Executive Federalism in Canada: 
Competition or Collaboration?
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Canadian policy-makers have increasingly come to rely on the productivity of 
intergovernmental negotiations in order to overcome some of the most controversial 
issues facing the country since confederation. It is not only contentious topics that have 
brought groups together to coordinate policy agreements. Actors and executives of varying 
political stripes, different levels of government, and culturally distinct regions have 
played a major role in deciding what is in the national interest in a range of different 
contexts. As such, Canadian governments and citizens place a high level of trust in 
these decision-making frameworks. This paper provides a review of the 
literature on Canadian federalism and analyzes some of these arrangements to 
explain Canada’s unique decision-making process.

In 1992, political leaders of Canada’s northern territories were invited to 
participate in First Ministers Conferences for the first time as full 
members (Alcantara, 2013, p. 36). This particular change in the inclusion 
of territorial leaders prompts questions about the nature of 
Canadian federalism, including its capacity for change and openness, the 
role of partisanship in decision-making capacities, and how 
interprovincial disputes are approached. In other words, how does the 
federalist system influence decision-making in theory and in practice? 
How can the various factors above contribute to competitiveness and 
collaboration between governments of provinces, territories, and 
Ottawa?

This literature review suggests that Canada’s executive federal system is 
characterized by strong interprovincial politics as well as weak 
intraprovincial representation in federal structures. This unique federalist 
structure, in combination with competing conceptions of Canadian 
identity, provides for a fragile yet flexible system of balancing national 
and local interests through intergovernmental negotiation rather than 
legally binding agreements or constitutional change. With partisanship
taking on an increasing role, this fragile system has demonstrated the ability for different governments to cooperate in both a collaborative and competitive manner. Specifically, the fragility of the Canadian federation refers to a system of decision-making that relies on a high level of citizen and intergovernmental trust in the policy process. Actors trust that legitimate policies satisfy ambiguous constitutional or institutional demands as well as the political realities of the day. Finally, power in Canada flows from the center outward, from the Prime Minister’s office and Cabinet, and down to the provinces and so on. Power is structured in the Canadian federation so that the most effective check on the government is public opinion. In short, Canada’s unique blending of federalism with Westminster style democracy has entrenched yet not formalized the role of all orders of government in deciding what is in the national interest.

Alcantara (2013) distinguishes between two layers of historical institutionalism to illustrate the nature of federalist states. The first is an institutional arrangement, usually in the form of a constitutional document that formally divides and allocates powers between two or more levels or branches of government (p. 30). The second is a broad set of ideas referred to as the ideational dimension that underpin a particular configuration which in turn give meaning and context to an arrangement for decision makers. For Canada, the institutional layer is characterized by a strong interstate capacity of the federation. It is here that the division of powers are well defined, with constitutional stipulations clearly demarcating domains of the provinces and the federal government. In contrast, Alcantara argues there is a weak intrastate element because of poor representation of provinces within federal institutions, such as the Senate (p. 31). As a result, Canada relies heavily on the productivity of intergovernmental negotiations. That the Senate is composed of people appointed by the Governor General acting on the advice of the Prime Minister (p. 37) is but one example of the powerful role of the Prime Minister in the Canadian system as well as in the case of provincial first ministers.
According to Alcantara (2013), Canada’s ideational structure has been in flux since confederation (p. 31). This is especially true of competing ideas about whether the federation should centralize or decentralize and if it was formed by two founding nations or different provinces joining Confederation with the assumption of provincial equality. No single narrative has become institutionalized or hegemonic in Canada, which means that this lack of ideational underpinning in Canada has allowed room for contestation and opportunities for institutional change (p. 32).

Literature also shows competing perspectives on the nature of political power flows in the Canadian system. Potter’s (2006) description of the liberal-individualist model of power sees a “strong House of Commons and independent-minded MPs as the most effective check on the government” (p. 76). This view of the English constitution involves power flowing up from the voters to their representatives in the legislature, and then these representatives to the cabinet. As opposed to this bottom-up perspective on power, the executive-centred model “focuses on the central role of the cabinet in setting the parliamentary agenda and on the dominance of party discipline in the Commons” (Potter, 2006, p. 79). This model views power flowing from the Prime Minister’s cabinet outward and downward, with the most effective check on the government remaining public opinion.

