

SUFA's double vision: Citizen engagement and intergovernmental collaboration

Matthew Mendelsohn and John McLean

A fair reading of *SUFA* indicates that it contains two animating principles: the often-discussed commitment to intergovernmental collaboration and a largely ignored commitment to citizen engagement. To us, it seems obvious that Clark Kent and Superman are the same person, yet, incredibly, this goes unnoticed by the entire city of Metropolis. Likewise, *SUFA* is a document which commits governments to robust public consultations in intergovernmental relations, but this obvious quality of *SUFA* has gone largely unnoticed. Just as we are surprised that Metropolis finds a pair of glasses a cunning disguise, we are surprised that the policy community has failed to notice *SUFA's* true identity.

The agreement's strong commitments to citizen engagement include its promises to:

- "Work in partnership with individuals, families, communities, voluntary organisations, business and labour, and ensure appropriate opportunities for Canadians to have meaningful input into social policies and programs."
- "Ensure effective mechanisms for Canadians to participate in developing social priorities and reviewing outcomes."
- "Have in place appropriate mechanisms for citizens to appeal unfair administrative practices and bring complaints about access and service."
- and, finally, undertake a three-year review that "will ensure significant opportunities for feed-back from Canadians. ..."

There is also an entire section of *SUFA* devoted to commitments on accountability and transparency. This section, along with others, includes commitments to: measure the outcomes of social programs and report to constituents on performance; publicly recognise the respective contributions of governments; and report publicly both on citizens' complaints and on the nature of intergovernmental disputes and their resolution.

Models of federalism have tended to contrast democracy and citizen participation on the one hand with intergovernmentalism and guardianship on the other. Many have assumed, with good reason, that intergovernmentalism makes public participation difficult and leads to elite-level decision-making. The contrast between participatory and federal structures is commonly made in Canada, and Canadian decision-making has been dominated far more by elite bargaining than by popular sovereignty. In fact, intergovernmental cooperative arrangements appear, almost by

definition, to be inimical to public participation. Decision-making by the executive is inherently less open to public debate than decisions made through the legislative process, and democratic accountability suffers when authority is transferred away from legislatures to executive bargaining.

Yet *SUFA* contains commitments to both public participation and intergovernmental cooperation. It makes both these elements the agreement's animating principles without acknowledging either the tension between them, how they represent quite different models of democratic governance, or how the principle of citizen engagement is alien to Canadian practice. *SUFA* dances back and forth between intergovernmental collaboration and public involvement without ever suggesting any practical way of resolving the contradictions between the two models. It therefore falls to the larger policy community and the public service to identify and develop workable models.

Despite its precariousness, the balancing act between these two principles makes perfect sense if one considers public attitudes and political culture. In the past 30 years, citizens' increasing confidence in their own democratic abilities — and a corresponding decline in their confidence in government — has produced what has variously been labeled a "decline of deference" or a "democratic deficit." *SUFA's* commitment to citizen engagement is a response to the resulting call for more public participation in decision-making.

At the same time, public opinion has no patience for traditional conflictual models of intergovernmental bargaining. A diffuse but very real desire for cooperation and an end to jurisdictional disputes produces a belief — admittedly a naive one — that real political conflicts can be wished away. Accordingly, *SUFA* gives a nod toward the strong inclination in public attitudes in favor of more collaborative intergovernmental arrangements.

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Yet while both principles resonate with Canadians, the architects of *SUFA* provide no roadmap for finding an accommodation between them. Assuming *SUFA* has any shelf life whatsoever and becomes more formally implemented, it is possible that one of the two principles — cooperation or engagement — will come to structure decision-making at the expense of the other, and it is highly unlikely that popular sovereignty will triumph over inter-

governmentalism. Or, alternatively, governments may be forced to develop workable models of public participation suitable for collaborative intergovernmental decision-making. Such a combination of intergovernmental cooperative behaviour and citizen engagement is our own strong preference.

Citizen engagement is different from traditional consultation. True engagement means that, along with traditional decision-makers — public servants, interest groups, and elected representatives — ordinary citizens have a continuing say in outcomes. While traditional consultations tend to provide a snapshot of public opinion at a particular moment in time, engagement is deliberative, interactive, and on-going, much like decision-making within government. Citizen engagement mechanisms permit citizens to be present not only in the opening and

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closing stages of decision-making but also in the middle stage where choices are actually made. In previous models, officials would listen to the public's views and concerns but then retire to make decisions amongst themselves — a model known as “venting” — or they would hold public meetings in which they explained and tried to justify decisions that had already been taken — “telling and selling,” as it is known. By contrast, citizen engagement is an open-ended yet structured public dialogue that contributes to specific decisions in a transparent, publicly accountable manner.

In policy areas where jurisdiction is shared, inevitable disagreements over the distribution of costs and benefits often make it difficult to achieve common goals. The federal government's cutting of the CHST and subsequent creation of boutique programs may be bad public policy but is completely rational in a system in which governments compete to avoid costs and increase their visibility. This self-interest of governments in offloading costs while reaping benefits is a serious obstacle to successful intergovernmental negotiations and policy development. The general public is more concerned with public policies that meet their needs and are less tolerant of institutional government interests. Public involvement and scrutiny therefore allow citizens and the public policy community to play the role of honest broker in seeing that governments stay focused on the public interest. Social policy is impor-

tant to Canadians and is one area where citizens are able to offer informed participation in terms of the setting of priorities and making of value-based choices between competing options. We in no way suggest that political conflicts over distribution issues or priorities would magically disappear, or that citizens can act as policy experts, but we do contend that the competitive interests of governments would be checked by more public processes, producing, in the end, better, more coherent public policies. Through these processes, *SUFA* will acquire public visibility and popular ownership, which could help mobilize support for the agreement.

