

Institutional moral hazard in the multi-tiered regulation of unemployment in Canada – Background paper.

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Abstract

This paper has been written in preparation of a research project funded by the European Commission (on the Feasibility and Added Value of a European Unemployment Benefit Scheme, contract VC/2015/0006). This paper adds information and detailed analysis to the following deliverable of that research project: *Institutional Moral Hazard in the Multi-tiered Regulation of Unemployment and Social Assistance Benefits and Activation - A summary of eight country case studies*; but it was not a deliverable. We use the concept ‘institutional moral hazard’ to analyse intergovernmental relations within multi-tiered welfare states, specifically in the domain of unemployment-related benefits and related activation policies (the ‘regulation of unemployment’). This paper is one of eight separate case studies, it focuses on Canada. Responsibilities in the Canadian regulation of unemployment are divided between the federal government and the provinces. The federal government is responsible for unemployment insurance benefits, the provinces for social assistance and activation of all caseloads. Provincial activation responsibilities are loosely regulated by bilateral agreements with the federal government. Even though this system generates institutional moral hazard, it does not seem to be a major federal concern. The regulation of unemployment is characterised by a high level of provincial autonomy.

Keywords: *Institutional moral hazard; multi-tiered welfare states; intergovernmental relations; unemployment insurance; social assistance; Active Labour Market Policies; activation; social policy; Canada.*

Canada

List of Abbreviations

AFDC – Aid to Families with Dependent Children
ALMP – Active Labour Market Policy
CAP - Canada Assistance Plan
CEIC - Canada Employment Insurance Commission
CJG - Canada Job Grant
CHST - Canadian Health and Social Transfer
CHT - Canadian Health Transfer
CRF - Consolidated Revenue Fund
CST – Canadian Social Transfer
EAS - Employment Assistance Services
EBSM - Employment Benefits & Support Measures
EI – Employment insurance
EIA - Employment Insurance Act
EIOA - Employment Insurance Operating Account
EIR - Employment Insurance Regulations
FPFA - Federal-Provincial Fiscal Arrangements Act
JFA - Canada Job Fund Agreements
LMA – Labour Market Agreement
LMDA - Labour Market Development Agreements
MAR - EI Monitoring and Assessment Report
MISWAA - Task Force on Modernizing Income Security for Working Age Adults
P/T – Provincial/territorial
PES – Public Employment Services
TANF – Temporary Assistance to needy Families
UI – Unemployment insurance
WITC - Working Income Tax Credit

Introduction

Canada is a federation relevant to the subject at hand. Its ten provinces and three territories (from here on referred to as provinces) play a significant role in its regulation of unemployment. It has been classified as a politically decentralised system (Mosley, 2011, p. 9). Responsibilities have shifted between levels of government throughout its modern history. Starting from the 1867 constitution, the provincial level has been the dominant player in the regulation of unemployment. This changed after the First World War and again before and during the Second World War, when the federal government initiated a federal unemployment insurance (UI) scheme that included employment services. However, the provinces have retained responsibility for social assistance (SA), social services, and activation and training policies – albeit in different forms – through time.

Changes in the 1990s marked the start of a political decentralisation effort where the federal level transferred responsibility for employment services (but not UI benefits) to the provinces, granting them considerable flexibility and leeway in designing and implementing training and activation policies. The federal role has become one of funding and management of the pan-Canadian aspects of the scheme, while still retaining some direct delivery responsibility (for Aboriginal, youth and disabled employment programs). The current Canadian brand of federalism in this policy area is reminiscent of the US type of federalism, with the federal level providing (block grant or agreement-based) funding for provincially designed and implemented programmes and services. The mechanisms at play in the decentralisation of the Canadian and some of the US labour market programmes are broadly similar: tying conditions to federal grant dollars. Before the 1990s, several

other policy areas in Canada already operated through federal funding and provincial implementation. Federal spending power has always been an important avenue of federal influence, even in policy areas in which the provinces originally held important responsibilities. Provincial concern over creeping federal influence (especially in the closely linked domains of education, workforce development and activation) has been one of the drivers of changes in the division of labour. The shifts since the 1990s have been towards more provincial flexibility, where the federal government scales down both its transfers and conditions. The changes in 1996 reinforced the multi-tiered, politically decentralised structure of Canadian regulation of unemployment.

The following sections will analyse the competences and division of labour concerning benefit schemes – both UI and SA – and the activation of UI - and welfare beneficiaries. This will culminate in an analysis of the institutionalisation of concern for (institutional) moral hazard, followed by an analytical grid and a conclusion.

1. Employment Insurance Benefits

Even though Canada has undergone significant intergovernmental power balance shifts, or rather different modes of federalism (Banting, 2005), the fundamental *division of labour* concerning the UI scheme, *sensu stricto*, has not changed since the 1940s during which the federal government enacted a federal UI system. In order to understand the Canadian case, it is important to note how special the circumstances were that allowed the federal government to take constitutional action to do so. Constitutional change was preceded by years of federal-provincial disputes about rising provincial relief costs during the Great Depression. Only with this backdrop and in the advent of Canadian involvement in the Second World War and during the reign of a new prime minister, the political climate was ready for a completely federal UI (Struthers, 1983). Even though the division of labour between levels of government concerning benefits did not change since then, UI went through different reforms over the years, most importantly the 1996 transformation of UI into Employment Insurance (EI). This transformation was a response to rising federal costs, which in turn were the result of 1971 reforms which expanded coverage dramatically. The final responsibility for EI now rests with the federal tripartite Canada Employment Insurance Commission (CEIC).¹ EI is regulated by the Employment Insurance Act (EIA) and the Employment Insurance Regulations (EIR).² The act governs two components of EI: the passive income transfer as well as the so-called Employment Benefits and Support Measures (EBSMs) consisting of training and other activation policies. This section only covers the passive income transfer part of EI. The scheme is contribution-based and pays benefits relative to the insurable working period and previous earnings – capped at a yearly maximum.³ The benefit rate is approximately 55% of previous earnings and disbursed weekly.⁴

Counter-intuitively, even though EI is federally regulated and designed, the benefit rates are not equal for everyone and the required qualifying period differs per region⁵ (Medow, 2011; Léonard, 2014). This is a left-over of the 1971 reforms. The required qualifying period for EI is based on the regional unemployment rate; higher unemployment rates result in a shorter qualifying period. The maximum duration is generally 52 weeks, but can be extended to 104 weeks in very exceptional circumstances – which is also partially based on the regional unemployment rate (Table 6).⁶ Finally, the regional unemployment rate also affects the benefit rates as they are calculated based on the 14 to 22 weeks with the highest earnings for an individual; the amount of highest paid weeks that is used, is determined by the regional unemployment rate (Table 5).

There are two rationales at play here, one concerning regional differentiation and the other concerning the idea of ‘best-paid weeks’. The rationale behind a calculation based on best-paid weeks is to “reduce disincentives for accepting all available work prior to applying to the EI program” (Department of Finance, 2012, p. 148; Léonard, 2013, pp. 6-7). In this way, workers with a loose

¹ The tripartite nature of this commission stems from 1941, when it was decided that the UI programme was to be insulated from electoral whims and pressures and placed under the responsibility of an autonomous Commission. However, in 1977 the chair of the Commission was taken over by the deputy minister and the social partner involvement was diminished; “the government in effect expropriated the UI program” (Pal, 1988)

² Also applicable, but less relevant for the case at hand are: the Employment Insurance (Fishing) Regulations (EIR (Fishing)) and the Insurable Earnings and Collection of Premiums Regulations.

³ Insurable employment is defined by part [IV of the EIA](#) and part [V of the EIR](#)

⁴ See [section 14 of part I of the EIA](#)

⁵ Canada’s provinces and territories are subdivided into [58 economic regions](#) in total.

⁶ See [section 9 of part I of the EIA](#). It must be noted that this extension is very rare indeed, contrary to the extensions in the US case, the only extension in recent history has been in the aftermath of the 2008 financial crisis.

connection to the labour market are not adversely affected in possible future EI benefits by accepting (more) poorly paid work. The determination of how many of the best weeks that are taken into account is dependent upon the local unemployment rate, as are the eligibility criteria and the duration of benefits. In other words, in regions with a higher unemployment rate (which already entails more EI claimants), benefits are increased, accessibility is eased and durations prolonged – relative to regions with lower unemployment rates. This second rationale or logic is less clear-cut than the first.⁷ In theory, regional differentiation of generosity based on unemployment rates has a counter-cyclical effect. However, due to the structural nature of heterogeneous employment performance among the provinces (Table 7), it is more likely to function as an inter-regional redistribution mechanism. Andreas Pollack finds that: “the business cycle effects that result from the unique features of the [Canadian] system are small compared to the welfare effects resulting from inter-regional redistribution that also follows from this very design” (Pollack, 2013, p. 36).⁸ Interestingly enough, most of the criticism on this inter-regional redistribution mechanism is that it is not equitable enough. Much of the opposition to the regional differentiation is from the Toronto-based Mowat Centre, whose contributors argue that the regional unemployment rate is not a good indicator to accurately assess and respond to local needs (Choudhry & Pal, 2011; Medow, 2011; Day & Winer, 2011) since the rules disadvantage the unemployed living in Ontario. Another criticism has been that regional differentiation of benefit ratios would retard labour migration, but there seems to be little empirical evidence for this claim (Day & Winer, 2011).

The benefits are paid out from the Employment Insurance Operating Account (EIOA), which is fully financed by employer (60%) and employee (40%) contributions. The contribution rates for employers and employees is determined by the CEIC (Léonard, 2014, pp. 14-15).⁹

Other provincial differences include employment performance and employment protection legislation. Table 7 in the appendix shows that there is structural heterogeneity in the unemployment rates of the provinces. Provincial governments can exert influence over these rates through setting of ‘employment standards’, which is a provincial competence. This competence includes determining grounds for termination, legislation of anti-discrimination rules, regulating dispute settlements etc. In practice, these standards are relatively homogeneous with the exception of Quebec (McMillan, 2012, p. 1).¹⁰ Besides job protection legislation, there are a multitude of other factors which can influence employment performance. Nonetheless, the structural differences in unemployment rates entails that there is a structural redistribution of federal EI funds.

