

# INVESTING IN INSTITUTIONS: GETTING MORE OUT OF FEDERALISM

Don Dennison

Moving Canada forward as a federation has two essential pre-conditions: first, reinvigorating the institutions and structures of federalism, and then, writes Don Dennison, director of Next NB at University of New Brunswick, “ensuring that responsible governments have the resources to carry out their assigned tasks.” Renewing the First Ministers’ Conference is an important step, he writes, “as the heads of government send very important signals through the vast network of intergovernmental relationships.” As for the allocation of resources, he writes that “Canadian federalism not only allows for the accommodation of regional and linguistic diversity, it allows for decentralization, deconcentration, innovation and responsiveness.” As New Brunswick’s deputy minister for intergovernmental affairs when equalization was entrenched in the Charter of Rights in 1981, he explains how the initiative came from his premier, Richard Hatfield.

Le Canada se développera comme fédération à deux conditions, écrit Don Dennison, directeur de Next NB à l’Université du Nouveau-Brunswick. La première consiste à reinvigorer les institutions et structures du fédéralisme et, à ce titre, le retour des conférences des premiers ministres serait un pas dans le bonne direction. La seconde est de faire en sorte « que nos gouvernements disposent des ressources nécessaires aux tâches qui leur sont assignées ». Pour ce qui est de l’allocation des ressources, « le fédéralisme canadien permet non seulement de composer avec la diversité linguistique et régionale, mais il favorise la décentralisation, la déconcentration, l’innovation et la réactivité ». Sous-ministre néo-brunswickois des Affaires intergouvernementales en 1981, soit au moment de l’inscription dans la Charte des droits du principe de péréquation, l’auteur explique que c’est au premier ministre du Nouveau-Brunswick de l’époque, Richard Hatfield, qu’on doit cette initiative.



**C**anadians have a sense that their country is going through something less than the “best of times,” despite the fact that our economy is performing well, national unity issues are not on the front burner, and we are a model of success in the eyes of most nations. We have a sense that our nation is stalled far short of its potential, and that the federation is not pulling together.

Former Prime Minister Jean Chrétien used the analogy familiar to Canadians of when the car is stuck, we know to rock forward, rock back, and eventually free ourselves. It was an analogy that became part of Canadian political satire, but it was one we understood. What he might have added was that rocking back and forth and spinning our wheels can often lead to getting more stuck, and that sometimes some of the passengers have to get out and push.

I would argue that the push we currently need to allow us to move forward as a federation could benefit from two elements: first, reinvigorating the tried and true structures and processes that make our federation function effectively; and second, ensuring that the governments responsible have the resources to carry out their assigned tasks

Canadians can be duly proud of our reputation for making federalism work by designing and evolving the mechanisms to help make the federation run more smoothly. Internationally, we are recognized for having evolved patterns and traditions of intergovernmental consultation, grants, tax point transfers, flexibility, and other measures to help smooth out the differences in conditions, approaches, resources, and political philosophies.

However, as David Cameron and Richard Simeon have written, when it comes to developing institutions, compared to some other federations, our approach is relatively ad hoc and under-institutionalized.

Our principal mechanism for federal provincial consultation, the First Ministers' Conference (FMC), has been used rather unevenly, and at times ineffectually. As an instrument, it came into its own in the 1960s, in

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keeping with the increasing responsibilities and growing sophistication of provincial governments. It has been hampered in its potential effectiveness, however, by inconsistent use and the failure to invest in supporting mechanisms.

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It is too early to assess how Prime Minister Martin will alter this pattern. The concept of a more institutionalized FMC goes back a long way, to the Rowell-Sirois Commission of the 1930s, which recommended supporting it with a permanent intergovernmental secretariat. The concept was unearthed by Ontario Premier Bill Davis in 1972, following the failure to have the results of the 1971 Victoria Conference ratified (instead a meeting services support the Canadian Intergovernmental Conference

Secretariat, was established). Had the Charlottetown Accord been endorsed, there would have been a requirement for an annual FMC.

