Collaboration and Unilateralism: explaining recent trends in IGR

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• **Topic**: mapping approaches to intergovernmental relations (IGR) – and explaining what drives the adoption of particular approaches

• **Outline:**
  • The different approaches to IGR
  • Argument & analytical framework for mapping approaches and explaining change
  • Analysis of IGR in three policy fields
  • Discussion of findings (and you should we care!)
Different Approaches to IGR in Canada

<table>
<thead>
<tr>
<th>Approach</th>
<th>Norms</th>
<th>Institutions</th>
<th>Outputs</th>
<th>Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classical</td>
<td>Independent orders with exclusive jurisdiction</td>
<td>Constitution (91/92); Courts (JCPC)</td>
<td>Expanding provincial autonomy (via JCPC)</td>
<td>1867 – 1930s</td>
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<tr>
<td>Cooperative</td>
<td>Overlapping jurisdiction in select areas (social union), with key role for federal government</td>
<td>First Ministers’ and Ministerial Meetings; Federal Spending Power</td>
<td>Formal agreements and constitutional amendment (building social union)</td>
<td>1940s – 1960s</td>
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<td>Conflictual</td>
<td>Mandate to protect interests of competing constituencies (national / provincial / ethnic)</td>
<td>First Ministers’ Meetings; Court (SCC)</td>
<td>Court decisions and Constitution Act 1982</td>
<td>1970s – 1980s</td>
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<tr>
<td>Collaborative</td>
<td>Equal, interdependent orders with shared responsibility in many policy areas</td>
<td>Multilateral, co-chaired First Ministers’/Ministerial/Officials forums</td>
<td>Nonconstitutional, framework agreements (across range of policy sectors)</td>
<td>1990s –</td>
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Contemporary Study of IGR

- **Recent work on the dynamics of IGR** tends to focus on:
  - Extent to which collaborative federalism is truly collaborative (Cameron and Simeon 2002; Simmons and Graefe 2013)
  - How PM Harper’s deceleration to adopt a new approach in 2006 impacted IGR (Bickerton 2010; Banting et al. 2006; Dunn 2016)

- **Open Federalism**: a new approach to IGR?
  - Explicitly promoted by Harper in 2005 and 2006 (in editorials, speeches and early budgets)
  - Core: return to idea that two orders of government can be independent, and have autonomous powers (classical federalism)
  - Implication: justifies/legitimizes unilateral federal and provincial action
  - But: over Harper’s tenure (2006 to 2015), still considerable collaborative IGR...
Puzzle and Argument
(of Schertzer 2015 and Schertzer, McDougall and Skogstad 2016)

• Q: What explains examples of multilateral collaboration in light of “open federalism” between 2006-15?

• Two key factors explain the different approaches to IGR:
  • Norms of joint federal-provincial ownership over a policy area; and
  • Formality of related multilateral IGR institutions.

• Multilateral collaboration between 2006-15 took place when norms and IGR institutions were more developed.
Method

• Lens is neo-institutionalist *(ideas and institutions shape behavior)* of actors and governments.
  • Many other factors in IGR dynamics – but, *ideas and institutions matter*.
  • Applied to examine changing patterns of unilateralism and collaboration in IGR.

• **Sources**: semi-structured interviews with bureaucrats; publically available documents related to IGR (communiqués, reports, press releases, etc.).

• Focus is on **three policy fields** of shared/overlapping jurisdiction:
  • agriculture, the labour market, and *immigration (more in-depth).*
# (New) Analytical Framework

<table>
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<th>IGR Approach</th>
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<th>Outputs</th>
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</thead>
<tbody>
<tr>
<td><strong>Multilateral Collaboration</strong></td>
<td>Equality of two orders; shared fed-prov responsibility; inter-dependence of orders</td>
<td>Co-chaired fed-prov-territorial committees; joint control over agenda and decision-making</td>
<td>Commitment to diffuse reciprocity; balance pan-Canadian objectives with prov/regional needs</td>
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<tr>
<td><strong>Bilateral Negotiation</strong></td>
<td>Joint ownership based on equality of orders; but recognition of <em>unique</em> fed-prov relationship</td>
<td>Govt-to-govt negotiation; bilateral agreements</td>
<td>Commitment to specific reciprocity; reflect particular needs of prov/region</td>
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<tr>
<td><strong>Unilateral Action</strong></td>
<td>Exclusive fed-prov jurisdiction / or / acceptance of actions impacting other order</td>
<td>Policy and legislation [lack of IGR negotiation]; sometimes consultation</td>
<td>Reflect particular interests of actor/govt (fed or prov)</td>
</tr>
</tbody>
</table>
Agriculture: Context

• **Joint federal-provincial jurisdiction** (S. 95, *Constitution Act, 1867*).

• **Long history of IGR in sector** helped develop norms and institutions around joint-federal provincial ownership (established prior to 2006).

• **Normative and institutional legacies** codified in first 5 year framework agreement signed in 2003:
  • 60/40 shared cost model for farm income support;
  • pan-Canadian equity in programs, but with flexibility to tailor programs to specific provincial needs.
Agriculture: Analysis

• **Collaborative** norms and institutions were **maintained and further developed** from 2006-2015 (very active FPT tables).

• Principal IGR **outputs** from this period show **commitment to established norms; two 5-year FPT agreements** ("Growing Forward 1 & 2") signed in 2008 and 2013:
  - New shared goals for the agri-food sector (common FPT vision); and
  - New policy instruments shifting the agri-food sector in a market-oriented direction.

