Multinational Federalism: Issues of Identity, Legitimacy and Regime Resilience

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LES GRANDES CONFÉRENCES DU CAPCF

In his 2019 presidential address to the Canadian Political Science Association, Francois Rocher concluded that Quebec's relationship to the rest of Canada, an issue that had preoccupied Canadian political science for several decades, was essentially dead. The threat posed to Canadian unity by Quebec's demand for major constitutional change was no longer an urgent crisis deserving of the attention and ministrations of the political science community. The constitutional reform process had reached a dead end, non-constitutional adjustments had addressed some of Quebec's practical concerns, and Quebec society had continued to evolve and strengthen without the formal constitutional changes it had sought. To quote Peter Russell, in the years since the near break-up of the country occasioned by the 1995 Quebec Referendum, Canada had resumed "the normal life of a settled constitutional democracy" (as cited in Rocher 2019, 650).

The ultimate purpose of Rocher's rumination was not to contest this turn of events, but to explain why scholarly interest in Quebec politics elsewhere in Canada had more or less evaporated. He found the answer to his question in the apparent resolution of the constitutional crisis precipitated by modern Quebec nationalism; after all, it was this threat to the stability of the Canadian state and its constitutional order that explained the interest of Canadian political scientists in the first place. That the discipline in Canada had 'moved on' was understandable to Rocher, given both the general concern of political science with "the themes of stability and order" and the particular interest of English-speaking political scientists in Canada with the challenge posed to national unity by Quebec nationalism. Inevitably, this led them to approach their subject from an academic standpoint that incorporated certain biases and prejudices. That is to say, "they [did] so with varying degrees of generosity [toward Quebec] but most of the time with

the unspoken aim of keeping the Canadian ideal to which they subscribe intact" (2019, 651). Their purpose was primarily a 'nation-saving' one, and with the threat to stability and order now removed, research on the issue was rendered obsolete. Scholarly interest in Quebec faded, replaced by more urgent and morally important issues (635).

While these observations capture a noticeable 21st century shift in the research agenda of political scientists who study Canada, there remains at least one sub-field of the discipline for whom the Canada-Quebec relationship retains its centrality as a topic of study: those engaged in the comparative study of multinational democracies, and especially multinational federations. This continues to be the case not only despite, but because of the Canada's apparent return to relative 'normality' and stability. Since there is no settled answer to what makes democratic multination states cohere and persist, political stability remains a question worthy of investigation. Regime resilience despite the presence of deep diversity and national identity differences still commands interest and inquiry. Simply put, what is it that explains the capacity of such states to integrate minority nations into the political and constitutional order, despite the absence or weakness of the presumed essential binding agent of a shared national identity?

The argument presented here – with the bias of an English-speaking political scientist subscribing to a Canadian ideal that he wishes to remain intact – is that the stability of the Canadian political community and the resilience of its political regime is the product of historical processes best described as "accommodative integration". While conceptually integration and accommodation represent two basic archetypes – for instance, as sketched out by Richard Simeon (2015) – the 'real world' of political management of diversity is nuanced and complex.

Of necessity, all political regimes seek to create and maintain some degree of national integration. This yields a continuum, a sort of *multidimensional sliding scale* of governance arrangements between the extremes of total assimilation of minorities at one end of the scale and the bifurcation or dissolution of the state at the other. There is no pre-determined degree or kind of accommodation that is perfectly suited to each multination setting, that once achieved becomes the final 'balance' point for the political regime; no forever-settled and therefore static status quo. Likewise, there is no ideal version of multinational federalism toward which all multination states should or must progress.

In Canada, it is possible to identify multiple integration-accommodation scales or spectra. Will Kymlicka captures this reality by referring to three distinct 'policy silos' within the Canadian federation, each with its own constitutional basis, philosophy, legislative framework and programs. There is the accommodation of ethno-cultural communities entailed by multiculturalism policies; the 'deeper' accommodation required by parallel English and French-speaking societies (due to the presence of Quebec); and finally the ongoing construction of a third order of government within the Canadian constitutional framework, one that seeks to reconcile Indigenous sovereignty with Canadian federalism (Kymlicka 2007). Both Quebec and Indigenous peoples have negotiated their own unique forms of asymmetrical integration, while some insist on the need to go further, toward less integrated and more confederal forms (for example, sovereignty association or treaty federalism).

To reiterate, in the case of Canada, a strategy of diversity accommodation has been an essential part of the primary state task of national integration. The political mechanisms and processes involved may be complex, but they can become clearer through analysis of the various scholarly approaches used to examine Canada's national question. This review also can inform a brief analysis of Canada's prolonged constitutional crisis, and its apparent (though perhaps temporary) resolution. That the crisis experienced by the Canadian regime was a *true* crisis, the ultimate outcome of which 'hung in the balance', is not at issue here. Nor does the Canadian case explored here proffer a ready model for other multination states to follow. As Samuel LaSelva notes, the Canadian constitutional tradition is both continuous and *sui generis* (2018, 42). Though this may be less than comforting for those who seek a sure-fire formula for the political management of deeply diverse societies, the Canadian story so far still has some valuable insights and lessons to offer.