Meanwhile, Docherty (2005) presents two opposing perspectives on the role of the MP, each aligning rather neatly with the varying models and perspectives outlined earlier. The delegate style of representation views the elected official as one voice representing the majority of the community who voted him or her into office (p. 13). It is up to the structural and organizational capacities of legislatures to force the various interests of the collective, voiced by the delegates in the House, to negotiate and compromise on the issues of the day. On the other hand, a trustee model of representation views the elected representative as someone in whom the voters have placed a tremendous amount of trust in order to make decisions that will benefit the interest of the nation, even if it means short-term pain for a locality. Trustees at
the federal level are not concerned with the day-to-day life of their constituencies on the ground so much as ensuring that the national interest is being catered to according to legislation negotiated by government and opposition.

Further research into the literature points to the executive-centred flow of power, in combination with the trustee model of representation in the legislature as the most accurate description of executive federalism in Canada. For example, Young and Belanger’s (2008) study on the relationship between the political behaviour of the Bloc Quebecois and public opinion shows that the latter significantly drives the former (p. 510). In other words, actions of the Bloc were found to have a severely limited influence on public attentiveness to the issue of sovereignty while the causal flows in the opposite direction were very powerful. This supports the perspective that public opinion is the most effective check on government, because the Bloc successfully advocated for meaningful change in the House of Commons throughout the 1990s, and it was able to do so by carefully gauging the public mood and frequently staying in touch with public opinion (p. 511).

Simeon and Cameron (2002) articulate the evolution of Canadian federalism from one of traditional top-down patterns from the leadership of the federal government to a collaborative federalism involving increasing interprovincial diplomacy (p. 49). Their analysis shows that one of the most significant challenges facing executive federalism is the question of the legal and political status of intergovernmental agreements. While most are not formal contracts, none are legally binding. The logic of collaboration implies that governments should be legally bound by the accords they negotiate and agree to. However, constitutionally, the Canadian government is responsible to its own legislature and cannot bind any future legislature. This highlights the tension between the logic of collaborative intergovernmentalism and of responsible parliamentary government (p. 62-3). As such, the only path forward in many federalist policy issues requires intergovernmental negotiations that are not constitutionally or
legally enforceable. This speaks to the heart of Canadian executive federalism, which is in fact a blending of federalism with Westminster style government (p. 49). Thus collaborative federalism is described as the process by which national goals are achieved not by the federal government acting alone or by shaping provincial behaviour through the exercise of its spending power, but through some or all of the provinces and territories acting collectively.

One prime example of this phenomenon is the issue of Quebec secessionism, which came to a head during the mid and late 1990s. According to Behiels (2013), the long-standing ambiguous relationship between federalism and the constitution of Canada characterize this particular issue (p. 134). Much depends on the constitutional statement that Canada should have a constitution “similar in principle to that of the UK”, a unitary state as opposed to Canada’s federalist system. Moreover, ambiguous divisions of power between central and provincial governments in addition to rights for Catholic and Protestant groups as well as French and English speaking linguistic rights complicate the issue. Another layer of complexity is the fact that in Canada there is a “double federation” of two founding cultures, French and British.

When the 1998 Quebec Secessionist Reference Case was brought before the courts, justices achieved their ruling by looking at four spheres of the constitution: democracy, federalism, constitutionalism, and minority rights (Behiels, 2013, p. 129). For an actor which clearly desired not to participate in any form of negotiation and leave the federation, the court’s unwritten federalist constitutional principles were seen by Quebecois secessionists as being imposed on political stakeholders (p. 136). The constitutional challenge involving secession was the fact that it is a legal act as much as it is a political one, yet both Constitution Acts 1867 and 1982 were silent on the secessionist issue (p. 144). Judges came to the conclusion that a constitutional amendment would not legally suffice to solve the problem, and instead would require formal negotiations between different governments at various levels. This is because governments are recognized by the constitution as sovereign.
elected representatives of the people. Importantly, courts determined that a referendum alone was not enough to stipulate legal secessionism, but a successful one would provide the first step—a mandate—for a Quebec government to begin the process through negotiations (Behiels, 2013, 145).

This shows a central Canadian example where the only route forward—whether according to the courts or to the executive branch of government—was intergovernmental negotiations. The ruling stated that it was illegal and undemocratic to simply amend the constitution to include secession. This pattern of political and constitutional constraint on Ottawa in addition to the role of intergovernmental negotiation on the issues in Canada continues across many major policy issues in Canada, including Quebec sovereignty, equalization payments, and interprovincial trade.

