

Canada: The Federation of Federations

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I will argue that Canada is the federation of federations. By this I mean that there are no other countries in the world – with the exception of Belgium – that are so defined by their intergovernmental relations, between constitutional partners.

I see five reasons for this, that explain why federal-provincial relations exert a fundamental influence on the way Canada works.

1. Strong provinces

In the world of federations, there are few constituent entities more powerful than a Canadian province. Canada's Constitution grants them broad legislative jurisdictions of their own.

There are very few policies that Canada's federal government can implement on its own without having to cooperate with the provinces.

Even in the area of foreign policy, Canada's federal government must often obtain the support of provincial governments. While the federal government is the one that negotiates treaties which are subsequently ratified by Parliament, their implementation depends on the provinces within their extensive areas of jurisdiction. Constitutional jurisprudence very clearly gives the government of each province the latitude to apply or not to apply an international treaty that affects one or more of its fields of jurisdiction.

The application of treaties as vast in scope as those such as Free Trade Agreements with the US and Mexico, or CETA with the European Union, or CPTPP with Asia-Pacific, are inevitably affecting provincial jurisdictions. Therefore, the federal government has an interest in closely consulting the provinces and involving them throughout the negotiations. This is a consultation process that our federation is learning to conduct, by drawing lessons from each past negotiation.

Another source of power for our provinces, in addition to the extent of their constitutional legislative powers, lies in their fiscal and budgetary weight. With regard to total own-source revenues of governments, the share of our provinces is significantly higher in Canada than in other federations. The fiscal and budgetary weight of Canada's provinces is also strengthened by the fact that they are less dependent on federal transfers to finance their activities, compared to what happens in other federations.

2. The small number of provinces

In Canada, there are few provinces: 10 (plus three territories), compared with 23 provinces in Argentina, 26 in Brazil, 31 in Mexico, 50 in the United States, 26 cantons in Switzerland, 16 länder in Germany, etc.

The relatively small number of Canadian provinces is not without consequence for our political life. It contributes in at least three ways to making the provinces major actors in the Canadian federal system. First, it makes it easier to build interprovincial cohesion. A simple conference call, for example, is still practical with 10 people; it becomes impractical with 20 or 30.

Second, this small number makes it possible to hold frequent interprovincial or federal-provincial meetings, and this, across all fields: economic, social, environmental, agricultural. Rarely a week goes by without at least one such meeting. It is largely through the impetus of these exchanges between ministers or senior officials that Canadian federalism evolves.

Third, the small number of our provinces prevents provincial power from becoming too thinly spread. The largest provinces, Ontario and Quebec, but also British Columbia and Alberta, have political and administrative structures of appreciable size in relation to that of the federal government.

3. The role of the Upper House

Canadian senators are not elected. They are chosen by the federal executive branch. This has two consequences for our federal system.

First, these unelected senators are not in a position to compete with the provincial premiers as spokespersons for the provinces. The situation is different in the United States, for example, where senators are at least as much a force to be reckoned with as are state governors in terms of who speaks for the states.

Second, since our senators are appointed by the federal executive branch, rather than by the executive branches or legislatures of the constituent entities, intergovernmental relations in Canada consequently take place between executive branches that are clearly distinct and not institutionally linked through Parliament. We do not have a federal chamber of the provinces along the lines of the German *Bundesrat*, for example.

4. The strength of the executive branch in relation to the legislative branch

There are 24 federations in the world. Only four of them combine a parliamentary system and a simple majority vote electoral system: Canada, India, Malaysia and St. Kitts and Nevis. This combination tends to produce governments, at both the federal and provincial levels, that are formed by a single party which is usually able to pass the legislation it proposes. As a result, intergovernmental relations are conducted between strong governments. When the Prime Minister of Canada and the provincial premiers sign an agreement, each of them usually has the capacity to ensure it is implemented, without having to negotiate with a parliamentary coalition.

In comparison, federations with a presidential system, such as the United States, Argentina, Brazil, Venezuela, and Mexico, as well as those with a proportional representation electoral system, tend to have intergovernmental relations that are more diffuse and more deeply shaped by the balance between the executive and legislative branches and among party coalitions.

In the United States, the relationship between the White House and Congress attracts the most attention. In Canada, it is the relationship between the Prime Minister and the provincial premiers. In a number of other federations, the thing to watch for in particular is the interplay of parliamentary coalitions.

5. The existence of a minority group in the country that constitutes a majority within one of the constituent entities

Usually, when a federation has ethnic, cultural, linguistic or religious minorities, they tend to identify themselves particularly with the federal government or federal institutions in general. They tend to see the federal authority as protector.

The situation is different, however, if a minority forms the majority within one of the provinces. In such a case, the minority tends to identify itself particularly with the province and its institutions, because it constitutes the majority within the province.

So it is not surprising that Francophone Quebecers, in addition to identifying with Canada, also identify themselves strongly with their province and its own institutions.

If one of the large states in the U.S. were made up of a population that was 80% Hispanic, the dynamic of the American federation would undoubtedly be altered. In

Canada, Quebec is the largest province by size and the second largest by population. The Government of Quebec plays a key role in promoting provincial autonomy in Canada. Moreover, the presence in this province of a separatist party in power or in opposition over half a century has often imparted an existential nature to intergovernmental relations that is unknown in the other federations.

Conclusion

These are the five factors that fundamentally explain the exceptional importance of intergovernmental relations in Canada. No other federation combines all five of them. The United States has none of these characteristics. Australia, for its part, has only two: the small number of constituent entities (with only six states) and the relative strength of the executive branch in comparison to the legislative branch. But Australia's states have substantially less power and autonomy than do Canada's provinces, the Australian senate is elected, and Australia does not have a national minority that forms the majority within one of its states.

Here, ladies and gentlemen diplomats, are the five reasons why you should never lose sight, when working with Canada, that this country is a federation, the federation of federations.