Engagement is obviously difficult in areas with an intergovernmental component, but some guidelines can be suggested. In general, governments should collaborate in the planning of consultation activities, and should agree on the nature of such activities, including: the selection process for participants and facilitators, the role of elected officials, the objectives of the exercise, and the content of both preliminary information materials and the final reports that assess the outcomes of activities and make recommendations on specific issues. Needless to say, representatives from all governments should be present during engagement activities.

One indication of how committed *SUFA* is to citizen engagement is that it obliges governments to consult citizens during all three phases of the policy-making process: the agenda-setting phase, where priorities are worked out; the decision-making phase, where options are narrowed and choices made; and the accountability phase, where results are reported and assessed. Another indication of *SUFA*'s strong commitment to citizen engagement is that it permits the public to access engagement mechanisms in three quite different roles: as decision-makers (governments have committed themselves to providing citizens with an opportunity to participate in developing social policy), as consumers of government services (citizens can register complaints about the inefficient delivery of services), and as bearers of rights (citizens can also appeal unfair decisions). Different institutions for engagement must be developed for each role. Processes to provide citizens with an opportunity to give feedback on inefficient service delivery will need to be designed differently than those meant to permit citizens an opportunity to participate in policy-making, while both will need to be quite different from judicial-type processes that can adjudicate citizens' claims that they have not been provided with services to which they have a right.

To further these goals, we recommend a jointly-appointed council responsible for enforcing, monitoring, and reporting on progress related to the citizen engagement provisions. This body should be responsible to both orders of government, perhaps directly to the Ministerial Council, and would make recommendations on what kinds of engagement activities to use in particular circum-

stances. It would also be charged with developing new models of engagement, or new applications of existing models, some of which could be found by surveying the international community (perhaps in conjunction with the Forum of Federations) on best practices for citizen engagement on policy files with an intergovernmental dimension.

In the end, political actors and the policy community should take the commitments to consultation in *SUFA* at face value, recognize that *SUFA* is not only Clark Kent but Superman as well, and reach what could be a radical conclusion: That governments actually meant what they said.

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Aboriginals are securing a role

Michael J. Prince

The full realisation of Aboriginal self-government requires significant revisions to intergovernmental relations, and the *Social Union Framework Agreement (SUFA)* is therefore one focus of this struggle for self-determination and recognition of Aboriginal peoples' unique constitutional status in Canadian federalism.

For national Aboriginal organizations (NAOs) and their leaders, the run-up to the agreement resulted in a frustrating experience of exclusion. The social union talks were viewed as a historic process of nation-building that affects Aboriginal peoples, their governments and their place within the federation. Yet leaders from NAOs were not direct parties to the negotiations. To a certain extent, that exclusion is being remedied by the implementation process, which offers intergovernmental mechanisms providing for the direct representation of Aboriginal interests, values and rights.

It is hard to escape the impression that during the *SUFA* talks Aboriginal affairs were treated as a separate file — a policy sector not directly related to the task at hand for first ministers. As federal-provincial summitry, the social union negotiations were about managing disagreements and affirming certain shared constitutional and policy norms at the level of central officials and political executives. The reasons given for the exclusion of Aboriginal national leaders were that the talks involved administrative arrangements, not constitutional proposals, and that delivery of social programs continues to be a provincial responsibility. Federal and provincial leaders also pointed to two statements in the actual Framework Agreement that specifically mention Aboriginal peoples. The first section, on principles, says that “nothing in this agreement abrogates or derogates from any Aboriginal treaty or other

rights of Aboriginal peoples including self-government.” In section four, on “working in partnership for Canadians,” the document states that “Government will work with Aboriginal peoples of Canada to find practical solutions to address their pressing needs.”

This exclusion and these limited statements are striking

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in light of the Royal Commission on Aboriginal Peoples' five-volume final report, which was released during the *SUFA* negotiations. The Commission's theme throughout its volumes is that the NAOs should be important partners working in close consultation with federal, provincial and territorial governments based on the principles of mutual recognition, mutual respect, and mutual responsibility. Aboriginal peoples see their NAOs as a central means of expression for building a renewed relationship.

So far, however, implementing the *Framework Agreement* has not been as discouraging or exclusionary for Aboriginal organizations as the negotiations were. To date, it provides an example of adaptive implementation, in which the initial *Agreement* is being defined in more concrete terms by the goals and interests of the various participants engaged in renewing social programs. The process can be viewed as an expanded form of executive federalism, incorporating Aboriginal participation as represented by the five NAOs, with additional bargaining taking place as time passes. Involving more participants and goals may make implementation more complicated, but it will produce a more responsive and probably more legitimate process and set of policy outcomes.

Formal intergovernmental mechanisms in which the NAOs are participating as a result of *SUFA* include:

- The dialogue over the new National Children's Agenda announced in May 1999, and accompanied by two discussion papers, both of which resulted from general consultations among, and input from federal, provincial and territorial governments and the NAOs. As one of the documents states, “There are compelling reasons for Aboriginal people to participate as more than half of the Aboriginal population is made up of children, a trend counter to Canadian demographics.”
- A federal/provincial/territorial (FPT) working group,