

## WESTERN ASYMMETRY

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### Foreword

The federal Liberal Party's 2004 general election platform heavily emphasized issues that are mainly subject to provincial competence under the constitution (e.g. health care, child care, cities). Since the federal government lacks the authority to implement detailed regulatory schemes in these areas, acting on these election commitments frequently requires federal-provincial-territorial (FPT) agreements.

A controversial question that arises when considering all intergovernmental agreements is whether they should treat all provinces and territories similarly or whether the agreements should be expected to differ from one province/territory to another. This issue of symmetry or asymmetry arises at two levels. The first is whether all provinces should be and should be viewed as "equal" in legal and constitutional terms. The second relates to the political and administrative level and the intergovernmental agreements it generates. When should Canadians expect all provinces/territories to be treated similarly in these agreements and when should difference be the rule?

Given this political context, it is timely to reconsider the factors that are relevant to the issue of symmetry and asymmetry. We are doing this by publishing a series of short commentaries over the first half of 2005. These papers will explore the different dimensions of this issue- the historical, the philosophical, the practical, the comparative (how other federations deal with asymmetrical pressures), and the empirical. We do this in the hope that the series will help improve the quality of public deliberation on this issue.

Harvey Lazar  
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Surely Canada is the only country in the world where leaders would trumpet an awkward mouthful like "asymmetrical federalism" as a bold new constitutional principle. Yet this happened in the fall of 2004 when the first ministers signed off on a health care accord acknowledging that Quebec need not account for the infusion of additional federal funding in the same way expected for other provinces. Since then, the term has taken off within the select audience of policy wonks and provincial politicians. One could also argue that it has worked its way into the policy architecture of the national government as Ottawa continues to negotiate a series of one-off, bilateral amendments to the equalization formula.

The intent of this brief essay is to sketch in how asymmetrical federalism might play out in western Canada. The analysis is necessarily speculative as the concept is still taking root even among political circles. As for the general public, it is safe to assume that few Calgarians muse about the pros and cons of asymmetry as they gather at neighbourhood pubs. However, it must also be stressed that the *potential* public reaction is an important factor to keep in mind.

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When asymmetrical federalism was proclaimed as part of the 2004 health accord, many national commentators predicted a vigorous political protest from the West where anything smacking of special status for Quebec is viewed with suspicion if not outright hostility. In fact, protest was hardly detectable, even among political elites following the health accord file. (Public interest in the intricacies of the accord was tepid at best.) How, then, do we account for this reaction, or lack of reaction, and what does it augur for the future?

To answer these questions, we have to go back to the opposition of western Canadians to earlier attempts to formalize a special constitutional status for Quebec in the 1987 Meech Lake Accord and the 1992 Charlottetown Accord. The problem for western Canadians in both cases did not lie with the facts of a distinct status for Quebec, for this was clearly apparent

in the Quebec Pension Plan, special bilateral immigration agreements, and favourable program treatment across a score of policy areas. When western Canadians weighed the prime ministerial terms of Pierre Trudeau, Brian Mulroney and (somewhat later) Jean Chrétien against those of Joe Clark, John Turner and Kim Campbell, it was hard to deny that Quebec punched well above its demographic or economic weight in federal politics.

Like it or not, special status was a fact of life, as inevitable as winter rain in Vancouver. However, whether this treatment should be constitutionally enshrined was another matter altogether. Western Canadians balked, and argued for the formal equality of the provinces, a position that precluded any constitutional recognition of a distinct status for Quebec. When the new constitutional amending formula was unveiled in 1982, it reflected provincial equality far more than it did recognition of a distinct status for Quebec. On the symbolic playing field of constitutional politics, western Canadians scored a clear win in 1982, one they were not prepared to abandon. Not surprisingly, western Canadians rejected the Charlottetown Accord by a significant margin.

Given this history, how do we explain the muted 2004 response to asymmetrical federalism, which would appear to acknowledge a special status for Quebec?

First, asymmetry was not given formal constitutional expression, and as a consequence likely flew under the radar for most western Canadians. Second, it should be stressed that Quebec now plays a greatly diminished role in the political world of western Canada. Comparisons between Quebec and the West have all but disappeared as western Canadians look forward to the future of their own region. Although Quebec has not completely fallen off the mental map, it has receded towards the margins of political consciousness (as has the West in Quebec, and perhaps even more so). Anxiety about Quebec has been replaced by fatalistic indifference; Quebec has ceased to be a significant point of reference.