One major example of the kind of collaborative federalism previously referenced according to Simeon and Cameron is the Agreement on Internal Trade (AIT) following the failures of the Meech Lake and Charlottetown Accords (Simeon, 2002, p. 55). This agreement had weak substantial powers over the signatory provinces, although it is able to organize and facilitate the process of trade between provinces, an arguably essential procedure for a large federation like Canada (p. 55). AIT was negotiated largely without media coverage or the knowledge of the public. Even so, it was a milestone that the provinces not only worked together to develop a framework for regulating trade across the federation and the appropriate conditions for different levels of government to post expenditures, they were also able to formulate policies and procedures for a standard protocol in the case of a dispute. While this agreement does not hold any body legally accountable, it does reflects a trusting and collaborative federalist system in Canada. Simeon and Cameron rightly point out that this agreement was the product of a situation in which the federal government had neither the legitimacy nor the power to regulate the Canadian economic union or to amend the constitution. This point applies to other agreements as well, such as the
1999 Social Union Framework Agreement (p. 56), which continues to impact the productivity of the federalist state today.

The controversial topic of the calculation of equalization payments provides another perspective on collaborative or competitive intergovernmental negotiations in Canada. According to Lecours and Beland (2009), equalization is entirely funded and administered by the federal government and provides payments to provinces with a below average fiscal capability (p. 570). It aims to fight regional inequalities without threatening provincial autonomy and it has been enshrined in the Canadian constitution since 1982 (p. 571). The equalization formula changed dramatically over the decades, from one that calculated three major taxes (income, corporate, succession duties) in 1957 to another that included no fewer than 16 provincial revenue sources in 1967. These included alcoholic beverage, forestry, oil royalties, and motor tax revenues among others. Eventually the number of sources of provincial revenues increased to almost 30 by the 1970s and it became modelled after a system used in the United States (p. 572).

What followed during the later decades of the 20th century were continual negotiations between the federal government and provinces for a politically acceptable balance of distribution of federal revenues. Over the years, Alberta was transformed into a “have” province through the adoption of a five-province standard calculation where the wealthiest and four poorest provinces were excluded (Lecours, 2009, p. 572). This was a marked change from the previously used ten-province standard as well as the two-province methods (p. 572). During the 1973 oil crisis, the province of Ontario became entitled to equalization since the price of oil rose exceptionally high (p. 573). Decision-makers perceived that the program was being undermined since its primary purpose was to bolster the standing of provinces with much lower status compared with powerful provinces like Ontario and Alberta. This economic phenomenon prompted the federal government to adopt emergency measures. These included exclusion from equalization payments any province with per capita personal income that was regularly above the
national average, a measure that was able to accommodate the politically unthinkable- funding to powerful and resource-rich provinces like Ontario and Alberta (p. 573). These “emergency measures” contributed to the persistence of the program throughout the 1980s and 1990s amid constant, dramatic cuts to federal social transfers during this period of austerity (Lecours, 2009, p. 574). Discontent emerged from Quebec in 2004, when it popularized the notion of “fiscal imbalance” within Canadian federalism. This referred to the observation that provincial governments lacked the revenues necessary to deliver essential and expensive services like health care and education while the federal government routinely accrued more revenue than it needed to fulfill its constitutional responsibilities (p. 574-5).

During the early 21st century, the question of factoring natural resource revenues into the equalization formula became the primary focus of most interprovincial and provincial-federal disagreement. This stemmed from the unpredictability of the revenues of such resources since global prices can fluctuate dramatically on an annual basis (Lecours, 2009, p. 575). When the price of oil rises, interprovincial revenue inequalities increase, which in turn increases potential for intergovernmental conflict. When the price of oil decreases, resource-rich provinces like Alberta, Saskatchewan, and Newfoundland tend to vocalize frustration over resource revenue reducing equalization (p. 576).

In a period of relatively stable economic growth, resource-rich provinces pressured the Paul Martin government to exclude such revenues from equalization calculation (Lecours, 2009, p. 580). When his administration refused to commit to those demands, Stephen Harper, leader of an increasingly dominant Conservative opposition coalition party, promised that if elected Prime Minister, he would not include resource revenues in the equalization formula. Upon his election the following year, however, he instead proposed inclusion of 50 per cent of natural resources revenues in the formula (578). This incensed provincial leaders, especially Premier Lorne Calvert of Saskatchewan. His NDP party threatened to bring Stephen Harper’s party to the courts over his
broken promise. Ultimately, however, he lost an ensuing election and the following elected government decided not to continue grievances with the federal government (p. 584).

