

Canada: Federalism Behind (Almost) Closed Doors

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Canada differs from most other established federations, in that it contains two entirely different views of its federal structure. From the outset, francophone Quebecers have understood Canada as a compact between two equal partners and founding cultures, one French and one English. When the Canadian federation expanded, from initially four to finally ten provinces, they saw the compact dissolve into an intergovernmental numbers game, with the lone French province in a perpetual 9:1 minority position. For most francophone Quebecers, in other words, even if they are not outright separatists, the question of governance cannot be separated from the larger issue of Canadian federalism's ability to accommodate self-determination.

For most English Canadians, this is not so. They do not see Canadian federalism as fundamentally flawed or lop-sided. Intergovernmental practitioners will acknowledge that the system is dominated by executive federalism, and they will add that this is probably inevitable given the federation's regional as well as cultural asymmetry. The most important political questions affecting the country cannot be decided by the parliamentary process at either level of government. It requires a collaborative agreement among first ministers: the prime minister, and the provincial premiers.

Observers may acknowledge the dominance of executive federalism, but they also deplore its democratic deficit: the fact that the most important decisions affecting the lives of Canadian citizens are the result of deals made behind closed doors, with both the public and the process of parliamentary deliberation largely excluded. They are also generally unsure whether this state of affairs is inevitable, or whether it can be addressed and alleviated by the reform of other institutions of governance. Canada's federal system is imbedded with a Westminster-style tradition of parliamentary majority rule that allows for little leeway in the accommodation of regional or provincial interests. At the same time, the Senate, whose members are named by the prime minister, lacks the capacity to give adequate expression to territorial diversity.

Even after the Americans deliberately broke with British governance traditions, Canadians remained loyal to them. Canada superimposed the British parliamentary system with a federal system to accommodate the divergent interests of English Canada and Québec. This structure allowed the two levels of government to operate autonomously within their respective spheres of powers.

In time, this dual design of Canadian federalism was confronted with issues of concurrency, the superiority of the federal spending power, as well as the increasing unwillingness of Québec to play along within the confines of the federal system. The parliamentary system is poorly equipped to deal with this complexity and interdependency. The first-past-the-post electoral system and the regime of strict party discipline have reinforced the impression of unmitigated dominance from the centre, Ontario, the most populous province. First-past-the-post also has the effect of making regions seem more uniform in political hue than they actually are. Added to Québec nationalism now is an increasingly irritated voice of Western alienation.

One proposed solution is some variation of a proportional electoral system, which several provincial governments are now contemplating. A second area of discussion is Senate reform. Canadian senators are not only appointed by the prime minister, they also are selected on the basis of a regional formula discriminating against Western provinces. However, Western demands for a triple-E senate (directly elected by the citizens, effective as a second chamber, and

equal in the number of senators per province) have found little support elsewhere in the country. To most observers, it seems quite unlikely that such an American-style senate would yield what the parliamentary system has been unable to accomplish: patching over deep regional differences in a pragmatic way of governing by compromise. This is why **political accommodation at the executive level of governance remains the quintessentially Canadian way of conducting the business of federalism.**

This more flexible style of treaty federalism, such as in the European Union, may be a new and trendy way of federal governance. Instead of upgrading the legislative process in political decision making, the idea would be to make the process of executive governance more transparent and inclusive. This might be accomplished by simply opening up the process to the public – although it is the secrecy of “first minister” negotiations that most likely allows them to reach compromise.

The recent creation of a Council of the Federation among provincial and territorial premiers may bring a more rational mode of decision making. With a permanent secretariat and a steering committee headed by senior public servants, an institutional organization has been put into place that could prepare ministers’ meetings more pragmatically on an on-going basis. The Council of the Federation will have difficulty in overcoming the notorious ills of Canadian intergovernmental relations: federal-provincial confrontation and gridlock. Following the European model, it will have to abandon the old consensus model and move towards some form of qualified majority voting.

Finally, there is a general sense of urgency with regard to the underdeveloped local dimension of federalism. Most Canadians today live in large urban areas with their specific range of problems. All municipalities remain administrative creatures of the provinces, subservient to provincial agendas and increasingly dependent on federal spending largesse. A formal place at the intergovernmental bargaining table remains in the realm of wishful thinking. The same can be said about the question of self-government for Canada’s more than one million Aboriginal peoples. Governance participation for the most part remains at the level of bilateral consultation and treaty negotiation, at the discretion of the federal government. Innovative patterns of joint governance can only be found in the territories, and those are mainly in the realm of economic development projects.