Third, it is generally assumed among those following the issue that the principle of asymmetry will apply to all provinces, and thus the principle of provincial equality has not been violated. In short, asymmetrical federalism is not seen (when it is seen at all) as recognizing Quebec's special status, but rather as an option open to all. There is nothing special about it as we are all equally asymmetrical. Indeed, western Canadians are quick to assert the individuality of their own region, and even more so of their own province. Certainly British Columbians are asymmetrical in their self perceptions, right down to their webbed feet.

What, then, does this augur for the future? If western perceptions are correct, it means a more decentralized or at the very least a more differentiated federal system, with greater room in the West for policy innovation and experimentation. National standards would be weakened as a consequence, but such standards may carry less weight in the West than they do outside the West, where they are generally set. More importantly, we could have a federal framework that appears to meet Quebec's concerns for recognition without causing any great angst in the West. This is a reconciliation and accomplishment of considerable note. However, this optimistic scenario could go off the rails if one of three things were to happen.

First, if political discourse in Quebec frames and promotes asymmetrical federalism as a formal recognition of Quebec's special status in Confederation, this interpretation will be protested in the West. Anything verging on the constitutional entrenchment of special status will be fought as vehemently today as it was in the 1980s and 1990s. At present, any dissonance between Quebec and western Canadian interpretations of symmetry is not a problem because there is so little contact, much less interaction, between political discourse in Quebec and the West; the two regions are ships that do not even pass in the night. However, and as noted below, there is no guarantee that this disconnect will continue.

Second, the federal government may in practice apply the principle to Quebec, but not to

other provinces. For example, it may continue to tolerate the further privatization of health care delivery in Quebec while resisting a similar evolution in Alberta or British Columbia. The devil, as usual, may rest in the details, and this would be the dark side of asymmetry for western Canadians – asymmetry asymmetrically applied. Unfortunately, this challenge to the acceptance of asymmetry in the West is not unlikely.

Recent national governments, buoyed by burgeoning fiscal capacity and the spending power, have become increasingly active in provincial fields of jurisdiction. This ascendant activism on the part of the national government, wrapped in the rhetoric of national standards and pan-Canadian values, is difficult to square with asymmetrical federalism. Something has to give. In the short term, the circle can be squared by in practice acknowledging asymmetry in the case of Quebec and resisting it elsewhere. In the longer run, asymmetry is inconsistent with the policy imperialism of recent national governments.

Third, Quebec may push the envelope of asymmetrical federalism more than other provinces, push it to the extent that Quebec and the rest uneasily co-exist in increasingly different public policy worlds. Political events may transpire – a resurgent Parti Québécois provincially, increased Bloc strength federally, a national government without a significant Quebec voice in cabinet – such that Quebecers may even push for the constitutional recognition of asymmetry, perhaps in an extreme form. If this happens, however, it will not be a crisis for western Canada alone.

In the short term, we may have the essence of a quintessential Canadian bargain – a new term for Quebecers that appears to recognize a special status for Quebec while at the same time apparently recognizing the equality of the provinces for western Canadians. It is asymmetry, interpreted asymmetrically. A remaining question, however, is whether the concept of asymmetrical federalism, and for that matter is implementation, will be robust enough to withstand the challenges heading its way.

The first such challenge will be the next federal election. If the Liberals are returned to power, and particularly if they form a majority government, then the tension between asymmetrical federalism and an activist national government will intensify. A Liberal win would be interpreted, and quite appropriately so, as a green light for increased policy activism by Ottawa, for blurring further if not erasing the constitutional lines between provincial and national fields of jurisdiction. This style of governance runs counter to the very core of asymmetrical federalism that assumes patterns of public policy in one province will not fully coincide with patterns in other provinces.

By contrast, a Conservative win may, and I stress may, bring to power a national government that is more tolerant of a greater provincial government role in Canadian political life. It would appear that the Conservatives' penchant for a more decentralized federal state is more compatible with the notion of asymmetrical federalism than is the Liberal belief in an activist national government. Of course, whether the Conservative penchant survives a term in office is by no means clear.

