public office holder, the conflict shall be resolved in favour of the public interest.”

There are a few other principles that the Code sets out but you can clearly see that we have designed the Code on the basis of integrity. People in public life in our federal government now simply know that they are expected to take action with ethics in mind at all times.

In that process, my role is designed to provide advice and counsel to those in government, not to act as prosecutor, judge and jury. In practice, my office works closely and cooperatively with people covered by the Code. They come to us with questions about how a given asset or interest should be treated and we offer advice.

### Ethics and Governance

What is exciting for me is that our experience is part of a global trend. All over the world, governments and businesses are taking ethics seriously. Let me first talk about the private sector.

In my view two factors have led to more clearly stated ethics and the structures to reinforce their application amongst a growing number of companies.

One is the growth from a near-total focus on the quarterly bottom line, which will always have some importance, and too narrow a view of shareholder interests to a broader sense there are other stakeholders whose interests are also important. Whether those are workers, customers, suppliers, affected communities or other groups and interests, the stakeholder perspective is drawing increasing attention in corporate offices.

Rather than approaching these interests in some kind of one-off way, businesses see clearer statements of ethics as ways to help guide management decisions. So, we have seen more emphasis on social responsibility, including corporate commitments to operate

in more environmentally-responsible ways. We have seen greater attentiveness to community interests. It is noteworthy that the Plan of Action of the Quebec City Summit of the Americas calls for a meeting on corporate social responsibility in 2002.

This trend is not in opposition to shareholder interests. Companies know that their ethical reputation affects their profits. If consumers see a company as ethical, it affects sales. If workers see a company as ethical, it affects labour relations and overall workplace productivity. If citizens see a company as ethical, it affects corporate reputation and the ability to take actions with less likelihood of entrenched and popular opposition. This is positive self interest at play.

A second factor is the growing diversity of many companies. It is not just that companies are growing larger that is the issue in many cases. It is also that companies are growing internationally. They have operations in many countries and those based in one country, may have employees from many cultural backgrounds. So, clear statements of values and ethics to bring some consistency to bear on the choices that all employees make.

A clear statement of what kind of ethics should guide decisions is a way to help unify that workforce and management team. It can create norms for all to put into practice. It is a way to ensure that the most long-serving employee at head office and the newest recruit in a sales office 10 time zones away both know what their company stands for and expects. They are guideposts for managing change and handling difficult situations in ways that go beyond the values of this one person or that one.

#### Bridging the Gap between Public and Private Sector Ethical Activities

On the whole, the actions in the public sector and those in the private sector still often take place in relative isolation. In part, this may be because of some deeply-held perceptions on each side of the public-private divide.

On the one hand, I think many people concerned with ethics in the public sector have felt there is nothing to be learned from the practices of the private sector. The world of business is simply too crass, too focussed on money, to have anything to offer to public sector ethical challenges.

And, of course, many in the private sector have an equally charitable view of public sector ethical debates.

And yet, the two solitudes are closer than it may appear. Governments routinely draw on new business thinking to find ways to become more efficient and focussed on results. Businesses are also recognizing that some of the drivers in public sector organizations are also relevant to them, drivers such as equity and fairness in what they do and how they do it.

So, what does it take to bring the two sides closer together? It starts with common interests as we have already seen in practice.

### Ethics, the Self-Sustaining Motor for the Public and Private Sectors

Remember that one of the factors that I saw encouraging a consideration of ethics in the private sector is the international nature of business today. And yet for a long time international business practices were precisely where ethics often went off the rails.

You only have to go back a decade or so to recall a day when the rule was “anything goes” in a lot of countries. Bribery, under whatever name you like, was commonplace in a lot of industries and just how business was done in too many countries. That was a time when non-existent ethics in the public and private sector came together to the profit of a few and at a great cost to many, many others.

Back then, a lot of dark choices were made in a climate driven by the demands of *realpolitik*. Great powers not only turned a blind eye to the worst forms of corruption, but often abetted it in different ways. What mattered was whose side a particular country was on for Cold War purposes, not the quality, let alone ethics, of its leadership.

And what mattered to business too often was getting a sale or a monopoly concession, not worrying about who had to be paid off to get it.

This was not just the unhappy situation for many developing countries. A degree of corruption existed just below the surface in many developed countries. People just accepted those situations as the way things were.