• But, need for **flexibility** was recognized through supplementary bilateral agreements:
  - Key element of Growing Forward agreements and in the farm income risk management programs.
Labour Market: Context

• Area of **overlapping and joint responsibility**.

• **Long history of FPT interaction** with extensive norms and institutions:
  • Very active FPT tables, with Forum of Labour Market Ministers (FLMM) at apex;
  • FLMM operates on co-chair model and facilitated agreements that codified norms.

• LMDAs, LMDPAs and LMAs (until 2013) were the primary FPT agreements, all **recognizing provincial leadership in employment training**.
Labour Market: Analysis

• In 2013, Canada Job Grant was unilaterally announced (without consultation):
  • Proposed matching federal-provincial-employer contributions to training grants.

• Proposal and process violated norms of provincial role and expectation that previous agreements would be renewed.

• Provinces mobilized as a bloc, getting Ottawa to “walk back” the Grant:
  • New approach: multilateral framework with bilateral agreements (Canada Job Fund).
Immigration: Context

• Joint federal-provincial jurisdiction (S. 95, Constitution Act, 1867):
  • But, traditionally dominated by federal government.
  • Quebec led push for provincial role in immigration (starting in 1970s, solidified in 1990s)

• Growing provincial role in immigration rests on three pillars:
  • Bilateral federal-provincial framework agreements (e.g., Canada-Quebec Accord);
  • Provincial selection programs (called PNP outside Quebec); and,
  • Role in delivering settlement services.

• Development of multilateral FPT norms and institutions in 2006-15 period focused on economic immigration
  • Largely during tenure of Jason Kenney as Minister (2008 to 2013), and as part of aggressive reform agenda of Harper Government
Immigration: Norms

- **FPT norms** relating to immigration exemplified in *Joint FPT Vision for Immigration*
  - *Vision* stemmed from 10 years of discussions/negotiations (FPT Ministers of Immigration met in 2002 for first time in a century)
  - Detail and public endorsement of *Vision* agreed to in 2012

- **Vision**: an immigration system that “attracts, welcomes and supports newcomers to join in building vibrant communities and a prosperous Canada.”
  - Overarching vision has a series of high-level objectives related to common economic objectives and sharing the benefits of immigration across the country

- **Significance**: Vision *codifies* the *shared understanding* of the two orders of government on their role in (economic) immigration
Immigration: Institutions

• Traditional set of bilateral institutions in immigration (agreements) supplemented with an *emerging, significant set of multilateral IGR institutions*.

  § **Growth and codification** of multilateral IGR committees evident throughout 2006-2015

  § **Clear hierarchy of FPT Co-chaired committees** now in place, with provincial secretariat
Immigration: Outputs

Two sets of outputs from multilateral collaboration between 2006 and 2015 show adherence to diffuse reciprocity:

1. **FPT Vision Action Plan**: a three year implementation plan coordinating IGR interactions on: a) immigration levels; b) economic selection; c) settlement

2. **Joint policy development** on: pan-Canadian settlement outcomes; reforming the Provincial Nominee Program (minimum language requirements); Express Entry (and provincial role in system).

In all of these areas **clear commitment to pan-Canadian objectives**, tailored to meet **provincial/regional needs**
## IGR Approaches in Policy Areas

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<tr>
<th>Policy Area</th>
<th>Approach Style</th>
<th>Examples</th>
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<tbody>
<tr>
<td>Agriculture</td>
<td>Multilateral (with elements of Bilateral)</td>
<td>Strong national IGR institutions and framework agreements with Pan-Can initiatives (<em>Growing Forward 1&amp;2</em>), but implementation tailored to provincial needs (the “strategic initiatives”).</td>
</tr>
<tr>
<td>Labour Market</td>
<td>Unilateral (shaped by Multilateral and Bilateral)</td>
<td>Unilateral imposition of a program by Ottawa (<em>CJG</em>) largely thwarted by provincial opposition, followed by multilateral framework and bilateral agreements (<em>Canada Job Fund</em>).</td>
</tr>
<tr>
<td>Immigration</td>
<td>Bilateral towards Multilateral</td>
<td>Bilateral agreements with each province recognizing specific needs, but growth of FPT tables and codification of common norms in key policy areas (economic immigration and <em>Joint FPT Vision for Immigration</em>).</td>
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</table>
Conclusion: Explaining IGR Approaches

• Where clear **norms** are shared **between** orders and **among** provinces; and,

• Norms are **integrated** into well-established **multilateral institutions**; then,

• They **shape the dynamics of IGR** and pull actors towards multilateral collaboration (even when the preferred course is to act unilaterally).

• **Qualifier:** not all IGR under Harper was collaborative – clearly – but examples of unilateralism tend to support this assertion (e.g., Healthcare, Pensions).
Conclusion: So what?

Why does approach to IGR matter for public policy?

1. Approach to IGR can **impact pathways to policy innovation**:
   - Multilateral collaboration can be slower, evolutionary and iterative (more players and interests)
   - Unilateral actions can be faster, episodic and revolutionary (reflecting interests of one govt)

2. Approach to IGR can **impact policy design** and implementation:
   - Multilateral collaboration tends to seek balance between pan-Canadian objectives and some measure of provincial/regional tailoring
   - Bilateral negotiation tends to produce highly asymmetrical (or patchwork) policy designs
   - Unilateral action tends to produce policy that seeks to promote the particular interests of one order (either federal or provincial, depending on originator of policy)