National Identity
and Political Stability

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The centrality of a common or shared national identity to the unity and long-term stability of democratic multination states is a key point of difference in the literature on this question. Many commentators have concluded that the challenge of accommodating internal minority nations is simply too great for multination states to overcome, so that such states are unlikely to persist in the absence of coercion. Even those who acknowledge the capacity of democratic multination states to tame the force of nationalism describe them as having weak bonds of social unity, and political loyalties that are conditional. The political, economic, social and cultural conditions that enable regime resilience in these cases remains a matter of debate. As Kymlicka notes, "we do not yet have a theory about how such states are possible: we have no clear account of the basis of social unity in such a multination state" (Kymlicka 2009, 42). Jeremy Webber made the same point when he stated that, "we lack a convincing theory of pluralist federalism" (Webber 1994, 193). Such intellectual mysteries are akin to grit in an oyster for social and political theorists, and so there have been many attempts ease the irritation by enveloping it with a satisfactory explanation ('pearls of wisdom' anyone?).

In the academic literature on the topic of national identity, legitimacy and stability in democratic multination settings, we can discern three or four discrete theoretical, normative and political positions, with a considerable measure of overlap amongst them. The first stance is that a shared national identity is a central if not crucial factor for managing the political legitimacy

challenge arising from deep diversity. One way for the state to accomplish this is through a process of assimilative integration with the ultimate goal of a single nation of individual citizens who share political allegiance to the nation-state. This strategy is closely associated with the classic nation-state, which became the dominant form of governance arrangement first in Europe in the 19th century, then spreading across the globe in the 20th century. It is rooted in the liberal majoritarian model that in its conception, institutions and practices tends toward a uniformity, homogeneity and symmetry that is intolerant of the diversity required to maintain and promote significant minority difference and territorial pluralism (Simeon 2015). Where a minority nation or nations constitute part of the citizenry of such a state, they may legitimately resist such political and cultural incorporation, in some cases up to and including the option of secession in order to create their own independent nation-state.

Contrastingly, what Simeon has termed an accommodationist approach recognizes and supports the autonomy and integrity of territorially-concentrated minority communities through various political, legal and cultural means that seek to accommodate deep diversity or difference (2015). However, even this accommodative state will seek to legitimize itself and stabilize the political and constitutional regime through the legal, political and social incorporation of all citizens into the state. A key counterpart or corollary to diversity accommodation in such a state is the creation and maintenance of an overarching national identity shared

by all citizens, without requiring internal nations to repress or surrender their own national identities. For this balancing act – for that is what it is – to succeed, the character of the overarching identity must be open, permeable and inclusive, with a corresponding nationalism that is restrained, celebratory of diversity, and therefore what some have described as necessarily rather weak, watered-down or thin in cultural terms.

Nationalism theorists such as Wayne Norman have argued that 'nation-building' through the reinforcement of a shared national identity is a crucial ingredient in national unity and political stability. Like all states, the multination variety must nurture a single, overarching national identity that will bind and create a common sense of belonging amongst its citizens. If they are to be successful in doing this, they must find a way to constrain the national identity of majority national communities by modifying or thinning this identity to make it more 'permeable' and thereby more inclusive for national minorities. In theory, this would allow all citizens – majority and minorities – to identify with the overarching national community as well as their own (2006, 1-2).

Norman's formulation of the problem and its solution recognizes the need to strike a difficult balance between the need and right of majority national communities to pursue their own nation-building project and the right of internal minority nations to do the same. He posits that the secret to success in this endeavour is a 'negotiated nationalism' that seeks and accepts reasonable limits on potentially rival nation-building projects (2006, 19). In a similar fashion, David Miller argues that in societies characterized by deep diversity an overarching national identity remains important for stability, but it must be one that is 'reforged' to allow all groups to take part in a collective project of

self-determination. While Miller recognizes that asymmetric dual identities are the likely result, he argues that these dual identities could have a "remarkable staying power," which is related to the multiple functions they perform for the people who adopt them (2001, 312).

A second position on the question of national identity and political stability agrees that national identity is a central factor in regime legitimacy and political stability, but disputes the unavoidable need for a *shared* national identity. In fact, attempts to create and promote this shared identity were likely to intensify rival nationalisms that would be politically destabilizing; better to recognize the separate national identities of majority and minority nations and set about restructuring the multination state accordingly. In other words, rather than a strategy of national integration, the multination state can best preserve itself by encouraging (or at the very least not discouraging) the 'disentanglement' of national identities in order to facilitate dialogue and negotiation between distinct nations. The expectation is that this process of *dis*-integration will have the salutary effect of providing a majority interlocutor for minority nations, thereby creating the political conditions for reorganization of the federation to reflect the bi- or multinational character of society. A corollary to this is that the multination state should resist the impetus to "nation-build" – that is, to create or maintain an overarching national identity and nationalism – an impetus deemed by those who hold this perspective to be both artificial and inevitably threatening to minority nation identities.

