Ideas and Intergovernmental Relations in Canada

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Intergovernmental relations (IGR)—or the exchanges among the central government and the constituent members of a federal union—are perhaps the most integral and dynamic component of any federation. The constitutional division of powers intrinsic to all federations means that the responsibilities for arenas of policy activity are allocated to different territorially-based actors with varying scopes of jurisdictional authority. Furthermore, such constitutional arrangements are entrenched at a particular point in time when certain policy areas, such as health care, may have been of only marginal importance, and others, such as the environment, were completely ignored. As one Canadian intergovernmental relations official declared, "We have a 19th century division of powers trying to operate in a 21st century world – and that's not always easy" (quoted in Wallner 2015, 15). Given that all policy making is complex and interdependent, virtually any form of public action requires some degree of collaboration and coordination among the various members of a federation. Intergovernmental relations thus enable political and policy actors to work within the structured and formal division of powers to address common problems. In other words, intergovernmental relations breathe life into any federation.

While a consistent feature of all federations, the manifestation of these interactions among different levels—or in Canadian parlance, orders—of government varies considerably. Each federation has its own unique IGR ecosystem that shifts over time, influenced by both external and internal factors (Simeon and Radin 2010). Federal scholars have tracked, for example, the ways in which global economic shocks, macro-political structures, key policy priorities, and the socio-cultural makeup of a federal population have shaped IGR in a given federation (Creighton 1970; Bolleyer 2009; Banting 1987; Facal 2005). Through examination of the Canadian case, I consider the potential impact that *ideas* about federalism can have on the dynamics of IGR in a given country.

Let us begin with an examination of the potential importance of ideas and intergovernmental relations in the northernmost federation of North America. From 2006 until October 2015, Conservative Prime Minister Stephen Harper led the government of Canada. Before becoming prime minister, Mr. Harper articulated his own distinctive brand for intergovernmental relations, known as "open federalism." The policy advocated for a restoration of "the constitutional balance between the federal and provincial and territorial governments," "strong provinces," and clear limitation on the federal spending power that authorized the provinces "to…opt out of a new or modified federal program, in areas of shared or exclusive jurisdiction" (Conservative Party of Canada 2005). Simply put, Mr. Harper sought to disentangle the orders of government, clarify their respective roles and responsibilities, and slow federal activity in areas of provincial authority.

How then, over a 10-year period, did Mr. Harper's proposed ideas fare? Based on the developments during Prime Minister Harper's tenure, it seems that, while individual prime ministers can endeavor to set a new trajectory and exert considerable influence over certain components of the system, external realities, the day-to-day dynamics of an intergovernmental ecosystem, and the alternative priorities of government goals may act as countervailing forces that compromise the installation of a radically new approach to the management of IGR.

A PRIMER ON THE CANADIAN INTERGOVERNMENTAL ECOSYSTEM

A federation's intergovernmental ecosystem is comprised of the community of actors in conjunction with the formal and informal structures of their federal environment interacting as a system. To understand an ecosystem, we must therefore identify the key players, the formal rules and organizations that structure their activities, and the informal norms that characterize relations within the system.

Some federations have a relatively open and porous intergovernmental ecosystem with a wide range of both government and non-government actors playing a significant role. The United States is perhaps the best exemplar of such an arrangement. Despite the formal division of powers, wherein IGR appears to be reserved to "national-state relations," "state governments constantly compete with local governments for their place in the federal system" (Sbragia 2008, 3). Organized in what has come to be called the "intergovernmental lobby," represented through a panoply of organizations structured around specific policy areas, "mayors and county officials do not accept the argument that states should have privileged access to Washington" (Sbragia 2008, 4). Furthermore, research by Krause and Bowman (2005) has found that partisanship plays a role in American intergovernmental relations; when the party that governs at the national level simultaneously hold dominance in the states, power is more willingly shifted towards the states. Finally, a growing number of researchers have uncovered the rising influence that philanthropic foundations have on American intergovernmental relations in a variety of policy areas. For example, Reckhow's (2013) work on American education highlights the impact of private

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funders and key organizations in fueling major change in the sector. A multiplicity of actors exerts considerable influence in American intergovernmental relations.

