

# Comparing Federations: Lessons from Comparing Canada and the United States

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Unlike the usual overview of the state of American Federalism, this special issue compares the state of federalism in the United States and Canada. The articles are drawn from papers delivered at a September 2009 conference on the U.S. and Canadian federalism cosponsored by *Publius* and the Federalism and Intergovernmental Relations Section of the American Political Science Association.<sup>1</sup> In this overview, we briefly highlight interesting findings and trends reported in the articles and outline some difficulties they reveal regarding comparative federalism work. There is little doubt that comparative research is challenging, even when it involves two much-studied federal systems such as Canada and the United States. Comparative data are often difficult to obtain and conclusions—including those outlined in this issue—are at best conditional, depending on each federation's unique amalgam of properties and contexts; or what Katherine Harrison terms “it depends.”<sup>2</sup>

In their contribution, Beryl Radin and Richard Simeon warn that systematic, comparative federalism research raises complex issues: such as whether comparing Canadian and the U.S. Federalism involves a similar- or different-system approach. Their framework focuses on each federation's “big ideas,” institutions, and historical legacies; an approach those who think federal societies shape the development of federally governed countries will consider wrongheaded. Michael Hail and Stephen Lange's article comparing influences on the foundations of the two federations identifies the “big ideas” they believe shaped the U.S. and Canadian federations. They theorize that both federations share the same underlying political philosophy despite different historical legacies and societal types.

## Unexpected Findings: Centralization and Decentralization

The articles report some surprising findings about how “decentralized” or “centralized” the Canadian and U.S. federations are, illustrating a central problem in comparing federations. Among the concepts comparative federalism research

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employs, this pair is used most often and is the hardest to operationalize. But claims about de/centralization rarely are tested empirically or even stated in testable form (except regarding fiscal de/centralization). Watts (1996, 65) identifies four problems involved in doing so: determining: “what the concept . . . refers to”; “how to measure it”; “how to relate different indices of measurement”; and “how to measure . . . across countries or over time.” Moreover, the extent of de/centralization is ideologically entangled and key to those definitions of federalism which assume hierarchically arranged government levels, in which “centralization” signifies top-down direction/coercion to achieve standard, national policy outcomes. Feena (2007) claims that all federations tend to become increasingly “centralized” over time with meso-level governments becoming administrators of the legislative and judicial decisions made by the “central” government. He considers “decentralization” as deviant from this norm.

Radin and Simeon claim that distinctions between “centralized” and “decentralized” federations are less sharp than commonly believed and often unsustainable when tested empirically. The conventional wisdom is that Canadian federalism is more “decentralized” than its U.S. counterpart, but Donley Studlar finds the U.S. tobacco control policymaking more decentralized; Jill Vickers finds the constitutional division of powers affecting abortion rights more centralized in Canada; and Brendon Burke and Margaret Ferguson report meso-level governments dominate climate control policy-making in both countries. Should we attribute such atypical results to federal institutions refusing to “nationalize” a specific policy issue; or to them being stopped from doing so by the relevant Supreme Court? Should we theorize that some types of policy deviate from the norm? Or was the norm incorrectly conceptualized? John Constantelos, in his comparison of “venue shopping” by Michigan and Ontarian business, trade and professional associations finds the ideology of the government matters as much as the division of powers. While these powerful interest groups lobby both levels of government, they prefer friendly interlocutors. Vickers shows that even much less powerful women’s movements seeking abortion rights displayed similar propensities. Herman Bakvis and Douglas Brown’s comparative findings for multiple policy fields challenge both the assumption that federalism requires that governance levels be hierarchically arranged, and Feena’s theoretical claims that increased “centralization” is inevitable in federations.

