

**ACCORDS AND DISCORD:
THE POLITICS OF ASYMMETRICAL
FEDERALISM AND
INTERGOVERNMENTAL
RELATIONS**

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Canadian first ministers set intergovernmental relations on a new trajectory with the signing of two accords in 2004. The September health care accord was heralded as a significant achievement that would set the parameters of better healthcare for the next decade. Surprisingly, all of the provincial premiers signed onto this deal that signaled more intergovernmental cooperation in an area of primarily provincial jurisdiction. In contrast, the October Equalization agreement was controversial even at signing, with one provincial premier storming out of the meetings and refusing to sign and other premiers questioning the fairness of the deal for the “have not” provinces. Different in content and temper of the process, the two deals were similar in initiating a new period of asymmetrical federalism; one as part of its terms and the other as a part of its aftermath.

Asymmetrical federalism is a simple concept but sometimes rendered unnecessarily complex. In its most basic form, it may be understood as differences among the states or provinces within a federal system. These differences may arise from geography, history,

committed to the overall objectives and general principles of the health accord and especially the principles of a public health system and to cooperating with the other governments on developing indicators of progress and sharing best practices and information, it specified that it maintained control over planning, organizing and managing its health care services. The communiqué also contained an explicit non-derogation clause protecting Quebec's jurisdiction.⁵ The second communiqué committed the governments to working together to improve Aboriginal health. Significantly, the Health Accord recognized the specificity of both Quebec and Aboriginal Peoples within Canada.

By contrast, the agreement on equalization and territorial funding did not contain side deals at the time of signing. The Prime Minister and nine premiers established the main features of a new equalization and territorial funding

The consequent skepticism of citizens and challenge to the legitimacy of the state contributed to recent federal governments' attempts to justify its role within the federation often at the expense of intergovernmental harmony. Faced with dwindling sources of new revenues, growing expectations for public services and mounting public debts and deficits, the federal government shifted towards a more explicit rights agenda. Rather than expanding programs and services as in the more affluent previous era, the federal government (as well as provincial governments) began to target social programs to entitled recipients, limit its expenditures, and cutback on provincial transfers even in the crucial and explosive areas of health, social services and education.

By the end of the 1990s, Ottawa realized the need to repair the damage to its reputation with Canadians. Realizing the emphasis Canadians placed on the social safety net in a fair community as a key unifying national characteristic,¹⁶ the federal government began to reassert itself in those policy areas. Cash-strapped provinces were caught in the bind of desiring federal assistance but resenting federal intrusion into policy areas under their jurisdiction and in which they had grown accustomed to acting with less interference. More money to the CHST in 1999 meant more rigid enforcement of national standards.¹⁷ The same year, the federal government attempted to reassert its leadership in the area of social policy by pre-empting an interprovincial agreement and using financial incentives to induce the provinces to sign a Social Union Framework Agreement (SUFA). The Health Accord signed the following year ensured a federal presence in upholding national objectives at the cost of a more stable federal commitment to healthcare funding. And so it goes into the 2000s with further agreements on social spending, child care, health and other salient programs as well as direct federal action on healthcare research and post-secondary scholarship.

In its quest for identity, the federal government has shifted from promoting a just society to entrenching rights for citizens to expanding its role in primarily provincial areas of jurisdiction such as healthcare, social programs and education. Inng its aof,ctiondh 0.0004 Tc 0.0.98 255.84 545(SUF1 m Cv111001P8(a)larcarm)9(pting andians

Similarly, at the behest of Quebec in 2003, the premiers agreed to create the creation of the Council of the Federation (COF), an interprovincial body of first ministers excluding the federal government, to focus on areas of provincial interest including health care, internal trade and the fiscal imbalance. COF is intended to be the vehicle that enables the provinces to drive the federal-provincial agenda in critical areas by encouraging a united provincial front.

Of particular interest to the provinces in forming COF was the vertical fiscal imbalance, defined as the situation arising when one level of government has excess revenue for its spending needs and the other level of government has too little revenue to meet its defined expenditures. However, as Harvey Lazar observed recently, current public debate “suggests that this is a measurable technical concept. It is anything but!” Instead, it is a “political and policy concept.”²¹ To determine efficient tax rates vis-à-vis expenditure responsibilities in relation to the two levels of government involves assessing policy and political considerations, not technical ones. Still, the rhetoric emanating from COF and provinces like Alberta, Quebec and Ontario treats the vertical fiscal imbalance as an empirically measurable device.²²

These two developments are bearing fruit. The Calgary Declaration was a precursor of the form of asymmetry embraced in 2004 Healthcare Accord. If rumours are accurate, according to Tom Courchene the federal government agreed orally to extending the same arrangements to Alberta and BC and thus any other province during the final negotiations on the Health Accord.²³ The understanding that the

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²¹ Harvey Lazar, Notes for the House of Commons Sub-Committee on Fiscal Imbalance, Ottawa, May 4, 2005, 1, 3.