A final interesting development in the size of caseloads is the evolution of the beneficiaries-to-unemployed ratio of EI. This ratio describes the relative size of the total Canadian EI (previously UI) caseload. In the early 1990s, this ratio stood above 70% (Lin, 1998, p. 42; Van den Berg, Parent, & Masi, 2004, p. 29), currently, this ratio has decreased to below 40% (Canada Employment Insurance Commission, 2015). The largest drop in the beneficiaries-to-unemployed ratio of EI coincided with reforming UI into EI in the mid-1990s. The drop in coverage is no surprise, given the fact that the transformation of UI to EI was aimed at a reduction of its costs; the extent of this reduction in coverage, though, is very significant. This entails that the Canadian federal government has shifted costs of unemployment-related benefits either to the provinces (SA) or to individual unemployed (in

⁷ Although the logic of the best number of weeks is not without criticism, some argue that the consequence of the best weeks-system could be that it promotes and perpetuates workers who only work part of the year (Mowat Centre, 2012, p. 8)

⁸ See CEIC 2013: 233-235 for the benefit-to-contribution ratios for 2011.

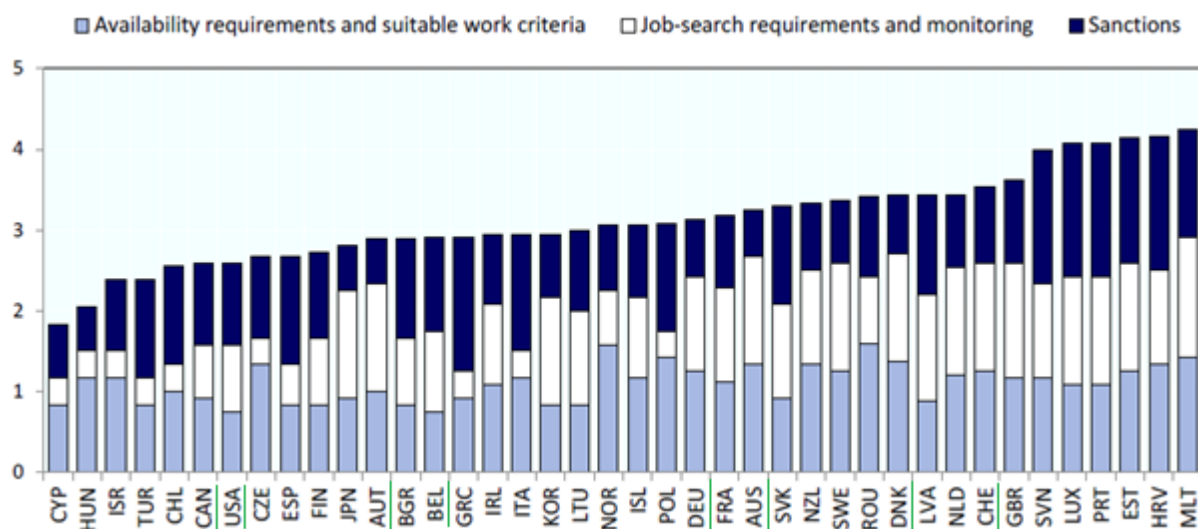
⁹ See [part III of the EIA](#).

¹⁰ See [here](#) for a complete overview of the provincial employment standards.

the case that eligibility requirements rule individuals out). This development decreased the relevance of EI and perhaps contributed to the limited nature of federal action to prevent institutional moral hazard concerning activation of EI-beneficiaries (cf. *infra*).

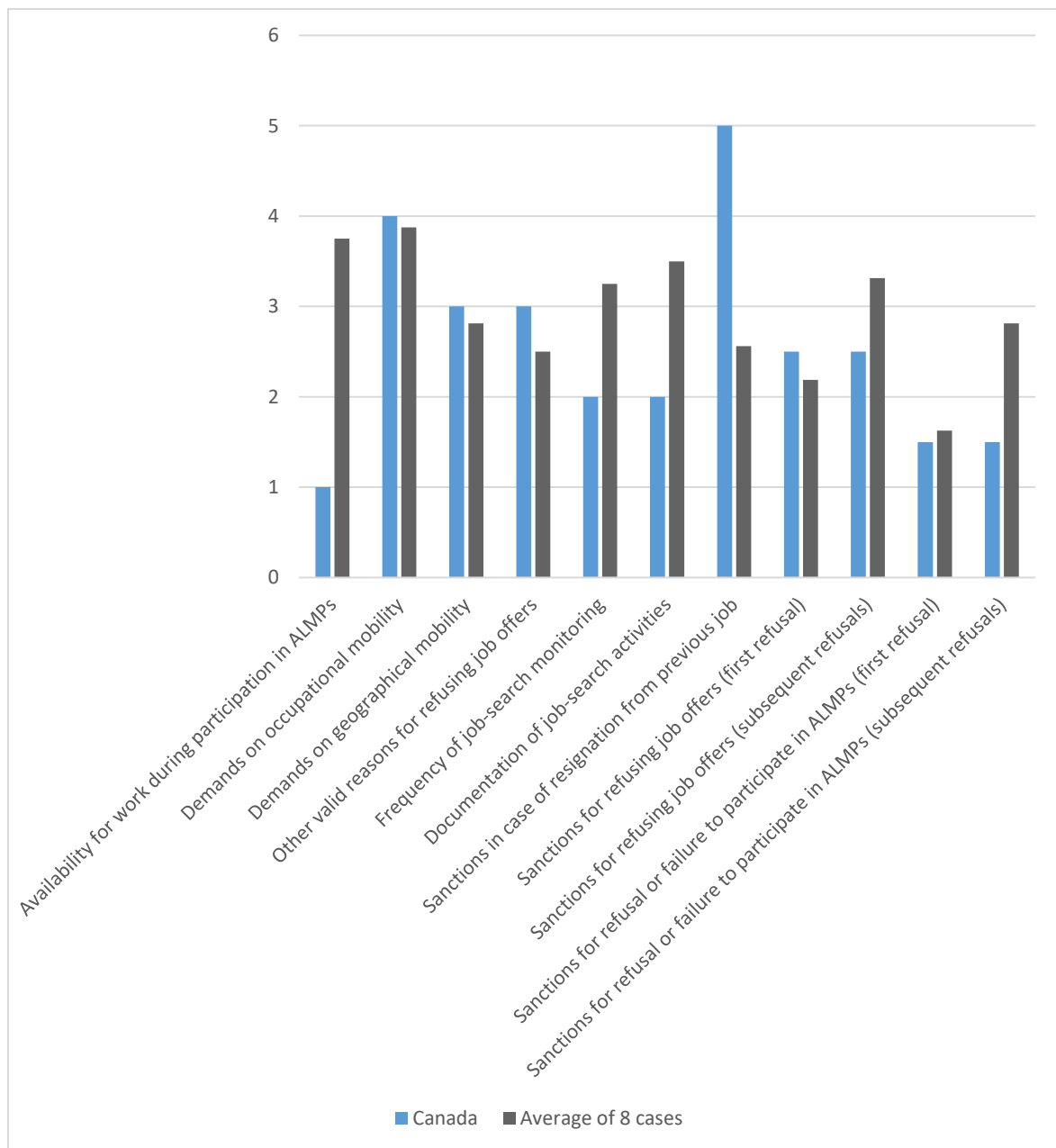
Despite these drops in coverage rates, the Canadian EI has one of the lowest scores with regard to overall strictness of eligibility (Figure 1).¹¹ The Canadian regime is strict when it comes to demands on mobility and sanctions for voluntarily leaving one's previous job, but it is relatively relaxed concerning monitoring, availability for ALMPs and other sanctions (Figure 2). This might be related to the relatively low replacement rates and low coverage.

Figure 1 Overall strictness of eligibility criteria. Source: Langenbucher 2015, p. 27.



¹¹ Entitlement conditions are not a part of this indicator.

Figure 2 Strictness of eligibility in Canadian EI. Source: Langenbucher 2015.



2. Welfare Benefits

SA, or welfare as it is often referred to, has always been the competence of the provinces. However, the federal government “has maintained that the spending power provides it with the authority to extend grants to the provinces to create and support programs that are matters of exclusive provincial jurisdiction” (Telford, 2008, p. 15). In other words, through its spending power, the federal government has had, from early on, some role in welfare. Since the 1960s the Canada Assistance Plan (CAP) redefined federal-provincial relations concerning SA, and continued to do so until 1995. Under CAP, costs for SA and social services (e.g. child care, child welfare, work activity projects) were shared equally between the provinces and the federal government, with provinces receiving funds based on their own spending and provincial labour market circumstances – meaning that there was no equal division of funds between the provinces as some spend more than others (Gauthier, 2012, p. 6). CAP also posed several conditions for receiving those federal dollars (Canadian Association of Social Workers, 2012, p. 43).

The long standing cost-sharing CAP was replaced in 1996 by a block-grant, the Canadian Health and Social Transfer (CHST), which also consolidated federal contributions to provincial health care and postsecondary education programs. This was a unilateral move by the federal government. CAP was introduced during a period of welfare state expansion: it consolidated federal funds for provincial welfare and social services spending into a single cost-sharing mechanism. This provided the opportunity for the provinces to expand their SA programmes. Combined with starkly increasing unemployment in the early 1980s, the budgetary impact of cost-sharing for the federal government grew larger. It first responded by putting a cap on CAP for some provinces, but eventually replaced it altogether. Transforming CAP into the CHST can be seen as a clear example of a reaction to institutional moral hazard: the provinces were (and still are) able to design their own SA programmes, which enabled them to expand coverage, increase generosity and include new services, which was at the time all financed for 50% by the federal government.