The FMC and its supporting mechanisms are important for a number of reasons:

1) Canada, unlike most other federations, lacks any other effective means for provincial and territorial governments to be involved in broad national policy decisions. Our Senate does not function to represent the

interests of the constituent units of the federation, and the cabinet and House of Commons are dominated by partisan considerations and the power of the prime minister. A regularly held FMC would provide a table for discussion of national issues and the assurance of a hearing by colleagues. The recent Council of the Federation is the first new intergovernmental institution in many years that brings together the provincial and territorial leaders and shows promise of developing a permanent support capacity.

2) Holding scheduled First Ministers' Conferences calls for a certain amount of preparation and follow-up by political leaders and their officials. The attendant process necessitates collaboration, better communication, and simply greater familiarity with individuals and issues. This can contribute to increased understanding, better problem solving, and avoiding having disputes reach a boiling point before they are confronted.

3) The First Ministers, as the heads of government, send very important signals throughout the vast network of intergovernmental relationships.

When the signal is one of encouraging open discussion among equal participants, there will be a bias toward greater collaboration. On the other hand, anecdotal evidence speaks of a greater degree of rancour between federal and provincial governments in recent years than we have known in previous decades.

The importance of investing in intergovernmental institutions is two-fold. In the first sense, creating the mechanisms, especially programmed meetings and secretariats dedicated to promoting opportunities for collaborative outcomes and joint enterprises, brings proven results. When we look at the most institutionalized intergovernmental relationship in Canada, the Council of Environment Ministers, we see a legally incorporated body with a

stated purpose of cooperation for greater environmental protection, supported by a professional secretariat aiding collaborative efforts. We also see results in terms of rationalization of effort and national environmental standards arrived at collectively.

In the second sense, investing, committing to working jointly on a sustained basis means creating the expectation, and hence greater likelihood, of collective and constructive efforts.

Any discussion of institutions and their adequacy should also include at least a preliminary look at the subject of institutions, or lack of them, and furthering collaboration with and between Aboriginal governments. This is an area that will exercise the abilities of Aboriginal peoples and others to explore and innovate. Self-government is both constitutionally recognized and a reality on the ground. That such government needs to be viable and effective speaks to the possibilities of greater aggregation and interaction with the other constituents of the federation, and certainly entails issues of resourcing.

As for allocating resources, Canada was, and is, a federation out of necessity, but federalism also affords advantages. Canadian federalism not only allows for the accommodation of regional and linguistic diversity, it allows for decentralization, deconcentration, innovation, and responsiveness.

Our constitutional structure assigns roles to the central government and to what are referred to in comparative federalism parlance as the constituent units. Territorial, Aboriginal and municipal governments also play important and evolving roles in this mix, adding wrinkles to a classical federal structure, ones that we are only now beginning to sort out. For any level or order of government to be effective and viable, resourcing issues are paramount.

There has been a lot of attention paid in recent years to the question of vertical imbalance, referring to the gap between the cost of delivering on assigned responsibilities and the ability to fund them. More recently, increasing, or perhaps renewed attention, has been paid to the question of horizontal imbalance, or the unequal financial capacity of the constituent units to carry out virtually identical responsibilities.

Canada has been a leader among federations in devising and implementing measures to reduce gaps of both types. There is a very active debate currently over whether efforts to reduce these gaps are sufficiently robust. Two panels — one federally appointed, one provincially appointed — and a federal parliamentary committee are looking into these questions, and will be making recommendations. There can be no doubt that the outcome of these deliberations will have a large influence on whether Canadians see their federation as functioning positively.

On the vertical axis, we have seen constant adjustments and many swings, particularly in the period beginning with the Second World War and continuing into the present era. This will continue.

On the horizontal plane, the concept of equalization has slightly more modern roots. Equalization payments, by which the federal government makes payments to provincial governments to compensate for differences in provinces' own source revenues, began in 1957, and the program has continued ever since, based on an increasingly complex framework. The concept is quite simple: it is to ensure a more level playing field for provincial governments in the delivery of what are commonly thought of as essential public services, including health care and education.