There were more than a few scholarly interveners who at the height of Canada's political 'troubles' in the 1990s proposed to resolve the country's constitutional impasse by restructuring Canadian federalism along clearly multinational lines. They argued that the national identity

embraced by English-speaking Canadians – essentially Pierre Trudeau's vision of a bilingual, multicultural Canada comprised of individuals enjoying equal rights and living in constitutionally equal provinces (Trudeau 1988) – was fundamentally incompatible with Quebec's understanding of the country and its place within it. The political and psychological alienation of Quebecers was due to the unwillingness and/or inability of the rest of Canada to recognize Quebec as a *national* community of equal status and to adopt the necessary constitutional and political *asymmetry* to reflect this fact, thereby creating a genuine multinational federation based on differentiated citizenship. A logical corollary to this perspective was that the pan-Canadian identity embraced by English-speaking Canadians was a major obstacle to a long-term resolution of the so-called 'national question'. They would have to be convinced that their country's various national identities needed to be *disentangled*, not least in order to give Quebec and First Nations a true 'conversation partner' in the constitutional conversation. Until this happened, the waxing and waning threat of Quebec secession would be an ever-present reality (McRoberts 1995, 1997; Taylor 1991, 1993; Kymlicka 1998; Ignatieff 1993; Resnick and Latouche 1990; Resnick 1994; Laforest 1995; Jenson 1998).

A third perspective in the literature is that the unity and stability problem created by the lack of a shared national identity could be 'sidestepped' if majority and minority nations participated on fair terms in inclusive national institutions, while also sharing some basic political values and common citizenship rights. Under these conditions, one could reasonably expect that political legitimacy and stability would accompany democratic processes of political contestation, bargaining and negotiation, including solidaristic social arrangements. Democratization along these lines would empower the minority and reward the political regime with a conditional degree of political trust and legitimacy. It seems that Russell's "normal life of a settled constitutional democracy" would result from socio-historical processes such as these, with or without the trust-inducing familiarity and emotional bond of a shared national identity.

The work of Philip Resnick fits into this approach. While he agrees with the proposition that the majority in a multination state would be well advised to accept the need to 'thin' its own national identity, while simultaneously extending symbolic recognition to sub-state nationalities, he disagrees with the notion that some kind of common or shared nationality between majority and minority is necessary for political stability. Rather, a common state structure and set of citizen rights – in effect, shared national institutions and citizenship – is a sufficient basis for political stability and national unity and sometimes the best that can be hoped for (2012, 76). He does admit, however, that for a political community to persist without a shared national identity, the multination state must assiduously avoid direct confrontation between national communities on sensitive issues of identity, which he sees as the proverbial 'third rail' of Canadian politics. It must accept the inevitability of *irresolution* and *ambiguity* with regard to 'founding principles' or other fundamentals, where insurmountable divisions and differences are likely to arise. In countries such as Canada, this increases the political value and utility of constitutive tensions, pragmatism and provisionality (2012, 77). For both the majority and minority (but particularly the former), giving in to the temptation of a 'once and for all' solution, or to some philosophical 'call to arms' in defence of a principled national vision, is to court political discord and disintegration.

Genevieve Nootens also takes exception with the liberal nationalist thesis (as represented by Kymlicka, Miller, Norman and others) that the institutional trust required for a stable democracy requires a foundation of interpersonal trust associated with a shared national identity. Instead, she places emphasis on power and solidarity relations realized through popular contention: "politically constituted actors making public, collective claims on other actors, including agents of government" (2018, 40). Like Resnick, she identifies institutions as the key to sustaining social reciprocity and cooperation because they "crystallize provisional social compromises which in turn help to stabilize practices and expectations … this does not happen merely because people share national belonging" (41). Alain Noel seems to be making the same point regarding the source of minority nation trust in the working arrangements of the federal system. What matters is that the institutional framework and informal mechanisms of intergovernmental relations serve the interests of national minorities, or at least prevent the erosion of their position. Political and administrative practices do not need to be grounded in deep convictions or some shared national vision or identity. Crucially, the practice itself can have a "normalizing effect" that serves the interests of the minorities (as cited in Webber 2018, 196).

Ultimately, for each of these theorists, power struggles for recognition using the political mechanisms and processes available within a federal democracy are more important for legitimacy and stability than a shared national identity. What is required is the will and the capacity to utilize available institutional venues and mechanisms to engage in political dialogue with others, in order to assert and defend the ideal of minority self-determination. A state structure that enables supervision of this mode of democratic deliberation and decision-making, and furthermore has the capacity to

put its results into practice, will generate the qualified or moderate level of trust needed to sustain political legitimacy and stability.

This suggests that for some analysts, the role of state structure and the balance in power relations between majority and minorities is central to explaining *where* on the integration-accommodation spectrum the multination federal state is able to generate the necessary degree of political legitimacy in order to assure regime stability. In a similar vein, but using a more formulaic approach, Brendan O'Leary (2001) finds that stable multinational federations are feasible under two scenarios. The first is the presence of a majority community who are demographically and electorally dominant and therefore can choose to be generous toward minorities. Alternatively, a sustained power balance between ethnonational groups will be conducive to *consociational* arrangements where there is minority inclusion in core executive institutions, proportionate representation in public bureaucracies and legal institutions, and minority nation autonomy in cultural matters (292). Canada, according to O'Leary, represents something of a borderline or bridging case between these models.