And then all of a sudden, the climate shifted as the Cold War came to an end. One by one, the dictators fell. One by one, a generation of new leaders began to take centre stage determined to see their states overcome the legacy of the past.

These men and women knew that an ingrained disrespect for ethical behaviour was not simply some cultural trait that outsiders could neither understand nor dispute. They knew that a corrupted public life had corroded the life of an entire country and had compromised a more positive future for all citizens.

They knew that favouritism, cronyism, whatever you want to call it, is inimical to the rule of law, to human rights and to sustainable economic development. They knew that while more open marketplaces had to be part of any strategy for economic revitalization, marketplaces aren't open for long without ethical revitalization.

And here the two worlds of public and private sector ethical thinking began to converge. International financial agencies such as the World Bank and the International Monetary

Fund became more demanding in their expectations. The Organization of American States developed the *Inter-American Convention against Corruption*. The OECD arrived at its *Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions*. Countries began to legislate against corrupt practices by their nationals and companies in other lands.

The impact of all this was to reinforce modern ideas of governance and economic thinking, not just address specific actions such as bribery. These measures are part of a new international regime with higher standards for all, whether in the public or the private sector.

And in all these efforts, the growing influence on non-governmental players, especially organizations such as Transparency International, was critical. These groups have been instrumental in drawing attention to the extent and cost of corruption. They have been effective in showing that sustained unethical practices between government and business are contrary to the rule of law and inconsistent with human rights and the interests of all citizens.

In the end, what has brought all these parties together is an appreciation that ethics is a self-sustaining motor, built on self interest. And let me be clear that when I speak of the self interest of a political leader, I am not thinking of their foreign bank account but in the well-being of their nation. If governments operate honestly and ethically, then quality of governance is enhanced. Citizens see what honest, ethical government can do for them and does for their country, economically and politically. That reinforces the commitment to work to improve ethics. It raises the bar of what people expect and how people see breaches of ethics. This is the heart of the human security agenda.

This fundamental shift in attitudes is taking hold in a growing number of countries around the world but I want to take a final few moments to talk about the experience of the Americas.

When hemispheric leaders met at the Summit of the Americas in 1994 in Miami, Canada and the United States had two major objectives. We wanted to expand free trade throughout the hemisphere and to reduce the laundering of drug money.

That was important, of course, but many of the Latin American presidents came in with their own good governance agenda. They wanted — and got — action towards a common hemispheric anti-corruption agreement. The Organization of American States now has the *Inter-American Convention against Corruption*.

The OAS Convention focusses directly on outlawing bribery, which all recognize has been a scourge on international trade. As important, however, as it is to deal with these criminal acts in my view the greatest benefit of this Convention will come from its assistance in



achieving our final goal, the strengthening of the integrity of our governing institutions. This goal is best set out in the Preamble to the OAS Convention:

CONVINCED that corruption undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as the comprehensive development of peoples;  
 CONSIDERING that representative democracy, an essential condition for stability, peace and development of the region, requires, by its nature, the combatting of every form of corruption in the performance of public functions, as well acts of corruption specifically related to such performance;  
 PERSUADED that fighting corruption strengthens democratic institutions and prevents distortions in the economy, improprieties in public administration and damage to a society's moral fibre.

Leaders at the recently concluded Summit of the Americas in Quebec City strongly underlined the importance of this by stating in the Final Declaration:

Acknowledging that corruption undermines core democratic values, challenges political stability and economic growth and thus threatens vital interests in our Hemisphere, we pledge to reinvigorate our fight against corruption. We also recognize the need to improve the conditions for human security in the Hemisphere.

I was particularly pleased that in the Plan of Action, leaders provided support to initiatives we have been discussing "aimed at strengthening cooperation among ethics officials and members of civil society."

### Conclusion

Let me conclude.

Strong leadership is crucial and we are increasingly seeing this in many parts of the world. As the century progresses we will see an even greater commitment to good governance.

The benefits are compelling and are being seen as in the countries' own self interest. As bribery and other forms of corruption are dealt with we will see clear economic benefits. The investment climate will improve and thus economic performance. But this will be only part of the result.

As democratic institutions are strengthened we will increasingly see decisions taken in the public interest. We will have an agenda based on respect for human rights that is rooted in respect for the rule of law; an agenda that can be sustained, even as governments change.

It is an agenda for this new century from which all will benefit. Thank you.