The commitment to equalization was enshrined as section 36(2) of the Constitution as part of the 1982 package of amendments that included a Charter of Rights. That moment was seized because we were in the business of writing down some basic concepts long assumed to be fundamental. The initiative came from then-Premier Richard Hatfield of New Brunswick, who perceived that the principle, no matter how fundamental, could come under pressure and be watered down by future political trends or changing fiscal circumstances.



Montreal Gazette Archives

Former prime minister Pierre Trudeau and the new prime minister, Brian Mulroney, leave the PM's Centre Block office after meeting at Mulroney's invitation in September 1984. Trudeau called 23 First Ministers' Conferences while in office, and Mulroney convened 14. Leadership at the top, writes Don Dennison, engages the entire machinery of federal-provincial relations.

Since the principle was entrenched, we have indeed seen it compromised, from moving away from a ten-province base, through capping, exclusion of certain resource revenues, and most recently, in 2004, decoupling from a formula-driven calculation to a predetermined fixed pool of funds, to be divvied up among recipient provinces. The movement away from principle-driven to pragmatic pegging of payments may respond to temporal challenges or fiscal constraints, but it does long-term damage to the economy and the federation.

Ours is a federation in which the constituent units, the provinces, have responsibilities to provide services essential to our economic and social progress as a nation. Further, the concept of basic equality between provinces and citizens has gradually gained traction. Our approach should continue to be driven by principle. The arguments that have brought compromises have been largely driven by calculations that we cannot afford to honour the principle, or that it would bring about unacceptable results, such as Quebec getting “too much” or Ontario becoming a recipient.

It comes down to questions of priorities and effective allocation of roles. In our sharing of roles between federal and provincial levels, we should take account of who does what best. Few seriously argue that the federal government could better deliver health care or schooling. What we do know is that in matters of income redistribution, the central government has a proven capacity to function effectively. It is a question of what will make our federation work best.

The equalization challenge has been clouded by confusion between the obligation contained in section 36(1), that of promoting equal

opportunities and furthering economic development to reduce disparities. In the latter case the responsibility falls on both levels of government, in the case of equalization it is a federal program and a federal responsibility. Criticisms coming mainly out of central Canada are helping to cloud the issues.

When we are talking about equalization payments made by Ottawa, it is not a zero-sum game. Federal taxpayers in all parts of the country contribute to equalization; it is not done at the cost of the wealthier provincial governments. If Ottawa reduces its equalization effort, it does not follow that the federal government can or necessarily should spend equivalent amounts in non-recipient provinces. It is even more improbable that it would

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vacate commensurate tax room, which would then be taken up by those governments. And in assailing equalization and regional development efforts, incomplete balance sheets are being used that fail to take full account of all program-spending by Ottawa, including salaries and industrial benefits.

It will be the result of short-term thinking if we allow these criticisms to constrain the federal government's responsibility and capacity to promote more equal opportunities. It is in the national interest that the constituent units of the federation are in a more similar position to carry out their responsibilities. To the extent that we can ensure, governments should have the capacity to do their jobs.

This same principle should apply to the other key players that in consti-

tutional terms are not yet fully constituent units — territorial governments and Aboriginal governments. The equalization principle, which speaks not of equality but rather reasonably comparable levels of services at reasonably comparable levels of taxation, should apply in ensuring the financial resources to do the job. When it comes to municipalities, there appears to be a growing consensus that they should be allowed greater revenue-raising powers.

There are challenges to the Canadian federation that will always be there. National unity issues will always be present, and we have a major task in accommodating to the evolving governance structures of Aboriginal peoples. There are, happily, some things we have tended to approach rather well in the past, and

could improve upon currently. Strengthening and utilizing mechanisms for intergovernmental collaboration is one area that need not forever evade us. Ensuring that our governments have the resources to carry out their responsibilities will make the end tasks that much easier, and allow us to turn our attention to the more difficult dilemmas.

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