

Downside of streamlining: Less transparency, more uncertainty



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Regulation plays a key role in many aspects of the economy, from transportation to food safety. However, because these systems are so complex, non-specialists often feel reluctant to weigh in on issues.

Take the Harper Government's plan to "streamline" Canada's environmental review process. When critics say it reduces environmental spending, the government counters that in difficult times, all departments must do more with less. When critics say the changes weaken environmental protection, the government replies that they will prevent delays and facilitate investment.

Many non-experts are left wondering who to believe. In fact, distinguishing good regulatory policy from bad is not really that hard, if we get the context right. Let me explain.

Fifty years ago, the decision whether to go ahead with, say, an oil pipeline would have been made by a minister, possibly with some public consultation. In those days, cabinet's authority was largely unfettered and the decision-making process was not very transparent. Since then, two things have changed.

First, because such decisions were unpredictable and often whimsical, calls for greater clarity and predictability arose from all quarters. Today, even business, which dislikes regulation, prefers it to uncertainty.

Second, as the size, scope and impact of such projects grew, the stakes got higher. The Exxon Valdez, the Love Canal, acid rain, and holes in the ozone layer all helped drive home the message that we need rules to protect the environment.

As a result, over the last half century governments have moved away from simple cabinet control and toward reliance on regulatory systems that increase transparency, accountability, predictability and evidence-based decision-making. While cabinet may still make the final decision, the government's scope is circumscribed by rules and processes.

Of course, more regulation is not necessarily better regulation. Notoriously, regulation can become a maze. Moreover, legislators can make mistakes, the science can be controversial, and priorities can shift. As a result, regulatory systems should be viewed as works in progress that evolve and change. Each government has a responsibility to help improve the system.

Streamlining is an essential part of this. It allows governments to remove unnecessary steps that add time and cost or, worse, lead to faulty decisions. But, as the [international banking crisis of 2008-09](#) shows, it is a serious mistake to confuse revising the system with dismantling it.

In the aftermath of that crisis, Canada was praised for its decision to resist the kind of deregulation that led to the crisis. Had we followed the U.S. lead, many Canadians would have lost their homes and their savings. Instead, we were spared the worst of the subprime disaster. The lesson is that good regulation matters, but not just in banking.

This brings us to the Harper Government's plan. While the government says it aims to streamline the environmental assessment process, it is hard not to see this as a clear case of dismantling it. Consider the following:

First, the [changes will allow the minister](#) simply to exclude key aspects of a project from an environmental impact assessment. This is odd, to say the least. Imagine if you hired someone to inspect a house you were hoping to buy and the seller declared that the foundation was off limits to the inspection.

Second, if the minister decides to exclude some aspect of a project from review, he/she will not be required to take any steps to prevent a negative impact. In other words, the minister has no clear responsibility to act to prevent harm that may result from such a decision. What happened to accountability?

Third, no guidelines are provided on how the minister should use this discretionary power. In effect, he/she has carte blanche to use this new power at will.

Finally, the changes reduce public participation. The northern gateway pipeline helps us see why. Natural Resources Minister Joe Oliver reports that some 4500 people want to appear before the review panel, which could take years. Oliver maintains that environmentalists are simply trying to drag out or stall the process and he wants to put a stop to this.

Fair enough, but the appropriate response would be to look for ways to redesign the process to prevent abuse. Instead, the government has opted to reduce opportunities for public participation by increasing the minister's control over where and when it will happen.

Now, someone may ask why the minister shouldn't be entrusted with this power. After all, wasn't the government elected to make such decisions?

This reply fails to appreciate how policy-making has changed over the last half century. As the [Canadian Environmental Assessment Agency website explains](#), sustainable development is the

overarching goal of environmental regulation. Sustainable development requires a balancing of environmental considerations with our economic, social and cultural values.

Thus a decision on a proposed pipeline will consider the project's impact on the environment, but it should also consider the impact on people's livelihood, their communities, and their way of life. Finding the right balance between these factors is a complex affair that requires political decision-making, but it also requires public dialogue. Without this, there will be no public buy-in.

So, while improvements to the existing system are welcome, they should lead to a more meaningful and effective use of public participation, not less. Weakening this aspect of the process undermines a key condition of sustainable development.

In sum, viewed from the right context, the government's plan to "streamline" the system looks more like an effort to turn back the clock to a time when cabinet could do as it pleased. The plan replaces regulation with centralization, and transparency and predictability with opacity and uncertainty.

Now think about that for a moment. Do you really believe this will lead to better decision-making, better outcomes and more sustainable development?

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