“The Canada Health and Social Transfer (CHST) was a single block fund to provincial and territorial governments in support of health care, post-secondary education, SA and social services” (Gauthier, 2012, p. 8). The CHST cut federal funding to these programs under provincial competence by \$2.5 billion out of a total of \$29.4 billion that would have been transferred under the old agreement. The CHST entailed only one condition on the use of funds for SA¹²: that provinces would provide SA without any residency requirements. All other conditions were scrapped – some argue that as financing was cut it was not tenable to retain strict conditions (Canadian Association of Social Workers, 2012, p. 43). The allocation formula was based on the distribution of funds under the final year of CAP, with gradual indexation for the following years based on GDP growth. Fears grew that provinces would drastically cut down on SA generosity since their efforts were no longer matched dollar for dollar by the federal government.

Here we can see a clear parallel between the Canadian transformation of CAP into CHST and the US transformation of the Aid to Families with Dependent Children (AFDC) into the Temporary Assistance for needy Families (TANF). In both instances the federal government abolished cost-sharing programmes in favour of block-grants. Furthermore, both newly introduced block-grants were based on historical subnational spending patterns. Moreover, both transformations were a reaction to the ability of subnational governments to manipulate the risk for which they were insured by the federal

¹² The conditions of the Canada Health Act also continued to apply.

government. However, there are some differences between the TANF and the CHST: the TANF includes stricter requirements for the American states and the CHST did not include any regulation concerning mandatory spending by the provinces as is the case for TANF. Nonetheless, as with the AFDC-TANF transformation, the introduction of the CHST was a clear reaction to perceived institutional provinces' SA policies.

The final development in the intergovernmental relations concerning SA was the splitting up of the CHST into the Canadian Health Transfer (CHT) and the Canadian Social Transfer (CST).¹³ The CST still encompasses more than just SA, and is also meant to cover post-secondary education, social services and child care programmes. In line with the Federal-Provincial Fiscal Arrangements Act (FPFA), which regulates these transfers, the sole criterion for receiving this transfer is "that no person is required to live in a province or territory for a minimum period before becoming eligible to receive social assistance" (Gauthier, 2012, p. 1).¹⁴ "Since there is a name given to the transfer, but there are no conditions associated with the CST, it gives citizens the illusion that money is being spent in particular areas, when, in fact, it may not be" (Canadian Association of Social Workers, 2012, p. 33). The total amount of federal dollars is now evenly distributed between the provinces on a per capita basis, and automatically grows by 3% every year.¹⁵ This current method of per capita distribution was introduced in 2007.¹⁶ Preceding the section on moral hazard (cf. *infra*), this shift in funding method is very relevant, as it further eliminates the possibility for moral hazard. Provinces are no longer able to influence the 'insured risk' as their funding is now based on a per capita formula. This does not mean, however, that there are no accountability issues.

All in all, the provinces enjoy almost complete control over the design and implementation of SA and how they wish to utilise federal funding – with the sole exception that they cannot pose any condition of entitlement based on residency. The downside for the provinces is that there is less money. Where once the federal government covered 50 per cent of provincial welfare costs, in 2011 the Parliamentary Budget Officer calculated that between 2010/11 and 2025/26 federal contributions through the CST will cover only about 10 per cent of provincial costs (Parliamentary Budget Officer, 2011). The section on institutionalised concern for institutional moral hazard will go deeper into the accountability measures, but it is also relevant to note here that with the changes (and decrease) in federal funding, conditionality has decreased as well. When UI was put in place in 1940, it was anticipated that welfare would 'wither away'. However, this has not occurred, welfare caseloads have been almost twice the size of EI caseloads.¹⁷

Every province provides basic income support, but the schemes vary between provinces. The provincial schemes have been classified as follows: "*basic benefits*, which cover the cost of food, shelter, clothing, personal and household items, *special needs assistance*, which is additional funding usually related to age, disability, employment, education or training, and *transitional assistance*,

¹³ See [sections 24-24.3](#) and [24.3-24.61](#) of the Federal-Provincial Fiscal Arrangements Act

¹⁴ See [section 25.1 of the](#) Federal-Provincial Fiscal Arrangements Act. However, we have not come across any evidence that the federal government has actually monitored this requirement.

¹⁵ The 2014-2015 budget for CST was \$12.5 billion (Nadeau, 2014, p. 3)

¹⁶ As mentioned before: the original method was based on pre-CHST spending patterns. This resulted in a very complicated formula, and the method of financing became increasingly complex: the CHST and the pre-2007 CST were financed out of three sources: 1) cash transfers, 2) tax capacity transfers where the federal government would scale back its taxation and the province would step in to enhance their taxation in precisely the amount that the federal government scaled back, and 3) an equalization formula which would maintain spending power for some of the poorer provinces. The complexity of this system is what led to the transformation in 2007.

¹⁷ In 2010 there were 1,183,000 welfare cases vs 671,190 EI cases (Wood, 2011a).

which aims to help lessen the financial impact of transition from social assistance to employment” (Canadian Association of Social Workers, 2013, p. 20). As a rule, these SA schemes are needs-tested benefits. Provinces themselves can determine which costs of living are used to determine the levels of benefits and which sources of income and assets can be deducted or exempted. Additionally, provinces can determine their own eligibility criteria. Generally, applicants are required to undergo an administrative test of eligibility, followed by a needs test. Only in Ontario is part of the program administered by municipalities (for employable jobseekers); in all other provinces the program is entirely managed by provincial civil servants (National Council of Welfare, 2010, pp. 1-1). Based on the latest report of the National Council of Welfare – for which federal funding support was cancelled in 2011 – the total welfare income for a single person varied between \$9,593 and \$3,773 with a median of \$7,277. Even in the provinces with the highest rates, benefit levels were inadequate in terms of national low-income measures (National Council of Welfare, 2010, pp. 2-1). Post-tax incomes of SA claimants is also determined by the federal Working Income Tax Credit (WITC), but due to varying administrative benefit regulations it remains unclear how the WITC and SA interact (National Council of Welfare, 2010, p. ix).

3. Activation

The idea of active labour market policies is a somewhat diffuse concept and includes different types of policies. Moreover, we tend to associate active labour market policies with the relative recent ‘activation turn’, but as Guiliano Bonoli argues: the genesis of such policies actually lies in the direct post-war years with a strong focus on training and ‘upskilling’ (2011, p. 323). Ever since the Constitution Act of 1867 the provinces had responsibility over education and the delivery of social services. But the 1940 introduction of UI included an active component, and the ensuing federal dominance in labour market policies post-1940 expanded federal competences into the area of activation policies. This created tensions between the provinces and the federal government because these policy areas overlap, especially since 1977 when the federal government included adult training in active measures and became the largest provider of adult training programmes. The responsibility for active labour market policies, thus defined, has shifted back and forth between levels of government in Canada. It has been the most contested and contentious labour market-related policy area.

During the 1950s and 60s the federal government developed activation policies for specific target groups and at the same time started funding, and gaining influence over, provincial social services for UI-beneficiaries (Wood & Klassen, 2011, pp. 5-6). This form of shared-cost federalism diminished when the federal government unilaterally decided to stop funding cost-sharing mechanisms for training policies in the late 60s, opting for a purchasing model of services not only from provinces but other institutions as well (Wood & Klassen, 2009, p. 255). By the mid-1980s, the federal government oversaw 500 federal offices, providing employment services to both UI-beneficiaries and specific target groups. But with the 1986 Canadian Jobs Strategy, the federal government shifted their efforts to the neediest clients (Fisher, et al., 2006, pp. 100-101). In doing so, it started to work with community based delivery agents (local not provincial).

As a response to creeping federal influence in this policy area and to the reduction of federal transfers some provinces started to introduce their own systems of ‘workforce development’.¹⁸ Specifically, the issue of provincial activation of SA got more pressing (from the provincial point of view) due to high SA caseloads as a result of the economic downturns in the early 1980s and early 1990s. It became urgent when the federal government placed a cap on federal CAP transfers to the provinces in the early 1990s, further limiting federal funds available for provincially implemented ALMPs. This push for welfare reform was compounded by the idea of some provincial governments that provincial activation could be part of a province-building effort.

These developments, combined with a further federal retreat from training policies due to fiscal reasons in 1990, led to a very diffuse and fragmented patchwork of ALMP responsibilities. Quebec was particularly resolved to acquire federal funds and responsibility for manpower training to ensure that employment supports for all Quebecers were coherent. In their view, for these programs to be effective, they needed to be under provincial and local – not federal – control. In order to realise a more coherent structure, both in terms of governance and in terms of substance, an attempt was made at constitutional reform to permanently re-align workforce development responsibilities.

¹⁸ ‘Workforce development’ is a term “that goes beyond active and passive labour market policies to incorporate a wider set of activities including immigrant integration, social security, labour, human capital formation, and economic development policy measures” (Wood & Klassen, 2009; Bramwell, 2011, p. 1). ‘Workforce development’ refers to policy that extends to the *employed* workforce as well, in that sense it is broader than the concept of ALMPs.

However, these attempts ultimately failed due to popular opposition.¹⁹ The near-death experience of the October 1995 referendum on whether Quebec should become an independent country was the main reason that Ottawa offered to devolve active labour market programs to the provinces in the first place: to demonstrate flexible federalism and that they agreed with Quebec's long-standing position that training was education and hence under provincial control. The 1996 introduction of EI proved to be a watershed in this respect. Due to the failed attempts at constitutional reform, the Canadian governments resorted to "para-constitutional engineering" (Poirier, 2003). Decentralisation took form as a result of bilateral agreements between the federal level and the provinces. The active component of the EIA was offered to the provinces, but the federal level retained the right to introduce pan-Canadian efforts and to activate and train defined target groups, especially Aboriginal People and youth. The initial bilateral agreements (Labour Market Development Agreements or LMDAs) were negotiated based on policy measures outlined in the EIA, and primarily concerned the training and activation of EI-beneficiaries. This process stretched from 1996 to 2010, when the Yukon was the last jurisdiction to sign a LMDA.²⁰ This mode of governance, through bilateral agreements, has been both prominent and prolific: outside of the LMDAs, the provinces and the federal government entered into bilateral agreements for other disadvantaged groups (including SA recipients and other vulnerable people through Labour Market Agreements or LMAs, as well as defined agreements for disabled people and older workers), the total number of bilateral agreements reaching 49. Of these 49 agreements, the LMDAs and the LMAs are the most relevant for the subject at hand. LMAs differ from LMDAs due to the fact that they do not have a legal base (such as the EIA), but are sanctioned by ministerial approval. In summary, "the federal role is now focused primarily on providing funding; ensuring accountability, evaluation and national policy priorities; ensuring similarity in service provision across the country; and delivering pan-Canadian programming and services" (Wood, 2010, p. 14).