The Canadian intergovernmental ecosystem stands in marked contrast to such an arrangement. The political executives and the senior appointed officials of the federal, provincial, and territorial governments completely dominate the field (Simeon 1980; Smiley 1987; Bakvis 2013). Municipalities remain excluded from these meetings and can typically only engage with their respective provincial leadership. Political parties and partisanship also play a limited role in the Canadian IGR ecosystem. In contrast to other federations, federal-provincial party integration is very low; even parties that ostensibly share the same name, such as the Liberal Party of Canada and the Liberal Party of British Columbia, are in fact organizationally and ideologically separated between the orders of government (Deschouwer 2006). Furthermore, the centrality of political executives in Canadian IGR marginalizes the role of party officials in intergovernmental activity. Finally, stakeholder consultations are held outside of the regular meetings and executed by the relevant federal, provincial, or territorial governing bodies. The breadth of players formally and directly engaged in the Canadian intergovernmental ecosystem is thus appreciably narrower than it is in the United States.

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In addition to the centrality of executive actors, provincial and, increasingly, territorial premiers enjoy considerable prominence in the Canadian intergovernmental system. The prominence of provincial leaders stems in part from Canada's multinational population; the majority of French Canadians live in the province of Quebec, whose the nation-building aspirations reinforced provincial autonomy within the Canadian federation (Rocher 2009). However, it is important to recognize the fact that "the aspiration towards autonomy was far from being a monopoly of French Canadians from Quebec" (Caron, Laforest, and Vallières-Roland 2009, 141). At different points throughout Canada's history, leaders from all the provinces have pushed for greater independence and resisted the centralization of power into the hands of the federal government.

Compared to other federations, such as Switzerland and Australia, the organizational features of Canada's intergovernmental ecosystem are weakly institutionalized and actors rely heavily on ad hoc informal communication networks (Bolleyer 2009). Because intergovernmental relations are not specified in the constitution, federal and provincial leaders needed "to develop a framework for dealing with the various social and economic issues in which each level of government felt it had an important role to play" (Hudson 2004). Evolving over time, federal and provincial governments gradually established separate Ministries of Intergovernmental Affairs through the 1960s and 1970s, which "provoked some interesting tensions within some governments as the professional federal-provincial bureaucrats . . . displac[ed] line ministries and finance department officials who [had] traditionally been the prime movers in the area" (Simeon 1980, 21). This formalization *within* the federal and provincial administrations, however, never culminated in a comparable institutionalization at the pan-Canadian level. As Canada's federal Intergovernmental Affairs office acknowledged, "The instruments/mechanisms of intergovernmental relations are informal. They are not part of the Constitution and thus have no constitutional status. Nor do they have any basis in law or statute. They have developed on an ad hoc basis, in response to the requirements of the time" (Canada, Intergovernmental Affairs 2014).

The First Ministers Conferences, which bring together the federal prime minister with the provincial and territorial premiers and their senior officials, are central to the intergovernmental system. Despite their prominence in the IGR ecosystem, these meetings are called at irregular intervals by the federal prime minister, who also sets the agenda and chairs the meetings. As a result, provincial and territorial premiers cannot rely on these meetings being held annually.

Driven in part by a desire to remedy the weakly institutionalized nature of Canadian IGR and at the initiative of the Quebec government, Canada's 13 provincial and territorial premiers established the Council of the Federation (COF) in 2003. Billed as a means to foster "a constructive relationship among the provinces and the territories, and with the federal government," the Council is supported by a small permanent secretariat. It meets multiple times per year, and other provincial-territorial councils—such as those in health, transport, and the environment—report to it. The new Council, however, did not include the federal prime minister as a member, instead planning to hold annual meetings with the federal prime minister "following a jointly prepared agenda and co-chaired by the prime minister and the chair of the Council" (Brown 2003, 1). Because the federal prime minister has consistently refused invitations from the COF, however, this notion of annual meetings bringing both orders of government together never came to fruition. Thus, while the Council has strengthened the institutionalization of horizontal intergovernmental relations, it has failed to regularize vertical relations between the federal and provincial-territorial governments.