This political drama raises several important points about Canada’s federation. First, politicization of equalization in Canada is unique. Canada does not possess an independent body like Australia and other countries that oversees fair and equal distribution of resources amongst varying localities as well as managing dispute resolution (Lecours, 2009, p. 581). Provincial leaders are aware of the potential gains they can make by pressuring the federal government in equalization disputes and unlike many other federations, especially in Europe, they are most likely to receive strong, positive support from their provincial constituents. This at least partially explains why the provinces exhibited opposition toward the concept of adopting a Canadian version of an independent body proposed by a federal expert panel (p. 581).

Second, provincial governments whose leaders judge their province to have been short-changed in equalization disputes often see the situation as a binary win-or-lose one (Lecours, 2009, p. 581). “Losers” often come out aggressively against the federal government. In response, the federal government often tries to compensate such “losers”. This deal making often ends up creating more resentment elsewhere, leading to what Lecours identifies as the politics of blame-avoidance (p. 581). What this demonstrates is a particularly competitive and sometimes hostile, intergovernmental relations in the Canadian federation as opposed to Simeon and Cameron’s (2002) articulation of a modern era of collaborative intergovernmental negotiations.

Third, these intergovernmental negotiations are distinctively interprovincial rather than articulated under a label of an intraprovincial sphere. In line with Alcatara’s major point, Canada exhibits a strong interprovincial dimension to federalism but also must compensate for relatively weak intraprovincial opportunities for provinces to represent themselves institutionally (p. 31). This often
results in intergovernmental negotiations outside of formal constitutional or legal frameworks, whether competitive or collaborative. While these agreements remain officially unaccountable and subject to a great deal of trust on the part of the governments involved, the federation has arguably been equipped to deal with the most challenging of problems through careful negotiation. It is here that the trustee model of representation and governance comes to mind once again, as a form of government that seems to be an inherently Canadian mechanism for effectively governing a large, diverse federation characterized by various competing regional interests.

A valuable point of contrast to the prevalence of unaccountable intergovernmental agreements can be raised from the topic of Quebec immigration. Kostov (2008) critically engages with the contemporary history of this intergovernmental area of negotiation to highlight its implications for the workings of the Canadian federation. During the 20-year period between 1971 and 1991, several intergovernmental agreements between Ottawa and Quebec dramatically changed the legal jurisdictions over immigration in the province of Quebec (p. 91). Even though section 91(25) and section 95 of the BNA Act give the federal government the ultimate priority over immigration laws and regulation in addition to naturalization of foreign naturals (p. 92), by 1991 federal powers over immigration control in Quebec had become largely symbolic (p. 99). During the 1970s and 1980s, this dwindling of federal power over Quebec immigration was the result of multiple intergovernmental agreements, each one more impressive in provincial power than the last. Mobility rights of Canadians became a central question to the “asymmetrical” character of the Canadian federation, since by 1991 Quebec was able to circumnavigate the Canadian constitution. Section 6(2) of the Canadian Charter of Rights and Freedoms allows Canadian citizens and permanent residents the right to move and settle in any province they wish (p. 92-3). Yet today, if Quebec immigration control does not approve a Canadian citizen’s application, the federal government cannot legally intervene (p. 98). According to Kostov (2008), “if the other provinces demanded the same
powers in immigration, the Canadian immigration system would fall into chaos” (p. 97).

The question of “asymmetrical powers” between the provinces serves as a reminder of the fragility of the Canadian federation. While the ruling of the 1998 Quebec Secessionist Reference Case showed that a constitutional amendment would not legally or politically suffice to make a decision on the question of the right to Quebec secessionism, in the case of Quebec immigration, Ottawa had the constitutional authority to make executive decisions on immigration. The federal government was also constitutionally constrained on issues of internal trade and equalization payments, yet in all of these cases, intergovernmental negotiations were the product of political realities, not necessarily constitutional ones because even when Ottawa was clearly within its jurisdiction on immigration, it gave up much of its power.