A final development in this mode of governance has been a sudden and radical unilateral shift on the side of the federal government.²¹ Although the LMDA agreements do not have a defined end date, in 2013 the federal government indicated that they wished to make adjustments and in 2014 undertook a series of consultations. In March 2014 all LMAs lapsed at the same time and the federal government announced in 2013 that it would not prolong nor renegotiate these deals. Instead, the government wanted a Canada Job Grant (CJG) to re-orient the federal money away from providing activation services to the unemployed towards directly financing measures taken by employers, initially forcing provinces to match federal funds which would have resulted not only in a large budget cut but also in significant extra costs (Mendelson & Zon, 2013, p. 7). The hard fiscal stance of the federal government has been somewhat relaxed, but the Canada Job Fund Agreements (JFAs) that resulted are likely to have a strong impact on bilateralism and the availability of workforce development measures. The next two subsections will focus on activation policies for EI-beneficiaries

¹⁹ These attempts came in the form of the so-called Meech Lake and Charlottetown Accords, which encompassed much broader constitutional issues than workforce development (Cameron & Simeon, 2002, p. 55). The Social Union Framework was also one of the failed attempts to bring about more coherence (and accountability), but aimed to achieve these goals through an intergovernmental agreement rather than through constitutional reforms.

²⁰ Devolved agreement involved the transfer of federal staff, assets and funding. Some provinces initially chose co-managed arrangements where the federal government continued to deliver the programming.

²¹ There have been no studies or pilot projects run before the introduction of the Canada Job Grant, which is set to reshape intergovernmental relations severely in the area of workforce development, leading commentators to qualify the Canada Job Grant as "deeply flawed public policy" (Mendelson & Zon, 2013, pp. 1, 10).

and non EI-beneficiaries, respectively, while the latter subsection will focus on LMAs since the full impact and consequences of the JFAs are not yet clear.

4. Activation for EI (Employment Benefits and Support Measures)

This section will mainly focus on the delivery of services that are defined in part 2 of the EIA, as devolved through the LMDAs. The introduction of the 1996 EIA created a coherent federal legal base for ALMPs which, along with policy documents of the federal ministry (Department of Human Resources and Skills Development or HRDSC), identifies two types of ALMPs: Employment Benefits (EBs) and Support Measures (SMs). These policies constituted a consolidation of a vast range of different policies. Furthermore, they were specifically designed to reduce EI expenditure. EBs are defined as ‘targeted wage subsidies, targeted earnings supplements, self-employment, job creation partnerships and skills development’, while SMs are defined as ‘employment assistance services, labour market partnerships and research and innovation’ (Wood, 2010, p. 18).²² EBs only cover jobless ‘insured workers’; in other words it is only targeted at current EI-beneficiaries and those with a recent claim. SMs are less intensive services or policies and can be delivered to non-EI beneficiaries.

Table 1 Employment Benefits and Support Measure programme descriptions. Source: CEIC 2013: 210

Employment Benefits	Targeted Wage Subsidies assist insured participants to obtain on-the-job work experience by providing employers with financial assistance toward the wages of participants. This benefit encourages employers to hire unemployed individuals whom they would not normally hire in the absence of a subsidy.
	Targeted Earnings Supplements encourage unemployed persons to accept employment by offering them financial incentives. Quebec offers a similar measure—Return to Work Supplement—to help with expenses related to returning to work (for example, new tools, office materials or clothing).
	Job Creation Partnerships projects provide insured participants with opportunities to gain work experience that will lead to ongoing employment. Activities of the project help develop the community and the local economy.
	Skills Development helps insured participants to obtain employment skills by giving them direct financial assistance that enables them to select, arrange for and pay for their own training.
	Self-Employment provides financial assistance and business planning advice to EI-eligible participants to help them start their own business. This financial assistance is intended to cover personal living expenses and other expenses during the initial stages of the business.
Support Measures	Employment Assistance Services provide funding to organizations to enable them to provide employment assistance to unemployed persons. The services provided may include individual counselling, action planning, job search skills, job-finding clubs, job placement services, the provision of labour market information, case management and follow-up.
	Labour Market Partnerships provide funding to help employers, employee and employer associations, and communities to improve their capacity to deal with human resource requirements and to implement labour force adjustments. These partnerships involve developing plans and strategies, and implementing adjustment measures.
	Research and Innovation supports activities that identify better ways of helping people to prepare for or keep employment and to be productive participants in the labour force. Funds are provided to eligible recipients to enable them to carry out demonstration projects and research for this purpose.

The EIA places the responsibility of the design and implementation of such measures with the national employment service, but sections 62 and 63 provides the federal government with the option of devolution. These sections are the legal base for the LMDAs, which in essence are bilateral conditional block grants. The LMDAs transferred not only formal responsibilities but also federal staff, assets and funding. It is up to the provinces to design a delivery system. Some opt for an approach where the provincial government implements programmes itself, while others contract third parties, and yet others combine both approaches (Canada Employment Insurance Commission, 2013, p. 126). Simply put, with the LMDAs the federal government decentralised (politically) the implementation and design of the activation part of the EIA. The federal government does not prescribe a specific programme design, nor does it tell provincial governments which programmes to

²² See also (Canada Employment Insurance Commission, 2013, p. 210)

utilise. Rather, the provinces design their own programmes along the lines of the federally mandated categories described in Table 1. These policies, in accordance with section 63 of the EIA, must be subjected to a ‘test of similarity’ (see Table 8). The result of LMDAs is that provincial service delivery providers now face a ‘unified and coherent government framework’ for activation (Wood, 2010, p. 13).

LMDAs include an accountability framework. Provinces are obliged to monitor and report their results regularly, which are then processed into an annual EI Monitoring and Assessment Report (MAR) issued by the CEIC. The indicators that are institutionalised and agreed upon for the performance of all provincial LMDAs are as follows: the number of active EI claimants who have accessed Employment Benefits and Measures; the number of clients returned to employment; and the amount of savings for the Employment Insurance Account (as a result of beneficiaries returning to employment before their benefit runs out) (Government of British Columbia, 2013, pp. 20-21). As a rule, the indicators are supplemented in the MAR with short descriptions based on the local labour market conditions and priorities of the provincial governments (Government of Newfoundland Labrador, 2014; Government of Saskatchewan, 2013; Government of British Columbia, 2013). In other words, the federal government monitors one output and two outcome indicators, which are contextualised with local conditions and ambitions. This is a relatively meagre performance review, and the annual review of the federal government through the EI Monitoring and Assessment Reports has been criticised for its lack of information (Wood & Klassen, 2011, p. 10), while even more strongly opinionated commentators noted that the annual reporting was “vague to the point of being useless” (Dawkins, 2009, p. 11). There are no comparisons between provinces, nor over time that would contextualize the information being provided.

Taking what we can from the most recent CEIC report, the most common interventions by far are the Employment Assistance Services (EAS), but EB – and especially training or ‘Skill Development’ – take up almost half of the total federal resources provided through LMDAs (Canada Employment Insurance Commission, 2013, pp. 101-106). Total federal expenditure on LMDAs has been around \$2 billion annually (Canada Employment Insurance Commission, 2013).²³ EBSMs are funded by the Employment Insurance Operating Account, which is the same source of funding as the passive income replacement part of EI (Léonard, 2014, pp. 15-16). The use of these funds for ALMPs is a controversial issue in Canada, especially with employers’ and employees’ organisations. Furthermore, there is an inherent tension between the goals of the provinces and the federal government concerning ALMPs: the EBSMs are specifically designed to reduce EI costs. However, the programmes are designed and implemented by the provinces (although along federal guidelines) who have no direct incentive to reduce EI costs. This is compounded by the meagre performance review without any consequences tied to it.

The amount of funds distributed through LMDA has been fixed since 1996. The formula for the allocation of funds consists of different elements. Around 500 million is allocated on the basis of labour market performance and 800 million is distributed between provinces based on the relative impact on different provinces of EI reforms in 1996, these blocks include caps per province. The rest of the funds are divided in various ways.²⁴ The result is an opaque and complicated distribution that has very different effects for different provinces. Especially the allocation of the 800 million in so-called ‘Reinvestment of Reform Savings’ has been heavily criticised as anachronistic and inequitable –

²³ During the economic downturn, the federal government provided extra funds from 2009 to 2011. Additionally, the federal government offered temporary EI measures, such as extensions of benefits (Canada Employment Insurance Commission, 2013, pp. 32-34).

²⁴ See the annexes of the LMDAs (cf. the [Manitoba LMDA](#) as an example).

especially from the side of the Ontario-based Mowat Centre (Mendelsohn, 2014; Zon, 2014; Mowat Centre, 2011). Because part of the allocation formula is based on labour market performance (there are 17 different indicators), poor activation performance can be rewarded – although the annual changes in allocation are capped. The fixed nature of the allocations and its perceived unfairness is one of the reasons Ontario held off on making an agreement for so long (until 2005). LMAs were seen to be necessary in order to make up the shortfall of the non-adjustment of LMDA funds 12 years on. Table 2 shows the division of funds per province, contextualised with the share of all clients served in that province and the share of provincial population in the total population. This table shows that the LMDA constitutes redistribution as some provinces receive more funding both a per capita- and a client served-basis. This is contrary to other federal transfers for activation of other caseloads (LMAs), which are based on a per capita-formula (cf. infra).