²² See also André Pratt’s criticism of the fiscal imbalance debate in “Is Ontario Getting Ripped Off: No,” *The Globe and Mail*, March 16, 2005, A17.

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and common interest.²⁵ Furthermore, Ontario and Alberta, as key donors to the federation, are increasingly engaging in a form of beggar-thy-neighbour federalism, begrudging their contributions to the national coffers rather than realizing the flow back to them of the benefits of the union.²⁶ BC, increasingly despondent with the federal government, is distancing itself.²⁷ The smaller provinces whose concerns are often diminished or sacrificed to the issues brought forward by the larger and wealthier provinces, view special arrangements with the federal government as a means of protecting their interests or at least diminishing the harm done by deals favouring central Canadian and wealthier provinces. And so, underlying asymmetry is a new degree of interprovincial resentment and passive hostility.

Some further dangers inherent in the reasoning underlying the drive towards asymmetrical arrangements that especially accommodate Quebec's specificity in Confederation need to be addressed. First, Quebec is credited with the gift of federalism to Canada.²⁸ This is a myth. Federalism was the result of not just Quebec but also the other

²⁵ F.L. Morton, "Equality or Asymmetry? Alberta at the Crossroads," available online as part of the Institute of Intergovernmental Relations Asymmetry Series at http://www.iigr.ca/browse_publications.php?section=43

²⁶ See Brock, "Executive Federalism: Beggar Thy

arrangements for it in unrelated policy areas. Critics would scoff at the suggestion. Using the constitution in this context, is to limit the potential. Increasingly, this framework may become too constricting for Quebec and may preclude more convincing justifications for an expansive notion of asymmetry beneficial to the nation as a whole.

institutions and programs that have been set up to assist the provinces in serving their citizens? Either the leadership of these institutions and programs could be assumed by an expanded COF and a supporting administrative body. In its initial phases, the federal government could provide both the logistical and financial support for this body. Alternatively, in cases where shared jurisdiction remains desirable, a governance structure similar to Canada Health Infoway could be more widely applied.³³ This would entail responsibility resting with the Deputy Ministers of the relevant department but active decision-making authority resting with a board comprising five-six representatives from the provinces and territories on rotating terms and one-two federal representatives, at least initially. Any new institutions would need to be negotiated by all 14 governments through the process of executive federalism.

Two, how should federal support continue for these programs? Equalization payments should continue under the present or a reformed formula when they come up for renegotiation at the end of the five year period. In the area of general transfers for social, education and health programs, provinces should submit proposals for a global figure for federal expenditures over a five year period based on past transfers. The federal government would then review this proposal in good faith and then set its final transfer payments. The final decision would lie with the federal government to ensure respect for budget accountability. These proposals including the justifications for the final amounts

diminished, impoverishing our understanding of regional and provincial differences and cultures. The federal government could reach out to Canadians by rebuilding national linkages through a more robust public media. And promotion of our literature, culture and film industries would only enhance Canadian pride and engender an even healthier nationalism.³⁹

Conclusion

In sum, the federal government only needs to look to its areas of jurisdiction to find a means of reasserting a strong presence nationally and rescuing our image on the international stage. In an era of citizen disillusionment with government and skepticism surrounding political authority, this might be a more effective means of restoring democratic legitimacy than either tinkering with institutions with no promise of effective change or continuing to bicker with the provinces.

Asymmetry is natural to a federation as Ron Watts has so thoroughly documented.⁴⁰ In Canada, history has taught us that formal constitutional recognition of distinctiveness is less popular than asymmetry in fiscal and policy arrangements. Canadians are pragmatists who understand the need for difference in practice. Even arrangements designed to provide room for Quebec's distinctiveness are justifiable and acceptable to the broader Canadian public provided that an equal opportunity to take advantage of similar arrangements is extended to the other provinces, even if the option is not exercised. However, if the federal government continues along the trajectory of embedding itself further into provincial areas of jurisdiction, it is only likely to trigger more hostile reactions

from the provinces that will undermine a sense of collective goodwill and federal comity.

Canadians have a residual desire to believe in their country as humane, benevolent and fair. Restructuring federal-provincial relations and the role of the federal government to build on that image can only heighten the sense of national unity by encouraging all Canadians to want to be a part of that dream. A dream we have all but lost.

³⁹ For an innovative way of thinking about culture, citizenship and economic development, see Simon Brault, "The Arts and Culture as New Engines of Economic and Social Development," *Policy Options* 26(March-April 2005), 56-60.

⁴⁰ Ronald Watts, "A Comparative Perspective on Asymmetry in Federations." Available online as part of the Institute of Intergovernmental Relations Asymmetry Series 2005 at http://www.iigr.ca/browse_publications.php?section=43