The fourth and final point, equalization politics in Canada raises the issue of partisanship and its effects on Canadian intergovernmental negotiations. As mentioned earlier, Premier Lorne Calvert of Saskatchewan legally challenged the Harper administration’s breaking of political promises regarding inclusion of resource-based revenues following the 2005 federal election. However, his party affiliation as an NDP leader may have played a significant role in playing such an adversarial political card only a year before his next election. Esselment (2012) outlines the various ways partisanship can influence policy negotiations between different governments. One example is Manitoba’s change in leadership during the Meech Lake Accord negotiated by Progressive Conservative Prime Minister Brian Mulroney. In Manitoba, the Accord was a “hard sell” since it is in the province’s best interest for a federal government to assist with the high costs of delivery of health and welfare programs by spending in areas of provincial jurisdiction. Leaders within the province worried that the Accord would limit federal powers from continuing such patterns of spending. NDP premier Howard Pawley was against the Accord, but after a vote of non-confidence, a minority Progressive Conservative government led by Gary Filmon was
elected. His government supported the Accord in order to improve relations with the federal government. He used the support of a Conservative senator, Lowell Murray, to persuade his caucus of the advantages of the agreement, appealing to the importance of party identification across different levels of government as an advantage for his party (p. 712).

These examples not only highlight the role of partisanship in Canadian federalism, but also the power concentrated in the Prime Minister or Premier at the centre which flows outward and downward according to the executive-centred perspective. It also highlights the importance of party unity and the discipline of closed-door, secretive caucus meetings, in this case in government or opposition (Docherty, 2005, p. 158). Finally, we are reminded of the adversarial nature of Westminster style government since the issues are limited to whether one supports or opposes legislation (Potter, 2006, p. 82). This is reinforced through the physical architecture of most legislatures as well as structure of government and opposition, the former relying on the latter for confidence. Since power flows from the Prime Minister, government can retain its confidence from the people through an election if it loses the confidence of the House (Potter 82). The concept of partisanship, however, serves as a reminder that provincial leaders, while often seen as representing their region, are also leaders of a particular party and specific ideological stripe. Political parties, especially the NDP and Liberal parties, tend to involve similar voters, activists, and fundraisers across different levels of government (Esselment, 2012, p. 702).

Another example of partisanship affecting intergovernmental negotiations was the issue of labour-force training programs. This time, the federal government under Jean Chretien offered to withdraw completely from labour-force training programs since provincial jurisdiction of education and the federal jurisdiction of the economy overlap on the question of labour training programs (Simeon and Cameron, 2002, p. 59). The federal government gave provinces the option to completely take over this particular portfolio or work together
on a bi-lateral negotiation (p. 59). Bi-lateral negotiations between provinces and territories followed, but this time the holdout province turned out to be Ontario because of a long and bitter partisan rivalry between a Liberal federal government and a Conservative provincial one led by Mike Harris (p. 59).

These examples of partisanship across different levels and institutional bodies demonstrate that the party system has an important role in Canada’s executive federalist system. This is because it allows for the frank communication that is necessary for trust-based negotiations and decision-making between provinces and different levels of government to occur. Furthermore partisanship brings negotiators together, but it also can be divisive. As previously outlined, the seemingly uncontroversial issue of labour-training program negotiations were brought to a halt because of a partisan rivalry persistent in Ontario (Simeon and Cameron, 2002, p. 59).

In understanding the various complex factors affecting intergovernmental decision-making in Canada, several were identified including the role of the executive in the Westminster system of democracy (at both provincial and federal levels), the role of partisanship, and strong interprovincial politics combined with weak intraprovincial representation in federal institutions. Returning to the example of the inclusion of territorial leaders in First Ministers Conferences, context shows that territorial leaders took advantage of the unstable political climate as increased demands for better participation against the federal and provincial leaders overwhelmed the Mulroney government (Alcantara, 2013, p. 41). This allowed territorial leaders to frame their request for full participation around the time of the Meech Lake Accord as one in line with public demands (p. 41). This is a tactic used not just by territorial leaders, but many political actors (such as the Bloc Quebecois in an earlier example), because they are aware that public opinion drives change and accountability in Canada. Canada’s executive-centred system ensures that the Prime Minister and his or her cabinet determine the agenda of the day, but since the federalist structure lacks provincial
representation within the institutions at the federal level, interprovincial negotiations are relied on for an effective administration of state services and legislation. Usually, constitutionally ambiguous designations, or in areas of overlapping jurisdiction between the different levels of government, intergovernmental negotiations of a collaborative or competitive nature occur depending on partisanship or contesting ideational layers concerning Canadian identity. Even so, areas of dispute resulting from the ideational dimension can be controversial enough to drive change, as demonstrated in the example of Quebec immigration. The Canadian federation is therefore a flexible and fragile one that provides a strong capacity for interprovincial negotiations, with public opinion remaining one of the most powerful political tools for differing levels of government and opposition groups to hold Ottawa to account.
References