Table 2 Share of LMDA allocation, clients served and total population per province 2012/2013. Own calculations on the basis of CEIC 2013: 115-150.

Province	Share of total allocation in %	Share of clients of national total served in %	Share of national Population in %
Newfoundland and Labrador	6,2%	2,0%	1,5%
Prince Edward Island	1,3%	0,8%	0,4%
Nova Scotia	3,8%	2,8%	2,8%
New Brunswick	4,3%	2,4%	2,2%
Quebec	27,6%	30,8%	23,6%
Ontario	26,5%	23,8%	38,4%
Manitoba	2,1%	4,5%	3,6%
Saskatchewan	1,8%	2,1%	3,1%
Alberta	5,1%	18,6%	10,9%
British Columbia	13,2%	11,9%	13,1%
Northwest Territories	0,2%	0,1%	0,1%
Yukon	0,2%	0,1%	0,1%
Nunavut	0,1%	0,1%	0,1%

5. Activation for welfare (LMA and provincial measures)

The Employment Benefit measures in the LMDAs were specifically targeted towards EI- beneficiaries. As stated, most common interventions are not EBs but SMs. Of the SMs the most prevalent type is EAS, these services are not intensive and generally only include counselling. The budgetary focus of the LMDAs is on the up-skilling or 'Skill Development' type of policies, which fall under the EB category and are therefore not accessible for unemployed workers who cannot claim an EI attachment for whatever reason. In other words, before LMAs, there was no federally funded training system in place that was aimed at non-EI jobless workers. The Toronto-based Task Force on Modernizing Income Security for Working Age Adults (MISWAA), noted that the training system was "fragmented and poorly targeted to those most in need, particularly to women and those with low levels of education", and that furthermore "separate training systems for SA and EI results in service duplication and further aggravates the problem" (2006, p. 23). The attempts of the provincial governments to fill this policy gap did not always qualify as successful (Bramwell, 2011, p. 9).

The introduction of the LMA addressed the fragmented and incomplete nature of training and activation policies, but also the increasingly inadequate federal funding due to the fixed allocations of the LMDAs and the CHST which have not evolved over time. Although LMAs were also bilateral conditional block grant funded agreements, they were different from LMDAs. LMAs outlined high-level federal strategic objectives and incorporated more detailed reporting requirements, but also provided more flexibility for provinces in terms of policy design (Bramwell, 2011, p. 12). The funding of LMAs was also less complex; it distributed \$500 million to provinces on a per capita basis.²⁵ "Federal funds under the LMAs were intended to be used to provide increased opportunities for vulnerable groups in the labour market, and in particular to serve unemployed people who were not EI clients, or employed individuals who were low skilled" (Bramwell, 2011, p. 12). As with LMDAs, provinces had to develop annual plans that outlined their strategy, but in contrast to LMDAs, the accountability framework was more holistic and included public reporting. Provinces were required to produce independently attested financial statements, commit to a set of common performance indicators, report publicly, and engage in an evaluation of their programmes (Wood, 2010, p. 19) – they could opt to evaluate their programmes in cooperation with the federal government in which case the costs of evaluation was split between both levels of government.

From an initial glance, it would seem that the LMAs were subject to a stricter federal framework. Based on their experiences with LMDAs, federal officials indeed opted for a "different approach to (1) impose more significant performance indicators and (2) be able to trust the P/Ts [Provinces and Territories] to report on these indicators without requiring an exchange of data. Targets under the LMAs are set by each [provincial] government and publicly released in the annual plan" (Wood, 2010, p. 23). However, the LMA regimes common indicators did not entail that the federal government had any influence over the setting of targets. The provinces were free to set their own targets without consulting federal officials. LMDA targets, by contrast, are mutually agreed upon.²⁶ Additionally, "if there were any federal restrictions felt by P/Ts regarding programme limitations of the LMDAs, these

²⁵ Which is funded by the federal Consolidated Revenue Fund (CRF)

²⁶ These LMA indicators include input measures (number, target group and education level of eligible persons), two output measures (number of beneficiaries and their satisfaction), and five outcome measures (proportional outflow, number of former beneficiaries that are still employed after 3 and 12 months of outflow, satisfaction after 3 and 12 months of outflow, number of beneficiaries receiving credentials or certification through participation and average hourly earnings following outflow) (Government of British Columbia, 2014, p. 18).

have been eliminated by the flexibility that is available in the programmes that can be offered through the Labour Market Agreements. Here, there is no prescribed list in the agreements” (Wood, 2010, p. 22).

The LMA-experience has, thus, been different from that of LMDA. On one hand, LMDAs include more guidelines on the design of policies, who is eligible to receive what services, receive more funds and are targeted at EI-beneficiaries. LMAs had a more robust accountability framework, but included no federal influence over the design of policies and setting of targets. Under the current Canada Job Grant, LMA funding is re-directed towards obliging provinces to fund employer-based action. The new ‘Canada Job Fund Agreements’ (JFA) include the former LMA activities (but reduced in terms of funding) and the CJG *strictu sensu*. The CJG is a funding mechanism for employers who submit proposals for the training and/or up-skilling of one or more employees. The Government of Canada provides two-thirds of the cost of training, up to a maximum of \$10,000 per grant. Employers are required to contribute the remaining one-third of the training costs.²⁷ It is very much employer focussed, their demands being central to the CJG.²⁸ The accountability framework under the JFA remains intact; the same indicators apply to the services rendered by the provinces, and additional indicators are added to the JFA for the purposes of employer-sponsored and CJG-funded training.²⁹

²⁷ See http://www.esdc.gc.ca/eng/jobs/training_agreements/cjg/employers.shtml.

²⁸ This indicates the difference between ALMPs and ‘Workforce Development’; the LMA has shifted towards training policies for those already employed, while ALMPs in a European context would primarily be focussed on the unemployed.

²⁹ These additional indicators are almost identical to those already existing for services, but now also include input indicators on involved firms (their number and size) and output indicators on the CJG *sensu stricto* (the average value, average number of grants per employer and type of training provided by employer).

6. Concern for institutional moral hazard

Institutional moral hazard is not an issue concerning EI benefits because there is only one level of government involved in the design, financing and implementation of the scheme. In SA, however, institutional moral hazard was historically more of a legitimate concern as the federal transfers were used to finance provincially designed and implemented programmes and were (under CAP) distributed based on provincial spending. Cost-sharing in SA was eliminated in 1996 with the introduction of the CHST, and further reduced in 2007 when the decision was taken to simplify the distribution of CST funds, on a per capita basis. This eliminated the possibility for moral hazard as provinces were no longer able to ‘manipulate the insured risk’, which is the amount of funding of benefits for welfare beneficiaries. Provinces now receive a set amount of funding for benefits for SA claimants, and it is their own responsibility to approach the issue of benefit dependency without influencing their ‘insurers’ liability. This is in line with the view that provincial governments are responsible for their own constituency (Canadian Association of Social Workers, 2012, p. 33), who can and should hold their governments accountable for their responsibilities concerning SA. Furthermore, this is also in line with the scale-back of federal conditions. In short, the CST, through which SA is marginally financed, is almost completely unconditional (Canadian Association of Social Workers, 2012, p. 33) and provinces have no obligation to report to the federal government (Auditor General of Canada, 2008, p. 15).³⁰ However, as in the US case with the transformation of AFDC to TANF, the switch from CAP to CHST (and later the CST) can be seen as a clear indication of federal concern for institutional moral hazard. The current framework for SA might seem relatively unconcerned for institutional moral hazard, but this is the result of abolishing cost-sharing mechanisms, reforming the CHST into a per-capita financed CST and a strong fiscal retreat from the federal government in SA. In other words, the current constellation of SA is the direct result of federal concern for institutional moral hazard.

The absence of institutional moral hazard concerning (activation of) SA does not eliminate the possibility of an accountability issue. It is almost impossible for anyone (including the federal government) to trace how the provinces spend their CST funds; moreover, there is a lack of information concerning the levels and evolution of social policy input indicators such as benefit rates (Nadeau, 2014, p. 5). However, if the federal government lacks the resources, information and inclination to properly monitor the provinces, the question remains as to whether or not the citizens of the provinces and informed stakeholders are adequately able to assume this role.

Activation and training policies are areas that have built-in concern for institutional moral hazard. LMDAs, LMAs and JFAs all include an accountability framework. They require bilateral agreements, annual planning and annual reporting. LMDA indicators are very few in number; however, the LMDA targets are to be negotiated with the federal government, which has provided the provinces with a list of types of programmes that are eligible for funding. Some argue that LMDAs limit the flexibility of provinces and are, in essence, ‘service delivery agreements’ regulated by federal legislation and implemented by the provinces (Bramwell, 2011, p. 12). This view can be supported by the fact that federal offices and staff have been transferred to the provinces. Others have noted that despite this the provinces enjoy a large amount of leeway in the design and selection of programme types (Wood, 2010, pp. 21-22). Provinces are free to choose their governance arrangements and have easily fitted already existing programmes into the federal description. Services under CST, LMA or JFA funding are not required to adhere to a federal typology. The CJG programme is defined at the

³⁰ See [section 24.3](#) of the Federal-Provincial Fiscal Arrangements Act

federal level, but it leaves almost all discretion to the provincial level in deciding which claims are awarded with a grant.

In terms of performance review, the LMDAs are not subject to a very strict governance system. Provinces themselves have influence over their targets on three very limited indicators. The targets arise out of negotiations between provincial and federal officials. A Joint Evaluation Committee, established by both the province in question and the federal government, reviews the performance and the programmes that are developed. An additional review is conducted every three to five years using indicators relating to the impact of provincial programmes on benefit dependency, the sustainability of employment, the impact on communities, and changes in tax revenues, as well as other indicators that can be chosen by the provinces (Governments of Canada and Ontario, 2005; Governments of Canada and Alberta, 1996). There is mention of neither official reporting nor any targets for these additional long-term indicators. Finally, provincial governments agreed to commission an independent report on the resources spent on programmes and whether transfers for administration costs have been exclusively used to cover those administration costs. There is no mention of incentives, financial or otherwise, based on the behaviour of provinces.³¹ In other words, provincial governments are not incentivised in any way other than through reporting, to adjust their behaviour based on the indicators measured. The only threat to LMDA funding of provincial programmes is when the Joint Evaluation Committee does not consider those programmes similar enough to the federal list of types of programmes. LMA and JFA indicators are more numerous, but the provinces themselves are allowed to set their own targets. The focus on outcome performance measurement is compatible with the high flexibility and leeway that provinces enjoy.