Neo-institutional theorists of federalism, a prominent approach within Canadian political science, would agree with the key role given to state structure, inclusive political representation, and flexible institutional processes. The core argument of this approach is that political and social institutions exert an independent 'shaping power' on societal values and identities, so getting the institutional balance right is crucial to political legitimacy and stability. It follows that the Canadian federation's institutional arrangements must recognize, maintain and reinforce both the overarching, inclusive, national dimension of Canadians' civic existence *as well as* the minority nation or regional dimensions of their

political identity. Balance, participation and engagement are the key concerns. Not surprisingly, neo-institutionalist scholars have taken issue with the argument that the problem of reconciling unity with diversity can be resolved through strategies of institutional and identity disentanglement (Cairns 1995a; Gibbins 1998, 2004; Simeon and Conway 2001; Simeon and Robinson, 2004; Cook 1986, 2005).

One example of this approach is Simeon and Conway (2001), who hold that in cases of 'divided federalism', there must be institutional supports for both *inclusive* and *nested* identities, and for *dual* citizen loyalties. Countries such as Canada – with few institutional links between levels, governments with relatively independent financial bases and concentrated executive powers, an ineffective Senate, and a regionalized party system – are susceptible to an excess of institutions to accommodate divery, without an adequate offset or balance by 'integrative counterweights' that can create and sustain shared overarching identities and values (361). As with Alan Cairns (1995b) and Samuel LaSelva (1996), they recognize that federalism by itself is seldom the whole answer to the problem of achieving balance in a diverse liberal democracy, and other devices that define and promote shared values, like a Charter of Rights, are often necessary. Still, their warning about federal institutions stands: stable federations must maintain a balance between integrative and disintegrative institutions, and in the case of Canada, there is a need to redress what they regard as an unbalanced set of federal institutions in order to ensure national integration and long-term political stability.

This search for legitimacy and stability by striking a balance between integration and accommodation is also apparent in individual and group demands for justice and fairness. Ferran Requejo (2010) stresses the need for the state to engage in a continuous balancing act between two types of equally legitimate justice demands: the demand for individual social equality (which tends to be integrative) and for the accommodation of cultural diversity (which tends to be dis-integrative). The former refers to the legitimacy secured by protecting and ensuring the conditions for realizing individual freedom, dignity and equality within the state (in effect, *social justice*). The second source of legitimacy peculiar to multination states is *cultural justice*, which refers to the state's role in protecting and ensuring the conditions for cultural pluralism. The state must be vigilant in addressing legitimacy deficits in both realms, even when the requirements to satisfy one may sometimes interfere with the conditions necessary to secure the other. This continuous balancing act constitutes a dynamic equilibrium that is always in need of political maintenance, managed in multinational federations through the search for imperfect 'workable balances' within and between each realm of justice (2010).

Requejo's analysis further supports the general finding of research on multinational democracies that the quintessential political task of the multination state is to perfect the 'art of the possible': cobbling together, through dialogue and negotiation, a series of compromises and workable balances, including whatever abeyances, ambiguities and asymmetries are deemed necessary to manage the task (Simeon and Conway 2001). Regime resilience depends on this search for a 'satisficing' middle ground that rests on an evolving set of compromises. As opposed to a single philosophical vision based on high-minded principles, this recommends pragmatism, ambiguity and if necessary avoidance as key political virtues needed to accomplish what amounts to a constitutional, institutional and ideological balancing act. Quite simply, regime resilience in multination settings depends on it.

The final approach reviewed here overlaps with those cited above, but also seeks to provide a theoretical bridge between the liberal nationalist, power relations and neo-institutionalist perspectives. It argues that certain cultural conditions or norms, pragmatic political practices and constitutional morality or ethics are crucial to the process of majority-minority reconciliation, and therefore regime resilience, in multination settings. Formal and mutual recognition of difference, inclusive participation in democratic institutions, and continuous dialogue and conversation will foster and sustain multiple national identities, *including* a minority sense of belonging and allegiance to the overarching national community. By extension, it is continuous engagement with and integration into the national political conversation that gives shape and definition to the overarching national identity, the sharing of which confers political legitimacy and regime stability. One can see that the working assumption of this argument is that the national identities of both majority and minority can change and evolve over time, and that inclusive and participative political processes will tend to support more open, flexible, and mutually accommodative national identities. At the same time, evolution in this direction is a historically contingent rather than pre-determined outcome; change also can be toward more rigid, closed, exclusive and less accommodative national identities. Ultimately, it is the terms and the character of the national political conversation that support and sustain one or the other.

James Tully, in grappling with the political consequences of multiple national identities and asymmetrical forms and levels of feelings of belonging, attachment and political allegiance within plurinational democracies, developed the concept of *citizenization*. He defines this as the set of processes by which citizens develop a sense of national identity and belonging. He suggests that for those citizens who are simultaneously members of a minority nation or people as well as the larger society or multination, they can become identifying citizens of *both* by participating in the process of identity formation and discussion of each political identity. While he agrees with the liberal nationalist position that the development of a sense of national belonging and attachment is important to securing national unity and political stability, he argues that majority and minority do not need to *fully agree* on definitions of national identity, or that minority group demands for recognition be *fully accepted* by the larger society. It is sufficient, he says, that the processes of identity discussion and formation, and political dialogue around these issues, be open to the participation of those who agree and disagree (Tully 2001).[1]

In considering the question of integration and accommodation in multinational settings, Tully's concept of citizenization shifts the focus from institutional structure to participation in political discussion and debate. Justification of the Canadian federal system for Tully – its legitimacy – rests on the regime's willingness to follow certain political conventions or traditions when it comes to this Canadian conversation: recognition, procedural fairness, and the consent of those affected.