A second and more serious challenge is embedded in the possible national unity consequences of the next federal election. At this point, and admittedly looking into a very clouded crystal ball, two outcomes provide the most likely scenarios. In the first, a near-sweep by the Bloc in Quebec, coupled with the resurgence of the Parti Québécois, would confront a minority Conservative government in Ottawa, without cabinet representation from Quebec and led by a Calgarian to boot (to cowboy boot). This is surely the worst outcome from a national unity perspective, no matter how attractive it might be from other perspectives. Unfortunately, the second scenario is little better. A near-sweep by the Bloc in Quebec, coupled with the resurgence of the Parti Québécois, would confront a weakened minority Liberal government in Ottawa, with cabinet representation from Quebec restricted to the west end of Montreal. In this case, the party that brought us the sponsorship scandal and the national unity crisis that followed in its wake

would be the party to steer us through the national unity crisis. It is to weep.

In the case of either scenario, the question to ask is whether the notion of asymmetrical federalism would be robust enough to contain the re-emergence of a sovereigntist threat from Quebec. Would it constitute a reasonable bridge between a new PQ government in Quebec and a minority government in Ottawa? Would it be converted from a principle applicable to all provinces to a principle applicable to Quebec only, essentially recognizing a special status for Quebec? And, could this be done without awakening the subterranean western Canadian opposition to special status?

None of these questions can be answered with any certainty. I suspect, however, that asymmetrical federalism will not be sufficiently robust for the task. Nor may it be robust enough for a second challenge, this one emerging from the West.

Since the Second World War, Canadians have done a reasonably good job of reducing disparities in wealth by “leveling up” through equalization programs, regional economic development initiatives, and a whole array of tax policies and social programs. The focus throughout has been on providing additional forms of support to those falling below variable national averages. However, it is not clear that this host of strategies will provide an adequate response to the energy wealth accumulating in Alberta (and increasingly accumulating in British Columbia).

As a national community, we have already decided that no province or region will be allowed to fall too far behind. However, we have only begun to think through how much variance at the front end is manageable within the Canadian federal state. How far can Alberta pull ahead of the pack before the bonds of national unity begin to be tested?

Here again, the question is whether the notion of asymmetrical federalism can provide a conceptual framework for dealing with Alberta’s energy wealth. Will we be able to say that

extremes of wealth can be accommodated under the rubric of asymmetrical federalism? Or, will Canadians outside Alberta argue that there are limits, that they certainly did not mean that much asymmetry when endorsing the notion of asymmetrical federalism. Somewhat ironically, such arguments may be particularly likely to emerge from Quebec where the doctrine of asymmetrical federalism has not yet been reconciled with significant provincial differences in wealth.

So, where does this leave us? I guess the bottom line is that asymmetrical federalism has not yet been tested in the court of public opinion; the debate thus far has been more academic in character, embracing policy wonks and their kin. I would also argue that the tension between asymmetrical federalism and an activist federal government has not been sufficiently explored. Most importantly, asymmetrical federalism has not been tested against the challenge of a resurgent sovereigntist movement in Quebec, or against the disparities in provincial wealth currently being manifested in Alberta. My suspicion is that asymmetrical federalism will not prove to be sufficiently robust in the face of these challenges. However, given the political uncertainty that surrounds us, that suspicion remains just that, a suspicion.

Let me conclude by commenting briefly on whether the trajectory of asymmetrical federalism, and the embedded assumption of a more decentralized federal state, is an attractive one for western Canadians. Here there is no clear or consensual answer. Certainly there would be support for those frustrated with a perceived lack of western voice within the corridors of the national government. There would also be support among firewall supporters in Alberta, those who want “more Alberta and less Ottawa.” More generally, asymmetrical federalism could well be conducive to greater policy experimentation and innovation in the West, and could be a way of more successfully fitting national programs to regional peculiarities.

On balance, asymmetry would appear to fit both western Canadian circumstances and aspirations. At the same time, however, this is not an issue that has been debated extensively within the region. Thus my suspicions in this respect should be taken as just that – suspicions that have not yet been exposed to a rigorous and thoughtful regional debate.