Provinces receive federal dollars for LMDAs to activate EI-beneficiaries (and thereby reduce EI expenditure) but they have no inherent incentive to target EI-beneficiaries. Theoretically, provinces have an incentive to shift LMDA spending towards SMs rather than EBs, as the former can also be used to activate and reintegrate welfare beneficiaries. And indeed, in the latest EI monitoring report by the CEIC, it shows that non-insured beneficiaries (by definition of SM rather than EB) is the only client category to expand – by 12,7 to a total of 36,5% which is higher than any year since 1996 (Canada Employment Insurance Commission, 2013, p. 114). Low intensive EAS (SM) has been, by far, the most popular type of intervention (85,8% of all interventions were classified as EAS) and continues to rise in popularity (14,2% over-year-change in latest recorded year) (Canada Employment Insurance Commission, 2013, p. 115).

SMs have also become more popular in terms of spending, while the opposite is the case for Employment Benefits, despite that EB and particularly skill development programmes still receive the majority of funds (*ibid*). Provincial incentives, in this sense, do not align with the federal incentives, and the performance measurement system in place does little to realign them. Although the provinces are primarily judged on outflows, there is no real incentive structure in place for them focus on the reduction of EI expenditure, rather there are incentives to satisfy the indicators. This might lead to cream-skimming practices. Additionally, these crude outflow indicators do little to promote the use of EB (over SM), and therefore do little to promote the targeting of claimants of federally funded EI. Additionally, provinces also have an incentive to shift spending towards SM over EB for EI clients. Because there has been no structural increase in LMDA funding since 1996 and because the mutually negotiated LMDA objectives do include output indicators, a shift away from EB and towards SMs will enhance the capacity of provinces to serve more clients – and thus satisfy the output indicators. In the case that the federal government would like to promote the use of more

³¹ In the LMDA renewal negotiations underway in 2015 the federal government has identified a desire to introduce some kind of incentive system.

intensive programmes and to focus on EI-beneficiaries while doing so, provinces are likely to point out that LMDA funding has not been increased for almost 20 years and pressure the federal government for more funding.

Table 3 Regulated indicators for the review of provincial programme performance

Labour Market Development Agreements (Targets negotiated by Provincial and federal levels)	Input	- n.a.
	Output	- Active participants receiving EBSMs
	Outcome	- Number of EI beneficiaries returned to employment - Savings based on unpaid benefits to EI claimants who find employment or who returned to school as a result of EPBC services
Labour Market Agreements (Targets set by Provinces)	Input	- Number of beneficiaries (by status: employed, unemployed, etc.) - Education level of beneficiaries prior to services - Number and proportion of target group (youth, women, Aboriginal Canadians, elderly, disabled) in programmes
	Output	- Number of eligible beneficiaries by type of service/programme - Proportion of total eligible beneficiaries "satisfied" with programs and services received
	Outcome	- Proportion of eligible beneficiaries completing programmes and services received, by service type - Proportion of eligible beneficiaries who, after 3 and 12 months are: (a) employed (b) unemployed OR (c) in further intervention - Proportion of eligible beneficiaries who, after 3 and 12 months are satisfied with received services - Number of eligible beneficiaries who have earned credentials or certification through participating in programmes or services - Average hourly earnings earned by eligible beneficiaries following programme or service
Job Fund Agreements (Targets set by Provinces)	Input	- Same as LMA + - Number of employers who received the Grant by size and sector
	Output	- Average value of Job Grant - Average number of grants per employer - Type of training supported through the Grant, type of training providers, average length of training
	Outcome	- Same as LMA + - Employer satisfaction

On first glance, this analysis might point to a lack of concern for institutional moral hazard. But as with the US case, there are clear indicators that this is not the entire story. Firstly, the current absence of (concern for) institutional moral hazard in SA is the result of the transformation from a cost-sharing mechanism to a block grant system with limited resources – a direct consequence of concern for the manipulation of an insured risk. The seeming lack of concern over institutional moral hazard in the implementation of LMDAs can be explained by three factors: historical struggle over policy competences between levels of government, relatively low generosity of EI benefits and strongly decreasing coverage of EI. For decades, the provinces have resisted what they perceived as creeping federal influence in their policy domains, with adult training and ALMP being one of the most contested areas. Such contestation by the provinces (mainly by Quebec) coincided with the decentralisation of ALMP delivery. The funding method (block grant) and the fact that the allocation has never been increased, can be seen as inhibiting factors to federal demands for more control – which would inevitably have led to provincial claims for more funding or more policy competences. Furthermore, Canadian EI is, in comparison to the European cases, not very generous. This, coupled with the strong decrease in coverage, limits federal fiscal exposure to rising unemployment. Moreover, the decreasing coverage of EI has resulted in a cost shift towards SA. Whether or not this cost shift was, in part, a reaction to federal concerns over provincial activation efforts, it did leave the federal government less vulnerable to institutional moral hazard. How the unilateral actions of 2014 by the federal government concerning the CJG will play out in this regard, is yet to be seen. However, the federal government has clearly shifted resources away from the provinces. Therefore, we can conclude that (concern for) institutional moral hazard has played an important role in the Canadian

regulation of unemployment. However, Canada displays a different political equilibrium when it comes to federal-subnational relations than most of the other cases examined in this study.

7. Analytical grid

Table 4 Analytical grid Canada

		Unemployment benefits (Employment Insurance Act)	Activation of individuals with employment insurance under LMDA regime (Employment Insurance Act)	Unemployment-related social assistance/ income support benefits	Activation of individuals with social assistance benefits (SA recipients can be served under both the LMA and LMDA; however they are not eligible for all LMDA-financed services)
1	Degree of decentralisation (i.e. extent of flexibility on lower level) w.r.t. design of the policy: - Formal regulation - Policy goals	None Federal level determines regulation and policy goals.	High decentralisation Federal level determines a broad list of programmes and negotiates targets with provinces. Provinces design their own policy in accordance with prescribed list and negotiate targets.	Total decentralisation Provinces are free to design their own social assistance scheme and set their own goals.	Under LMA regime: High decentralisation Provinces are free to design their own programmes and set their own targets. Under LMDA: cf. column on activation of unemployment benefits.
2	Degree of decentralisation (i.e. extent of flexibility on lower level) w.r.t. implementation of the policy	None	Total decentralisation	Total decentralisation	Total decentralisation (both LMA and LMDA)
3	Budgetary responsibility	Federal	Federal	Provincial With some federal contributions through CST (less than 10% of cost, i.e. marginal).	Federal Both LMA and LMDA are federal transfers, with LMA being supplemented by some provincial contributions.
4	Budgetary transfers between levels of government?	n.a.	Yes (but subject to review) LMDA	Yes CST (but marginal)	Yes Both LMA and LMDA are federal transfers, with LMA being subject to change at federal determination.
5	Structural redistribution? (measured on a per capita-basis)	Yes Caseload size varies structurally across provinces	Yes, As provinces with higher unemployment in 1996 got more money.	No Federal funds are distributed on the basis of a per capita formula.	Under LMA regime: No Federal funds are distributed on the basis of a per capita formula.
6	Political or managerial decentralisation/delegation?	n.a.	Political	Political	Under LMA regime: Political
7	Indicators used in the monitoring of lower-level performance by higher level (on the basis of: input, output and	n.a.	One each of input, output and outcome (crude) federal indicators, negotiated target	None	Under LMA regime: Input, output and outcome. Indicators

	outcome)?		levels. Other indicators may be agreed upon and P/T can set additional indicators/ targets		federally negotiated and targets provincially set.
8	Is a system of ‘minimum requirements’ applied?	n.a.	No	No (except for no-residency requirement)	Under LMA regime: No
9	Are performance-based sanctions/rewards applied by the higher level at the lower level?	n.a.	No	No	Under LMA regime: No
10	Conclusion from 5-6-7: perception of, concern for, and approach to problems of institutional moral hazard?	In EI benefits: n.a. In the interaction between EI, SA and ALMPS: institutional moral hazard exists, but remedial federal action remains limited. Reporting only on very crude indicators with no incentive structure and no system of minimum requirements. Due to the high level of decentralisation provinces can affect federal EI caseloads with little possibility for the federal level to influence their behaviour. The crude level of performance measurement creates an information asymmetry. Poor performance can result in a larger share of the funds allocated to a certain province due to the nature of the allocation formula. Federal action is inhibited by historical factors.		Under LMA regime: n.a. The federal level only marginally contributes to the costs of SA and therefore cannot be seen as a true ‘insurer’ of provincial risk. However, this is due to the transformation of CAP into CHST and later into the CST, which is the result of federal action to prevent moral hazard. Under LMDA regime: the possibility of shifting LMDA funding from intensive to less intensive services, which can be used to service SA recipients, can be seen as a form of institutional moral hazard; however, there is also no awareness regarding a specific response to it.	
11	Conclusion from 5-6-7: approach to principal-agent issues?	n.a. (due to the political nature of decentralisation we do not apply p-a concept here).		n.a. (due to the political nature of decentralisation we do not apply p-a concept here).	
12	Contribution to macroeconomic stabilisation by the benefit system	The Canadian case is not available in Dolls and Peichl.			