In like fashion, Jeremy Webber in *Reimagining Canada* attempts to define the elusive 'Canadianness' that Quebecers share with other Canadians. He rejects the

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1   Gerald Kernerman has used a version of Tully's concept of citizenization to argue that it is the political engagement and entanglement of Quebecers in "the Canadian conversation" that continues to bind them to the overarching Canadian community (what he calls 'the bind that ties'). Therefore, sanctioning or provoking the further disengagement of Quebec from the rest of Canada (constitutionally, institutionally or psychologically) would only serve to undermine the bonds of a shared values and rights-based citizenship, making any new arrangement inherently unstable (Kernerman 2005). Alan Cairns had previously made a similar argument from a neo-institutionalist perspective.

idea that it is a matter of shared values, or a common commitment to social programs, that defines a shared national identity. Instead, he identifies its source in "the terms of public discussion" (Webber 1994, 188) and "the distinctive character of a particular public debate through time" (193). So long as there is a willingness to engage in public discussion, and to participate in institutions established for this purpose, then there is a common political community as well as a sense of belonging to that community (189-191). It is this conversation between different cultures that constitutes the Canadian political community and provides the basis for a viable allegiance to it (190-91). This is the case, says Webber, even if the balance of political allegiance is likely to be highly asymmetrical, "given the autonomy of Canada's anglophone and francophone forums for debate, filtered through Canada's institutions" (211-12). The Canadian nationalism that results from this reality is "a soft nationalism... tolerant of diversity" and "committed to a distinctly Canadian conversation" (192).

Webber states that all public institutions are marked by the distinctive character of their conversations, and that the Canadian nationality is defined by the conversation that goes on in its public institutions (Webber 1994, 313). Following this line of argument, if there is a national identity shared by all Canadians, the country's public institutions are central to its formation and maintenance. This suggests that the text of the constitution may be less important to national unity, legitimacy and stability than day-to-day institutional and political practice, where Canada "has often fashioned workable structures for accommodating difference", through a dialogue, says Tully, "that occurs again and again" (as cited in LaSelva 2018: 18, 22). This "lived constitution", as Webber calls it, refers to the practical capacity to take

actions in the pursuit of self-determination rather than a reliance or focus on "recognition conferred by others" (2018, 198).

One potential problem with this formulation (perhaps a major one) is that the public institutions that are central to it may not be as accommodating and open to dialogue and compromise as the theory suggests. Institutions are "patterned interactions" that over time become deeply grooved interactions that are resistant to change; this is both the strength and weakness of institutions. This provides the inertial property of institutions, their bias toward the status quo, and their strong tendency toward path dependency. By stabilizing relationships, they make them consistent and predictable. While this can empower minorities and enhance their autonomy – as federalism has done for French-speaking Quebecers by providing them with effective control over a large array of social, cultural, economic and political institutions – it also embeds the Canadian state and federal-provincial relations within a stable institutional matrix that naturally constrains and limits change. In other words, if the integration-accommodation spectrum in Canada as previously suggested is akin to a multidimensional sliding scale, then it is a very sticky one, and properly so. Adjustments and adaptations that affect the balance of power in a multinational federation can happen, but not easily, and perhaps not at all.[2]

If institutions are resistant to change, what makes the so-called lived constitution a viable alternative to constitutional change that alters the institutional configuration and formal power distribution? First and perhaps most importantly, it is a relatively low conflict and therefore viable political path to change compared to constitutional reform. Secondly, its gradual and

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2   As events during the period of political turmoil in the 1990s demonstrated, the new Canadian citizenship regime established by the 1982 constitutional reform proved highly resistant to further change. For Alan Cairns, this was a reflection of the strong inertial force favouring "evolutionary continuity" and the "impressive mobilizing capacity [of the state] through wielding the resources of patriotism and citizenship" (Cairns 2000).

incremental nature, acting as it does through existing institutions, ensures continuity and stability while facilitating evolution in the cultural character of these institutions, and in concomitant fashion, the national identity associated with them. If encouraged to do so, majority and minority national identities can converge, slowly over time, as the cultural character of shared national institutions changes. This process does not replace or suppress minority national identities, but it would have a significant affect on them by reinforcing the dual identity dimension of political attachment and allegiance.

Of course, there is an impediment to this rather optimistic scenario, and that resides in the content of the aforementioned "cultural character" of the Canadian federation. This relates particularly to the presence of mutual good will, trust, courtesy and respect – or *comity* – on the part of both majority and minority nations in order to make Canadian federalism work to their mutual advantage. Commitment to these values and norms is essential to counteract the natural inertia of federal institutions. They are a form of cultural lubricant to reduce the 'stickiness' of the multidimensional sliding scale that is the Canadian integration-accommodation spectrum. Alain Gagnon strikes a similar note when he points the way forward for multinational federations as a path where there is mutual good will and federal trust that can support an ethic of restraint, respect and recognition (Gagnon 2014b).[3] These are the cultural characteristics, or as LaSelva would have it, the "constitutional ethics" (2018), that can provide the foundation for the legitimacy, stability and effective functioning of a multinational federation. Formal and consensual constitutional change may or may not happen along the way, but if so it will be coincident with or the result of identity evolution and cultural change within federal institutions, rather than the precipitator of these changes.