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The Canadian intergovernmental ecosystem has long been regarded as undemocratic (Smiley 1987; Simeon 2002). Justified by the doctrine of cabinet secrecy, meetings are held behind closed doors with information only made public in the form of small and inconsistent communiqués providing few details of the proceedings or substantive content discussed. These short memos are typically released with the consent of all parties in attendance, although individual governments reserve the right to issue follow-up communiqués if their representatives feel it necessary to further clarify their specific position.[1]

In addition to the limited details released through the communiqués, further evidence of the anti-democratic norms of Canadian IGR become evident when we consider the role of legislative assemblies and the public at large. Intergovernmental agreements are not subjected to open debate or ratification by either the federal parliament or provincial-territorial legislatures. Agreements reached among the governments through various negotiation processes are non-binding, and "whatever collective position an IGA issues, there is no obligation for the individual government to comply later on" (Bolleyer 2009, 145). Closed-door negotiations, minimal transparency, and the absence of both citizens' input and public debate in legislatures marginalize democratic accountability in Canadian IGR (Kanojia and Simeon 2007; Graefe and Laforest 2013).

One final feature of the Canadian IGR ecosystem is the way in which the federal government has used its formidable fiscal strength to intervene in areas of provincial jurisdiction through conditional grants to encourage the adoption of preferred policies and the creation of national programs such as health care. These policies were most blatantly interventionist in the 1950s; however, successive federal administrations gradually scaled back the conditions attached to the transfers while concomitantly increasing the autonomy of provincial decision-makers (Bakvis 2013). In health care, for example, the provinces are only required to "commit to five broad principles, including universality of coverage and portability" (Ibid, 208). As a result, compared to most federations, Canada's fiscal arrangements are relatively unconditional.

Despite these relatively unconditional policies, provinces and territories can find their funding pulled with limited notification if government priorities change because the federal government has complete control over its spending power—a fact partially confirmed by the Supreme Court of Canada (Richer 2007).[2] In the 1990s, the federal government used this tactic to address its own financial shortfalls, unilaterally cutting transfers to the other jurisdictions. This action had a negative impact on the tenor of IGR in the federation. Following an extensive study, the Council of the Federation (2006) declared intergovernmental relations in Canada to be "corrosive" and identified an alarming "decline in trust" on the part of provincial officials (see also Bickerton 2010). The question was: would a new prime minister with an alternative set of ideas reconfigure IGR in the federation?

In other words, the Prime Minister sought to install an IGR ecosystem that moved away from integration and interdependence and towards a "water-tight" arrangement where the federal, provincial, and territorial governments would operate within their own jurisdictional authority (Bickerton 2010).

IDEAS, "OPEN FEDERALISM" AND CANADIAN IGR

Ideational accounts of political phenomena explain "actions as a result of people interpreting their world through certain ideational elements" (Parsons 2007, 102), such as practices, norms, models, beliefs, and identities. These arguments often pinpoint the role of historically situated people who craft their own manner of interpreting the world and the ways in which this shapes their actions (Parsons 2007). In federal systems—particularly ones in which IGR is dominated by the political executive—the views held by the Prime Minister are likely to influence dynamics within the IGR ecosystem. Here I consider the impact that Prime Minister Stephen Harper had during his tenure in office as he endeavored to reshape Canadian federalism.

In 2005, from a hall in Quebec City, Conservative leader Stephen Harper outlined his new vision for federalism in Canada, dubbed "open federalism" (CPC 2005). In sharp contrast to the previous governments led by Liberal Prime Ministers Jean Chrétien and Paul Martin, open federalism called for: a rebalancing of the fiscal arrangements between the federal and provincial-territorial governments; a move away from federally-imposed unilateral conditions attached to funding in areas of provincial-territorial jurisdiction; and a renewed respect for the division of powers. In other words, the Prime Minister sought to install an IGR ecosystem that moved away from integration and interdependence and towards a "water-tight" arrangement where the federal, provincial, and territorial governments would operate within their own jurisdictional authority (Bickerton 2010).