8. Conclusion

The federal provincial relations in terms of the regulation of unemployment in Canada have been highly contentious. Responsibilities have shifted from one level to another and back again over time. The most stable relationship is in EI *sensu stricto*, where the federal government has continuously been the dominant player since 1940. Although provincial governments have been the dominant player in terms of SA since 1867, their precise responsibilities and relationship with the federal government has changed over time. The heyday of federal dominance over SA lies in the period between the early 1940s and the mid- 1990s, after which the provinces gradually reinforced their autonomy and competences.

Failed attempts at constitutional reform in the 1980s and 1990s necessitated bilateral agreements for devolving training and activation policies, which gained shape in the form of LMDAs, negotiated with each province and territory between 1996 and 2010. Initially, this left a policy gap for training policies and activation of non-EI workers and the unemployed. This gap was filled in 2008 by the LMAs, which were replaced in 2014 by JFAs. This recent unilateral shift of the federal government to provide training through employers rather than provincial programmes seems to be a major change in the otherwise stable trend of the last decades towards decentralisation and provincial flexibility.

Institutional moral hazard *seems* not to have played a prominent role in the federal-provincial relations of late. Concerning SA, the federal government has taken the position that provincial accountability is the responsibility of citizens rather than the federal government. This is understandable as the ability of provinces to manipulate their 'insured risk' has been cut short. In fact, the current division of labour concerning SA is a direct result of federal concern for institutional moral hazard. The remaining policy area under provincial competence where accountability lies with the federal government is part II of the EIA: regulated under the LMDAs. This accountability structure does include reporting, but in a very limited way, and with no incentive structure in place. Provinces do not have strong incentives to effectively activate EI claimants; instead, they retain the incentive to use LMDA funds for unemployed who are not EI-eligible, including welfare beneficiaries. Differentiated EI benefit eligibility, levels, and duration compound the relevance of institutional moral hazard.

Three factors might influence the lack of federal action to combat institutional moral hazard in EI: (1) the relatively modest replacement rates of EI, (2) the decreasing beneficiaries-to-unemployed ratio and (3) historical intergovernmental developments.³² In other words, the historical institutional developments of the previous two decades deterred the federal government to impede provincial ALMP autonomy too much, while the low generosity of EI combined with decreased coverage, limits the consequences of provincial actions for the federal budget. The Canadian multi-tiered regulation of unemployment is shaped by centrifugal forces in its particular brand of federalism, but also by the concern for institutional moral hazard.

³² These historical developments include the historical competences of provinces concerning education policies, which have come to overlap with activation. Additionally the historical competences regarding SA, the fact that LMDA funds have not increased structurally since 1996 also play a major role. Provinces have become more vocal in their claims of autonomy and have actively resisted federal infringements on their historical competences. This entailed that when competences overlapped with new policy areas (such as activation) provinces defended their autonomy. This development is exemplified (but also exacerbated by) the failed constitutional reform and the near-death experience of the Quebec independence referendum.

Appendix

Table 5 Divisor 'best weeks' for the calculation of EI benefits. Source: <http://www.servicecanada.gc.ca/eng/ei/types/regular.shtml#table2>

Regional rate of unemployment	Divisor (number of best weeks)
6% or less	22
6.1% to 7%	21
7.1% to 8%	20
8.1% to 9%	19
9.1% to 10%	18
10.1% to 11%	17
11.1% to 12%	16
12.1% to 13%	15
13.1% or more	14

Table 6 Number of weeks of benefits that will be paid based on the number of hours of insurable employment and the regional rate of unemployment. Source: <http://www.servicecanada.gc.ca/eng/ei/types/regular.shtml#much>

Number of hours of insurable employment in the qualifying period / Regional Unemployment rate	<6%	6%-7%	7%-8%	8%-9%	9%-10%	10%-11%	11%-12%	12%-13%	13%-14%	14%-15%	15%-16%	16<%
420-454	0	0	0	0	0	0	0	0	26	28	30	32
455-489	0	0	0	0	0	0	0	24	26	28	30	32
490-524	0	0	0	0	0	0	23	25	27	29	31	33
525-559	0	0	0	0	0	21	23	25	27	29	31	33
560-594	0	0	0	0	20	22	24	26	28	30	32	34
595-629	0	0	0	18	20	22	24	26	28	30	32	34
630-664	0	0	17	19	21	23	25	27	29	31	33	35
665-699	0	15	17	19	21	23	25	27	29	31	33	35
700-734	14	16	18	20	22	24	26	28	30	32	34	36
735-769	14	16	18	20	22	24	26	28	30	32	34	36
770-804	15	17	19	21	23	25	27	29	31	33	35	37
805-839	15	17	19	21	23	25	27	29	31	33	35	37
840-874	16	18	20	22	24	26	28	30	32	34	36	38
875-909	16	18	20	22	24	26	28	30	32	34	36	38
910-944	17	19	21	23	25	27	29	31	33	35	37	39
945-979	17	19	21	23	25	27	29	31	33	35	37	39
980-1014	18	20	22	24	26	28	30	32	34	36	38	40
1015-1049	18	20	22	24	26	28	30	32	34	36	38	40
1050-1084	19	21	23	25	27	29	31	33	35	37	39	41
1085-1119	19	21	23	25	27	29	31	33	35	37	39	41
1120-1154	20	22	24	26	28	30	32	34	36	38	40	42
1155-1189	20	22	24	26	28	30	32	34	36	38	40	42
1190-1224	21	23	25	27	29	31	33	35	37	39	41	43

1225-1259	21	23	25	27	29	31	33	35	37	39	41	43
1260-1294	22	24	26	28	30	32	34	36	38	40	42	44
1295-1329	22	24	26	28	30	32	34	36	38	40	42	44
1330-1364	23	25	27	29	31	33	35	37	39	41	43	45
1365-1399	23	25	27	29	31	33	35	37	39	41	43	45
1400-1434	24	26	28	30	32	34	36	38	40	42	44	45
1435-1469	25	27	29	31	33	35	37	39	41	43	45	45
1470-1504	26	28	30	32	34	36	38	40	42	44	45	45
1505-1539	27	29	31	33	35	37	39	41	43	45	45	45
1540-1574	28	30	32	34	36	38	40	42	44	45	45	45
1575-1609	29	31	33	35	37	39	42	43	45	45	45	45
1610-1644	30	32	34	36	38	40	42	44	45	45	45	45
1645-1679	31	33	35	37	39	41	43	45	45	45	45	45
1680-1714	32	34	36	38	40	42	44	45	45	45	45	45
1715-1749	33	35	37	39	41	43	45	45	45	45	45	45
1750-1784	34	36	38	40	42	44	45	45	45	45	45	45
1785-1819	35	37	39	41	43	45	45	45	45	45	45	45
1820-	36	38	40	42	44	45	45	45	45	45	45	45

Table 7 Regional unemployment rates per province and territory 1996-2014. Source: CANSIM Table 282-00871, 11, 13

Geography	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Canada	9,6	9,1	8,3	7,6	6,8	7,2	7,7	7,6	7,2	6,8	6,3	6	6,2	8,4	8	7,5	7,3	7,1	6,9
Newfoundland and Labrador	19	18,2	17,7	16,7	16,6	16	16,6	16,5	15,6	15,2	14,7	13,5	13,4	15,6	14,7	12,6	12,4	11,6	12
Prince Edward Island	14,5	15,3	14	14,2	12,2	11,9	11,8	10,8	11,2	10,9	11,1	10,2	10,8	11,9	11,5	11,1	11,2	11,5	10,5
Nova Scotia	12,4	12,1	10,4	9,6	9,1	9,8	9,6	9,1	8,8	8,4	8	8	7,6	9,2	9,6	9,1	9,2	9	8,9
New Brunswick	11,7	12,6	12,1	10,1	10	11,2	10,2	10,2	9,7	9,7	8,7	7,5	8,5	8,6	9,2	9,5	10,3	10,3	9,9
Quebec	11,8	11,4	10,3	9,3	8,4	8,7	8,7	9,2	8,5	8,2	8	7,2	7,3	8,6	8	7,8	7,7	7,6	7,8
Ontario	9	8,4	7,2	6,3	5,8	6,4	7,1	6,9	6,8	6,6	6,3	6,4	6,6	9,1	8,7	7,9	7,9	7,6	7,2
Manitoba	7,2	6,5	5,6	5,6	4,9	5,1	5	4,9	5,3	4,7	4,3	4,5	4,1	5,2	5,4	5,5	5,4	5,4	5,4
Saskatchewan	6,5	5,9	5,8	6	5,1	5,8	5,6	5,6	5,3	5,1	4,7	4,2	4	4,9	5,3	4,9	4,7	4,1	3,8
Alberta	6,9	5,9	5,6	5,7	5	4,7	5,3	5,1	4,6	3,9	3,4	3,6	3,6	6,5	6,5	5,4	4,6	4,6	4,7
British Columbia	8,7	8,5	8,8	8,2	7,2	7,8	8,6	8	7,1	5,8	4,7	4,3	4,6	7,7	7,5	7,5	6,9	6,6	6,1

Table 8 Government of Alberta Employment & Immigration (AEI) Provincial-Federal LMDA Programme. Source: Wood 2010

AEI Employment and Training Programmes	Programme Elements	Federal Programme Equivalent
Career Information: Career and Employment Services help Albertans to understand the labour market, to make informed career decisions, develop realistic education, training, and employment plans and to prepare for, find, and maintain work.	- Career & Employment Assistance Services - Job Placement	Employment Assistance Services
Work Foundations: Provides full and part-time basic skills training to enable individuals to pursue further job-related training and/or to find a job and substantially improve their employment situation.	- Basic Skills - Academic Upgrading - English as an Additional Language - University and Technical Entrance Prep	Skills Development
Training for Work: Provides full and part-time occupationally-focused training opportunities enabling individuals to get a job and substantially improve their employment situation, adapt to changing labour conditions, or gain skills to sustain employment.	Occupational training	Skills Development
	Integrated Training: Immigrant Bridging	Job Creation Partnerships
	Workplace Training	Targeted Wage Subsidy (TWS)
	Self-Employment	Self-Employment
Workforce Partnerships: Ensures that working Albertans continue to enhance their skills in order to contribute to Alberta's economic growth or to respond to skill shortages through collaborative efforts with industry, community partnerships, employer groups, organisations, industry sectors and municipalities with common labour market needs.	Labour Market Partnerships	Labour Market Partnerships