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3 This is one of the definitions of "comity", which also refers to courteous and considerate behaviour toward others. This focus on the cultural character of a federation is reminiscent of the work of Stephan Dupré who identified trust and comity as the essential lubricants for a workable executive federalism (1985).

Stretching and Rebalancing Federal Citizenship

The constitutional and national unity crisis that culminated in the second Quebec referendum on sovereignty/secession in 1995 did not instigate further reform that would alter the 1982 Constitution Act, despite two intergovernmental agreements aimed at doing so (the Meech Lake and Charlottetown Accords) and a national referendum on proposed changes in 1992. However, in the wake of the 1995 Referendum, a series of federal policy shifts, symbolic acts of recognition, intergovernmental agreements, fiscal adjustments, and Supreme Court rulings did occur, and cumulatively these have had a positive effect on political legitimacy and regime stability. Electoral outcomes and party system changes over the past decade are a further indicator of the political impact of these changes that taken together have contributed to a different cultural environment and in practical terms to a stretching and rebalancing of the Canadian federation on the sliding scale of accommodative integration.

The clash of nationalisms in Canada – Canadian, Québécois, Aboriginal – and the potential for their contradictions to produce a situation of mutual frustration, political stalemate, and a turn toward exclusive or sealed identities, became evident during the churn of political events in the 1988-1995 period. The political impact of the drawn-out, intense discussion and debate of the national question in the context of seemingly unending constitutional negotiations and referenda was to lock majority and minority views and loyal-

ties into a highly politicized conflict, with individuals asked to choose between competing visions, principles, identity communities, and political allegiances. In an environment of high-stakes elite bargaining, national identities became polarized and national unity splintered (Cairns 1995a; Bickerton 2011).

While the Canadian political community did ultimately weather these stresses (barely), the political cost (besides electoral defeat for most of the key political actors) was a strong popular and elite aversion outside Quebec to any further discussion of constitutional reform. It had become clear that there were certain limits regarding the constitutional accommodation of minority nations beyond which many English-speaking Canadians – believers in Pierre Trudeau's national vision – were not prepared to go. Not surprisingly, in the aftermath of the extremely close result of the Quebec referendum, there was a growing concern within the political elite about the waning attachment of the Québecois minority nation to the overarching Canadian political community and national identity (Whitaker 1993; 2005).[4]

In retrospect, the confluence of events in the 1990s constituted a near 'perfect storm' for the Canadian state, which faced a deep well of political alienation in Quebec and amongst Indigenous people and widespread distrust and resentment amongst the other federation partners (Gibbins 2004; Simeon and Robinson 2004). Indigenous unrest and militancy was a response to

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4   All this occurred during a historical moment of worsening legitimacy deficits for the Canadian state that in the 1990s was labouring under simultaneous fiscal and unity crises. To cope with severe and mounting fiscal deficits, the federal government instituted a significant reduction in social transfers to the provinces, triggering a cascade of social program cuts that deepened social and economic inequalities. This unilateral federal action left a deep scar on federal-provincial relations and led to provincial demands for more autonomy and decentralization (Simeon and Robinson 2004; Whitaker 2005).

stalled progress on land claims and self-government negotiations. Frustration with an apparently dysfunctional political process stimulated rights-based litigation and protest action, including blockades and occupations at numerous locations across Canada. It was these developments, and particularly the 1990 armed confrontation at Oka, Quebec (which triggered the deployment of the Canadian military), that led the federal government to appoint a Royal Commission on Aboriginal Peoples (RCAP). It was RCAP's report that finally pushed the Canadian government into acknowledging that First Nations had the inherent right to self-government, subject to negotiation (Cairns 2000; Papillon 2014).

In the wake of these events, elites within the Canadian state have engaged in somewhat haphazard process of stretching and rebalancing the federation to reduce legitimacy deficits, reverse the erosion of national unity, and restore political stability. This has involved changes in all three dimensions of the citizenship regime: national identity, rights and entitlements, and popular access to the state through representative, bureaucratic and legal institutions (Jenson 1998; Bickerton 2018). This gradual change toward rebuilding intergovernmental trust and cooperation began with the negotiation of the Social Union Framework Agreement (SUFA) in 1998. This initiative marked the beginning of a new phase of intergovernmental relations dubbed by some observers as collaborative federalism (Cameron and Simeon 2002). Perhaps its high point was the negotiation of three Health Accords between 2000 and 2004, essentially restoring the federal share of health care funding to traditional levels and removing a major irritant in the federal-provincial relationship (Simeon and Robinson 2009). Some years later, renegotiation of the equalization program followed to address a nagging complaint from many provinces, but especially Quebec, about a persistent structural 'fiscal imbalance' in the

federation's financial arrangements (Bickerton 2008). In both cases, the inter-governmental agreements reached essentially removed two corrosive revenue issues from the political agenda. Another development that improved intergovernmental cooperation, again the result of a Quebec initiative, was the creation in 2003 of the interprovincial Council of the Federation (Gagnon 2014a).

