

# Let's Talk: A Conversation about Canada and Quebec

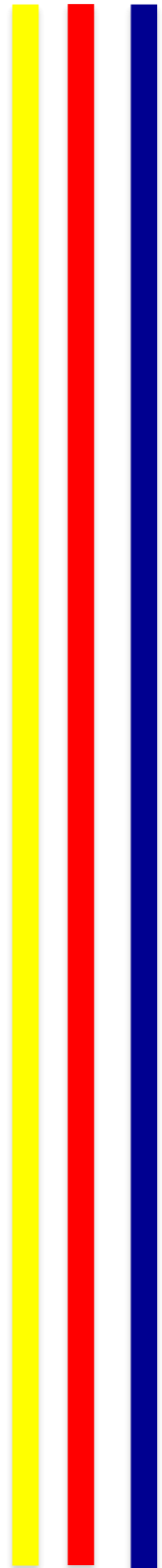


## Towards a New Federal Compact

Avigail Eisenberg  
University of Victoria

**Institute of Intergovernmental Relations  
School of Policy Studies, Queen's University**

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In the absence of the power to reverse the passage of time and go back to 1981, Canada needs to embrace a more expansive ideal of diversity that includes Quebec as a full partner in the federation. What could that more expansive ideal of diversity look like?

A renewed compact is one of the most attractive ways to frame Quebec's relations with Canada today. As the concept "compact" denotes, Canada consists of an understanding amongst founding peoples who have their own distinctive ways of life and establish their own terms and processes for managing their ways of life, albeit not in isolation from each other.

Today, the concept of compact relations bears some resemblance to the concept of treaty relations. Like treaty relations, a compact relation between Canada and Quebec refers to conditions of mutual recognition, diversity, and mutual learning and establishes the terms by which two groups come to agree and act together.

Like treaty relations, a compact carries with it an understanding of self-government. Claims made in the context of treaty relations are respected in order to honour the relations between groups. Disputes are resolved through mutually accepted processes that bring the parties together to engage in different types of dialogue: discussion, bargaining, deliberation, and negotiation.

*Quebecers our way being Canadian* discusses the importance of compact today. But it also links Quebec's claims for self-government to the rest of Canada's recognition of Quebec's national identity (see, for example, SAIC 2017: 14). Doing so is understandable. There is no doubt that Quebec has a distinctive national identity and that respect for its identity is important for good relations with Canada.

At the same time, there are good reasons to understand claims for the recognition of self-government and national (or other) identities as distinct. One reason to do so is that national identity is best protected through self-government, not through the recognition by another state of one's identity. This may be especially true in the context of Quebec-Canada relations where Quebec often uses its powers of self-government in the name of its national identity.

Another reason is that insisting that others recognize one's identity inevitably gives others some power to interpret it. Notwithstanding the intention of Quebec to "affirm" its identity in the Affirmation Document, the document's persistent invocation of what Quebec's identity requires will inevitably turn discussion to the question of "what is required to protect Quebec's identity?" These discussions are notoriously politicized. They are conversations characterized by what Charles Taylor calls the "politics of recognition". Recognition is inherently a dialogical relation that invites those who are in dialogue to interpret and judge the claims of each other, including claims about what is required to protect the other's identity. Is this the conversation that Quebec wants to have with Canada?

As Indigenous peoples in Canada have discovered repeatedly since 1982, constitutional guarantees can invite dominant groups to interpret the identity of those who seek legal, political, and constitutional recognition. Dominant groups have been known to misinterpret the identities of other groups in ways that secure their own position of power. This problem is so acute in relations between settler and Indigenous Canada that Indigenous people today often avoid framing their claims in terms of identity, lest they suffer further misinterpretation and subjugation.

We see a similar tendency with respect to Quebec. In this regard, it's worth first reflecting on the legacy of the failure of the 1982 constitutional deal. As various Supreme Court decisions continue to remind Quebecers, the Charter's protections – which were imposed on a national minority without its consent – often conflict with the province's policy priorities. It does not help, of course, that judges from outside Quebec often take the lead on these controversial decisions. This political dynamic will soon be revisited as Bill 62 makes its way to the Supreme Court of Canada. Of course, Quebec courts also interpret the Charter and their decisions are often consistent with Supreme Court of Canada rulings. Nevertheless, the constitutional tensions between Quebec and Canada make it easy for those seeking opportunities to advance particular causes to frame Charter rulings or central state policy decisions as impositions on a national minority. And this politics will be repeated until Quebec is full partner and signatory to the Canadian Constitution.

Quebec and Canada need to work together to defuse an unhelpful and strategic form of politics that feeds on discussions about “identity”. This politics is an obstacle to moving forward with projects like the one outlined in the Affirmation Document, which otherwise offers a fresh and generous perspective on the future of Quebec-Canada relations. My suggestion is that it may be easier to move forward by framing discussions in terms of a renewed compact rather than a need to recognize Quebec's national identity. By leaving the recognition of identity to the people of Quebec, the project's focus turns instead to identifying Quebec's stakes in Canada and in national policy and decision making. Of course, Quebec's national identity is partly at stake in these discussions. But the way forward is to articulate why specific features of this identity – language, culture, and other means to sustain a way of life in the province – make the stakes higher for Quebec than other provinces. Identifying these stakes in some detail would help clarify what exemptions Quebec requires from national policy provision and this could provide the foundation for a fairer and more impartial form of democratic federalism.

This process should also invite Indigenous communities to articulate their particular stakes and to consider these stakes as part of a renewed constitutional deal that allows for differentiated integration amongst the partners of Canada. Again, the aim should not be, in the first instance, to protect the specific identity the Mohawks or Anishinabeg. The protection of identity is an outcome of the agreement reached by all the partners rather than the primary and leading aim of the process. Instead, the aim is to establish fair and impartial democratic processes that foster the confidence and consent of peoples with different identities.