Upon taking office in 2006, Prime Minister Harper called for the unilateral cancellation of two major intergovernmental initiatives. The first was a set of multilateral agreements, together known as Kelowna Accord, which were to improve education, employment, and the living conditions for Aboriginal peoples through new federal spending with limited conditions. Harper replaced these agreements with focused initiatives and targeted expenditures. The federal government could cancel this arrangement with relative ease because, while the representatives of Aboriginal peoples called the deal a "breakthrough," Aboriginal issues "were not among the

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five priorities in the Conservatives' election campaign" (CBC News 2006).

Harper also cancelled the set of bilateral deals reached between the Martin Government and each of the provinces and territories to support the creation of universal childcare, which had only been formalized throughout 2004 and 2005. The Conservatives had campaigned on the issue and promised that the needs of families would be met through a "new taxable monthly allowance of $100 for children under six," paid directly to citizens, rather than investing in the direct delivery of child care (Ballantyne 2008, 339). Both moves were justified as a means to disentangle federal intervention in areas of provincial and territorial responsibility, thus shifting Canadian IGR towards the open model of federalism. However, because the agreements were cancelled without provincial and territorial consultation, these federal decisions made in the name of open federalism did little to abate the feelings of mistrust in the IGR ecosystem.

During his ten years in office, the Prime Minister succeeded in his efforts to reduce the conditions attached to the major social transfer payments and somewhat rebalance the fiscal architecture by introducing equal per capita funding to the provinces (Bakvis 2013; Boessenkool and Speer 2015). Furthermore, rather than repeating the long and public negotiation process for health care funding with all the provinces and territories that Prime Minister Paul Martin conducted in 2004, the federal government simply announced a 10-year funding plan and imposed no new expectations or conditions on the provinces and territories in 2011 (Graefe and Laforest 2013). "By short circuiting the expected federal-provincial negotiating process," wrote Norquay (2011), "it effectively marks the end of executive federalism, that time-honored Canadian way of running the federation. It also provides the clearest window yet into how Prime Minister Stephen Harper views the federation." As a result, according to supporters of Prime Minister Harper's idea of "open federalism," Ottawa is "no longer the voice of sanctimoniousness and unhelpful intrusions into health care, education, and other provincial responsibilities" (Boessenkool and Speer 2015).

In fact, the Prime Minister's idea of open federalism had arguably the most impact on one of the key features of the Canadian IGR ecosystem: a marked decrease in meetings among the federal, provincial, and territorial First Ministers. In total, 76 meetings have been called since 1906. Prime Minister Brian Mulroney convened 14 meetings between 1985 and 1992, while Prime Minister Jean Chrétien summoned seven between 1993 and 2003. During his first years in office, however, Prime Minister Harper "cancelled his first scheduled FMM, his second consisted of a dinner lasting only four hours, and another was a conference call with the premiers" (Inwood, Johns, and O'Reilly 2011, 41).

It was the external shock of the global financial crisis in 2008 that forced the Prime Minister to call the premiers together. These meetings resulted in a series of infrastructure agreements to provide immediate but conditional stimulus funds to the provincial and territorial governments; a slight deviation from the goal of open federalism that occurred due to the severity of the crisis and the need for the federal government to respond. The crisis thus demonstrates the ways in which external forces constrain the capacity of actors to remain faithful to a set of ideas.