It is worth noting that the federal government's 'reinvestment' in the social realm after the reappearance of federal budgetary surpluses in 1998 did not reverse the long term trend toward constitutional, political and fiscal decentralization. According to one 20-point benchmark scale measuring the degree of federal decentralization as well as asymmetry, by 2008 Canada had the highest decentralization score amongst the nine OECD federations (Requejo 2010), a conclusion supported by a subsequent OECD study comparing the spending shares of regional governments (OECD 2015: 32). According to these measures, Canadian provinces are the most powerful and autonomous sub-national governments in the democratic world, with Quebec the most autonomous of these due to the distinctive policy and program content and asymmetry in governance ambit that demarcates it from other Canadian provinces.

A second area of stretching and rebalancing relates to legislative and symbolic initiatives to respond to Quebec's disaffection with the lack of formal recognition of its status as a minority nation within Canada. In the immediate aftermath of the Referendum, this took the form of federal and provincial declarations affirming Quebec's distinct society and federal legislation that extended a veto to Quebec over further constitutional change. A decade later, parliamentary recognition of Quebec's special status took the form of a near-unanimous resolution affirming the fact that the Quebecois

constituted a nation within Canada.[5] On somewhat more mundane matters, recognition of minority nation status involved continuing the federal practice of dealing with Quebec's concerns "with special sensitivity", especially in matters touching upon identity or autonomy concerns (Savoie 1999; Gibbins 2014).

Court decisions constitute another important source of non-constitutional change. To address criticism about the absence of a strategy or predictable response in the event of a successful Quebec referendum, the federal government asked for an advisory opinion from the Supreme Court on the 'legality' of a unilateral declaration of Quebec secession. The resulting Secession Reference (1998) quickly established itself as the seminal interpretation of Canada's democratic and federal foundations. Its principled, balanced and politically-sensitive judgement was crucial to cementing the Supreme Court's status as a sage and neutral arbiter within the federation, and confirmed the key role of the Court in contributing to the political task of crafting workable balances within the Canadian federation (Tierney 2003). The Court's opinion supports a plurinational concept of Canada and defends provincial jurisdiction and the federal division of powers even in the context of a potentially centralizing Charter of Rights. In effect, the Supreme Court demonstrated its willingness to uphold the federal bargain at the core of the constitution as a foundational element of the Canadian citizenship regime. This reveals itself in subsequent federalism-sensitive interpretations of Charter applicability in areas of provincial jurisdiction (Kelly 2008). It is reflected as well in the Court's defense of provincial power over securities regulation (SC 2011), in its rejection of the federal government's appointee to fill a Quebec vacancy on the Court (SCC 2014A), and in the 'thumbs down' it gave to the Harper government's plan

to unilaterally impose an elected Canadian senate (SCC 2014B). In the last three of these cases, the Court effectively thwarted federal government proposals or actions that were particularly objectionable to Quebec.[6]

No less importantly, the Supreme Court has been a key institution in 'stretching' the Canadian citizenship regime in a more inclusive and accommodative direction for Canada's First Nations, Inuit and Metis peoples. In this regard, the Court has tended toward an expansive interpretation of Aboriginal rights that has advanced the multi-generational project of Aboriginal self-government, land claims and an equitable and just partnership with other Canadians. In a series of landmark decisions over several decades – ranging from Calder (1973), to Delgamuukw (1997), Marshall (1999), and Daniels (2016) – the Court has recognized, affirmed and further defined the scope and nature of Aboriginal and treaty rights. These decisions have enhanced the constitutional status of Indigenous peoples, while forcing federal and provincial governments, as well as other significant actors in the public policy realm, to significantly adjust if not totally re-conceive their perceptions and positions on the principles and practicalities of Aboriginal rights, title and self-government.

It seems that this state of affairs in Canada's multinational federation has become an acceptable one for most Quebecers, who have abandoned sovereigntist parties at both the provincial and federal levels. As a result, over the past decade there has been a sharp decline in the electoral fortunes of both the Parti Québécois and Bloc Québécois, though voter support for the latter did recover somewhat in the 2019 federal election when it chose not to contest the election on the sovereignty issue (Hannay et al. 2018; Bickerton 2020).

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5   As a corollary to this, the federal government agreed to remove its long-standing objection to separate representation for Quebec at UNESCO (Gibbins 2014).
6   Similar brief summaries of federal policy shifts and court decisions that moved the Canadian federation in a more accommodative direction can be found in Webber (2018) and Rocher (2019).

Conclusion

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Canada faces a governance challenge peculiar to multi-nation states in the core task of maintaining legitimacy, stability, and national unity. With an English-speaking majority that identifies with the whole of Canada as its national community, and French-speaking Quebecers who primarily identify with their own Quebecois nation, Canada cannot rely on the strong emotional bonds and trust ties of a shared national identity to ensure national unity. This raises a number of vexing questions. How necessary is a common national identity for the political legitimacy and stability of the state? In a multinational setting, should the state even attempt to create and nurture an overarching national identity, and if so, how? What is the optimal political structure to ensure the legitimacy and stability of the state when citizens do not share the same national identity?