Bibliography

- Auditor General of Canada. (2008). *A Study of Federal Transfers to Provinces and Territories*. Ottawa: Office of the Auditor General of Canada. Retrieved from http://www.oag-bvg.gc.ca/internet/docs/parl_oag_200812_01_e.pdf
- Banting, K. (2005). Canada: nation-building in a federal welfare state. In H. Obinger, S. Leibfried, & F. Castles, *Federalism and the Welfare State: New World and European Experiences* (pp. 89-137). Cambridge: Cambridge University Press.
- Bonoli, G. (2011). Active Labour Market Policies in a Changing Economic Context. In J. Clasen, & D. Clegg, *Regulating the Risk of Unemployment National Adaptations to Post-Industrial Labour Markets in Europe*. Oxford: Oxford University Press.
- Bramwell, A. (2011). Training Policy for the 21st Century. *Mowat Centre EI Task Force Background Papers*.
- Cameron, D., & Simeon, R. (2002). Intergovernmental Relations in Canada: The Emergence of Collaborative Federalism. *Publius: The Journal of Federalism*, 32(2), 49-71.
- Canada Employment Insurance Commission. (2013). *2012 EI Monitoring and Assessment Report*. Ottawa: CEIC.
- Canada Employment Insurance Commission. (2015). *2013/2014 EI Monitoring and Assessment Report*. Ottawa: CEIC.
- Canadian Association of Social Workers. (2012). *Canada Social Transfer Project: Accountability Matters*. Ottawa: Canadian Association of Social Workers.
- Canadian Association of Social Workers. (2013). *The Canada Social Transfer and the Social Determinants of Health - Final Report*. Ottawa: Canadian Association of Social Workers.
- Choudhry, S., & Pal, M. (2011). The Impact of Regionally Differentiated Entitlement to EI on Charter-Protected Canadians. *Mowat Centre EI Taskforce Background Paper*.
- Dawkins, I. (2009). *Insuring Prosperity: SME Perspectives on the Employment Insurance System*. Ottawa: Canadian Federation of Independent Business.
- Day, K., & Winer, S. (2011). What do we know about the relationship between regionalized aspects of the unemployment insurance system and internal migration in Canada? *Mowat Centre EI Task Force Background Paper*.
- Department of Finance. (2012). Jobs, Growth and Long-Term Prosperity. *Economic Action Plan 2012*. Ottawa: Public Works and Government Services Canada.
- Department of Finance Canada. (2014). *The Road to Balance: Creating Jobs and Opportunities*. Ottawa: Department of Finance Canada.
- Fisher, D., Rubenson, K., Bernatchez, J., Clift, R., Jones, G., Lee, J., . . . Trottier, C. (2006). *Canadian Federal Policy and Postsecondary Education*. Vancouver: The Centre for Policy Studies in Higher Education and Training.
- Gauthier, J. (2012). The Canada Social Transfer: Past, Present and Future Considerations. *Library of Parliament Background Papers, Publication No. 2012-48-E*.

- Government of British Columbia. (2013). *2013/14 Annual Plan for British Columbia — Labour Market Development Agreement & Labour Market Agreement*. Retrieved from <http://www.eia.gov.bc.ca/programs/epbc/docs/lmda-annual-report-2014-15.pdf>
- Government of British Columbia. (2014). *Canada/British Columbia Labour Market Agreement - 2013/14 Performance Outcome Report*. Government of British Columbia. Retrieved from http://www.jtst.gov.bc.ca/cjfareement/docs/2013-14_POR.pdf
- Government of Newfoundland Labrador. (2014). *Annual Plan 2014-15 Canada-NL Labour Market Agreement for Persons with Disabilities (LMDPD) Canada-NL Job Fund Agreement (JFA) Canada-NL Labour Market Development Agreement (LMDA)*. Government of Newfoundland Labrador. Retrieved from http://www.aes.gov.nl.ca/publications/pdf/Jan_12_2015_LMDA_Annual_Plan_C_2013-14.pdf
- Government of Saskatchewan. (2013). *2013-14 Annual Plan Labour Market Development Agreement (LMDA) Labour Market Agreement (LMA)*. Saskatchewan Ministry of the Economy. Retrieved from <http://economy.gov.sk.ca/LMA-LMDA-2013-14>
- Governments of Canada and Alberta. (1996). *Canada - Alberta Labour Market Development Agreement*. Retrieved March 2015, from http://www.esdc.gc.ca/eng/jobs/training_agreements/lmda/ab_agreement.shtml
- Governments of Canada and Ontario. (2005). *Canada – Ontario Labour Market Development Agreement*. Retrieved March 2015, from http://www.esdc.gc.ca/eng/jobs/training_agreements/lmda/on_agreement.shtml
- Langenbucher, K. (2015). *How demanding are eligibility criteria for unemployment benefits, quantitative indicators for OECD and EU countries*. Paris: OECD. Retrieved from <http://dx.doi.org/10.1787/5jrxtk1zw8f2-en>
- Léonard, A. (2013). *Employment Insurance: Ten Changes in 2012–2013. Library of Parliament Background Papers, Publication No. 2013-03-E*.
- Léonard, A. (2014). *The Employment Insurance Program in Canada: How it Works. Library of Parliament Background Papers, Publication No. 2010-52-E*.
- Lin, Z. (1998). *Employment Insurance in Canada: Policy changes. Statistics Canada, 75*. Retrieved from <http://www.statcan.gc.ca/studies-etudes/75-001/archive/e-pdf/3828-eng.pdf>
- McMillan. (2012). *Employment law in Canada: provincially regulated employers*. Toronto: McMillan.
- Medow, J. (2011). *Hidden Regional Differentiation: EI and Unequal Federal Support for Low Income Workers. Mowat Centre EI Task Force Background Paper*.
- Mendelsohn, M. (2014). *Labour Market Development Agreements have failed to keep pace with modern Canadian labour markets*. Toronto: Mowat Centre.
- Mendelson, M., & Zon, N. (2013). *The Training Wheels Are Off: A Closer Look at the Canada Job Grant*.
- Mosley, H. (2011). *Decentralisation of Public Employment Services, Analytical paper for the PES to PES Dialogue*. Brussels: The European Commission Mutual Learning Programme for Public Employment Services.

- Mowat Centre. (2011). *Making it Work: Final Recommendations of the Mowat Centre Employment Insurance Task Force*. Toronto: Mowat Centre.
- Mowat Centre. (2012). *What the New EI Rules Mean*. Toronto: Mowat Centre.
- Nadeau, J. (2014). *2014-15 Federal Transfers to Provinces and Territories*. Ottawa: Office of Parliamentary Budget Officer.
- National Council of Welfare. (2010). *Welfare Incomes in 2009*. Ottawa: National Council of Welfare.
- Pal, L. (1988). *State, Class, and Bureaucracy: Canadian Unemployment Insurance and Public Policy*. Montreal: McGill-Queen's University Press.
- Parliamentary Budget Officer. (2011). *Fiscal Sustainability Report 2011*. Ottawa: Office of the Canadian Parliamentary Budget Officer.
- Poirier, J. (2003). Keeping Promises in Federal Systems: the Legal Status of Intergovernmental Agreements with Special Reference to Belgium and Canada. *Dissertation submitted for the Degree of PhD*.
- Pollack, A. (2013). Employment Insurance and the Business Cycle. *MPRA Paper, No. 55057*. Retrieved from <http://mpra.ub.uni-muenchen.de/55057/>
- Rowell-Sirois Commission. (1940). *Report on Dominion-Provincial Relations*. Royal Commission on Dominion-Provincial Relations. Ottawa: King's Printer.
- Struthers, J. (1983). *No Fault of Their Own: Unemployment and the Canadian Welfare State 1914-1941*. Toronto: University of Toronto Press.
- Task Force on Modernizing Income Security for Working-Age Adults. (2006). *Time for a Fair Deal*. Toronto: Toronto City Summit Alliance.
- Telford, H. (2008). The Spending Power Revisited: Can Open Federalism Bridge the Divide between Quebec and the Rest of Canada? *Institute for Research on Public Policy: Policy Matters*, 9(3), 12-48.
- Van den Berg, A., Parent, D., & Masi, A. (2004). *From Unemployment to Employment Insurance: Towards Transitional Labour Markets in Canada?* Amsterdam: Paper presented at the 2nd major conference on "Quality in Labour Market Transitions: A European Challenge". Retrieved from http://www.siswo.uva.nl/tlm/confbuda/papers/papers_files/WP3%20Van%20den%20Berg%20Parent%20Masi%20-%20From%20Unemployment%20to%20Employment%20Insurance.pdf
- Verdun, A., & Wood, D. (2014). Governing the Social Dimension in Canadian Federalism and European Integration. *Observatoire Social Européen Research Paper*, 14.
- Wood, D. (2010). Building Flexibility and Accountability into Local Employment Services: Country Report for Canada. *OECD Local Economic and Employment Development (LEED) Working Papers*, 17.
- Wood, D. (2011a). Using European Ideas to Open Up Canadian Federalism: the Case of Labour Market Policy. *Policy Brief prepared for the Canada-Europe Transatlantic Dialogue*. Retrieved from <http://labs.carleton.ca/canadaeurope/2011/policy-brief-using-european-governance-ideas-to-open-up-canadian-federalism-the-case-of-labour-market-policy-by-donna-wood/>

Wood, D., & Klassen, T. (2009). Bilateral federalism and workforce development policy in Canada. *Canadian Public Administration*, 52(2), 249-270.

Wood, D., & Klassen, T. (2011). Improving the Governance of Employment and Training Policy in Canada. *Mowat centre EI Task Force Background Papers*.

Zon, N. (2014). *Slicing the Pie: Principles for Allocating Transfer Payments in the Canadian Federation*. Toronto: Mowat Centre.