Any declaration of the end of executive federalism would ultimately prove to be premature, and the extent of its reduction varied among policy fields. While the high-level meetings among the First Ministers were essentially abandoned, and while federal-provincial social policy tables remained "quiet" during this 10-year period thanks to the federal government's policy agenda (Graefe and Laforest 2013, 8), federal-provincial-territorial *ministers* and their department officials continued to assemble as usual. Justice, agriculture, labor, health, immigration, culture, housing, and energy and mines all held at least annual conferences throughout Prime Minister Harper's tenure. In other words, the day to day work of the IGR ecosystem continued despite the elite-driven effort to disentangle its arrangements and install a renewed respect for the division of powers. Pre-existing policy activities and the reality of deep structural interdependence appeared to countervail efforts to install of a core component of open federalism. Furthermore, such evidence also suggests that a return to a supposed "water-tight" model of federalism is likely both unfeasible and unviable given the complexities of policymaking in our contemporary world.

Finally, despite the rhetoric of "open federalism," some of the Government of Canada's key policy initiatives under Prime Minister Harper's administration generated significant intergovernmental frictions as the federal government intervened, or attempted to intervene, in areas of clear provincial jurisdiction. For example, in Canada, provincial and territorial bodies oversee securities regulation. In 2010, however, the federal government drafted legislation to replace the decentralized system and establish a national regulator. Both Quebec and Alberta quickly launched court challenges to oppose the proposed regulator and ensure that their authority remained respected in the field (Monahan and Sethi 2011). Similar dynamics were observed in the federal government's crime and punishment agenda, which both touched upon provincial health authorities and forced expansion of provincial penitentiaries: two areas of policy restricted to provincial authority according to a classical interpretation of the division of powers (Graefe and Laforest 2013, 9). Such evidence suggests that a return to a supposed "water-tight" model of federalism may be at risk in different areas depending on the specific substance of a government's agenda.

It remains to be seen whether the new Liberal federal government will address some of the structural features—perhaps, arguably, weaknesses—of the Canadian IGR ecosystem.

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CONCLUSION

Prime Minister Stephen Harper took office with a clear alternative vision for intergovernmental relations in the Canadian federation. During his 10 years in office, some concrete steps were taken towards achieving the idea of "open federalism," with its emphasis on renewing respect for the division of powers. External forces, the day-to-day dynamics and complexities of policy making, and the alternative priorities of the government's agenda nevertheless impeded the realization of this set of ideas. While some features of Canada's intergovernmental ecosystem were affected, its fundamental characteristics remained unchanged overall.

In October 2015, a new government took office in Ottawa led by Liberal Prime Minister Justin Trudeau. During his campaign, the Liberal leader made it clear that he intended to once again change the dynamics of intergovernmental relations and reengage with provincial and territorial premiers in face-to-face meetings. Almost immediately upon taking office, the newly elected Prime Minister met with all the premiers of the provinces and territories. The federal government then scheduled meetings to develop a comprehensive climate change policy on March 3, 2016. As British Columbia Premier Christy Clark declared after the meeting, "I guess the pundits and the opposition will argue about the substance of what we did. I think that what we achieved was very significant. But the fact that we were there with the prime minister for the first time in a decade, I would say that this makes this day, this declaration in Vancouver, an historic one" (CBC News 2016).

It remains to be seen whether the new Liberal federal government will address some of the structural features—perhaps, arguably, weaknesses—of the Canadian IGR ecosystem. Will it, for example, choose to increase its institutionalization, walk away from unilateral decision-making, and/or address the democratic deficit in Canadian intergovernmental relations? Will the federal Prime Minister engage with the Council of the Federation, or will meetings among the First Ministers remain solely under the purview of the federal leader? Will the federal government engage the provincial and territorial premiers as partners within the Canadian federation? While all change begins with an idea, other factors must align with the considerable influence of the Canadian prime minister to enact major change in the federal IGR ecosystem. ■

NOTES

1. For example, following the recent annual conference of federal, provincial, and territorial ministers and deputy ministers of agriculture, a joint communiqué was released that included the following statement: "Although Quebec is not opposed to the content of this joint communique, it will issue its own communique as it considers this joint communique incomplete and not reflective of a full consensus" (NA 2016).
2. For example, in 1995-6, Ottawa instituted a sharp reduction in its fiscal transfers, which "left the provinces with the unpleasant task of dealing with the fiscal, political and social fallout, including painful cuts to social programs" (Bickerton 2010).

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