While there have been several distinct approaches to these questions, the best alternative is a syncretic perspective that seeks to combine the insights of various theoretical perspectives, while attempting to bridge their differences. It argues that political institutions and processes, and in particular their design and inclusivity, are important to the integrative accommodation, development and evolution of national identities. As well, over time these identities become rooted in the content and character of the distinctive political conversations that take place within and through public institutions. This makes the inclusion and continuous engagement of majority and minorities in a national political conversation that cuts across cultural divides a critical factor for the legitimacy and stability of the state.

An essential condition for facilitating this – the engagement of majority and minorities in an inclusive and ongoing political dialogue or conversation – is the presence of cultural norms, political practices and constitutional ethics that advance (rather than hinder) federal comity. This includes the formal and mutual recognition of cultural difference, inclusive participation in democratic institutions, and continuous dialogue and conversation that fosters and sustains multiple national identities, including a minority sense of belonging and allegiance to the overarching national community. Finally, managing the political *balance* between accommodation of the deep diversity represented by minority nations and integration into the overarching political community is a key consideration in multinational federations. Public management of this balance leans heavily on certain cultural conditions and political skills: a pragmatic approach to political disagreement and conflict; a willingness and aptitude for negotiation and compromise; institutional arrangements that are flexible; a political sensitivity that recognizes the utility of conflict avoidance; and finally, the necessity and virtue of ambiguity and irresolution, and even certain constitutional abeyances.

Striking this balance is a never-ending process in multinational federations like Canada. Still, doing so, and continuing with the effort to do so (even when, as Tully says, there can be no ultimate agreement on ends), produces benefits in the form of increased political legitimacy and stability. Through both necessity and choice – due to its unique history, extant power relations

between communities, institutional factors and cultural conditions – the Canadian state has pursued the task of maintaining its legitimacy and stability through the negotiation and incremental adoption of a variety of diversity accommodations, both symbolic and substantive in nature. This strategic political management strategy has been described here as "accommodative integration".

What kind of citizenship regime has the best chance of maintaining political legitimacy and stability in a complex, multinational federal setting? In Canada's case, the foregoing discussion suggests a number of relevant system attributes. These would include a common set of basic individual rights shared by all citizens; a shared historical experience that is open to dialogue around its meaning; a highly decentralized federal system with aspects of asymmetry to accommodate the deep diversity of minority nations, balanced by inclusive national institutions; and a distinctively Canadian political conversation that that seeks accommodation and consensus. While a shared national identity is not mentioned here,

the implication (and for some a certainty) is that this will develop (in the form of asymmetrical dual identities) in the presence of these other elements of democratic multinational citizenship.

Despite the inevitable political conflicts and tensions related to its multinational character, Canada is a country today that is less divided, more accepting of its diversities, and more politically self-aware about the limits of its unity (some might say sadder and wiser) than at any point in its history. The threat of Quebec secession has declined dramatically and international plaudits and rankings attest to the country's impressive social and economic achievements (Simpson 2016). This general state of affairs is the result of trial, error and evolution and the search for legitimacy and stability through compromise and workable balances. For Canada, this has produced a particular form of national integration and unity, one that involves an evolving matrix of diversity accommodations that is unusual in the world today.
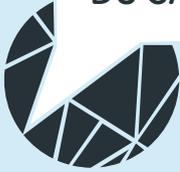
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Les **Grandes conférences du Centre d'analyse politique : constitution et fédéralisme** se tiennent deux fois l'an et bénéficient du soutien financier du Programme d'appui à la recherche instauré par le Secrétariat québécois aux relations canadiennes (SQRC) du Gouvernement du Québec.

Ces conférences souhaitent exposer à la fois la communauté scientifique et le grand public aux débats actuels autour des enjeux sociétaux, culturels et politiques les plus à même d'améliorer les relations intercommunautaires et de réimaginer les relations intergouvernementales sur une base plus égalitaire. Pour ce faire, cette nouvelle série de conférences donne la parole à des chercheurs et des professeurs établis dont les travaux ont ouvert de nouvelles pistes de réflexion et remis en question les cadres conceptuels et normatifs dominants.

Le Québec en tant que société distincte, en tant que région-État, nation, membre de la fédération canadienne et en tant que sujet politique sera naturellement au cœur des travaux des chercheurs mobilisés dans le cadre du présent projet scientifique.

The **Major Conferences of the Centre for Political Analysis: Constitution and Federalism** are held twice a year and receive financial support from the Secrétariat québécois aux relations canadiennes (SQRC) of the Government of Quebec's Canadian Relations Support Program.

These conferences aim to expose both the scientific community and the general public to current debates pertaining to societal, cultural and political issues with a view to improving inter-community relations and re-imagining intergovernmental relations on a more egalitarian basis. To this end, this new series of conferences gives a voice to established researchers and professors whose work has opened up new vistas for reflection and challenged the prevailing conceptual and normative frameworks.

Quebec as a distinct society, as a region-state, as a nation, as a member of the Canadian federation and as a political subject will naturally be at the heart of the work of the researchers involved in this scientific project.

Alain-G. Gagnon, Directeur

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