## Developments in Intergovernmental Relations

The articles also reveal some interesting finding about the development of intergovernmental relations over time in the two federations. While Radin and Simeon consider the vertical balance of power in Canadian federalism more competitive and adversarial, other articles show that intergovernmental relations in

both federations are a complex mixture of cooperation and conflict that varies over time and across policy sectors. Considering the vertical fiscal relations involved in sharing a common tax base, Howard Chernick and Jennifer Tennant raise an empirical question: are relations between different levels of government competitive, complementary, or neutral? They postulate that the more harmonized Canadian system, *ceteris paribus*, should display greater vertical competition<sup>3</sup> in the shared tax base than in the United States where federal and state governments' tax regimes are less harmonized. A caveat in this context is the offsetting role played by the additional fiscal mechanisms used to augment state/provincial revenues—Canada's fiscal capacity equalization system<sup>4</sup> and in the United States, citizens' rights to deduct state and local taxes when they file their federal individual income tax returns. The authors empirically examine the extent of vertical competition in the United States, with a focus on the distributional aspects of this competition, while also considering the role of the deductibility of the U.S. state taxes in filing federal income tax returns. Amongst other findings, they note a significant displacement of state tax by higher federal taxes in the highest income quintile (competitive fiscal interaction) and a small positive effect of federal tax burdens on the burden of state taxes on the lowest income taxpayers (complementary fiscal interaction). Despite these distributional effects, overall their results show greater independence in the relationship between the U.S. federal and state taxation than suggested by previous literature. While the authors do not empirically examine the same hypotheses for the Canadian case, they provide extensive comparisons of their empirical results using the existing literature on the vertical tax interactions in Canadian fiscal system.<sup>5</sup>

Another trend identified involves the development of policy with implications for the whole country through coordination by meso-level governments without federal direction. Sandra Vergari suggests that provinces, and less often states, adopt similar policies regarding K-12 education through coordinated commitments, without federal governments imposing laws, regulations or coercively using their fiscal power. While this conflicts with the theorized hierarchy of government levels in federations, "local" control of education (by states/provinces and local governments) is a long-standing practice in both countries, although the organizations through which consensus-building and policy coordination occur are relatively new. Vergari also identifies federal fiscal policies which support this practice such as unconditional cash transfers in Canada, which Radin and Simeon claim fosters the provinces' jurisdictional autonomy, which Quebec in particular fiercely defends. In the United States, however, federal imposition through conditional grants can obstruct consensus-building in some cases.

The inability to date of the U.S. Congress to adopt national policy regarding climate control increased the importance in national policy making of other levels of government, notably state executive branches and courts. And in Canada, having

signed on to the *Kyoto Accord*, the federal government could not get the provinces to comply with its internationally agreed emission standards. Burke and Ferguson think federal governments failed in both countries because climate control is a “wicked problem.” The “wickedness” arises, amongst other characteristics, because of the difficulty in defining the problem and consequently in identifying effective solutions and building consensus around them. They report Canadian provincial governments, led by entrepreneurial premiers or ministers, filling the policy gap regarding climate change as meso-level executive policy entrepreneurs did in the United States. Interestingly, premiers in provinces with little energy production activity are promoting policy consensus with other meso-level institutions, including the U.S. states. Posner (2010) claims that federal climate control policies ultimately will be needed to overcome the free rider problem in which states with less stringent regulation levels become magnets for industries emitting greenhouse gases. But Studlar, Vergari and Bakvis, and Brown report trends which suggest achieving consensus on common standards can occur in ways other than top-down federal government direction or fiscal coercion.

Bakvis and Brown undertake a systematic comparison of two different approaches to generalizing how policy coordination in a whole country is achieved. One approach distinguishes between “administrative” and “jurisdictional federalisms.” In “administrative federalisms” uniform policy outcomes are achieved through centralized coordination mechanisms, and top-down processes. U.S. federalism is usually considered “administrative federalism.” “Jurisdictional federalism” in which hierarchical intergovernmental relations are less hierarchical, with greater tolerance for policy variations among meso-level governments is associated with Canadian federalism. Bakvis and Brown test the assumptions in this pair of concepts across three policy sectors—provision of major highways; healthcare insurance systems; and climate control policies aimed at decreasing greenhouse gas emissions. Their findings show variation by policy sector, as much as between the two federations. For example, policy decisions regarding provision of major highways fit the “administration federalism” model in both federations. Whereas, since the 1990s, both federal governments experienced difficulties imposing common reform agendas in their respective health care sectors. (This was written before Congress passed the healthcare reforms.) And, as Burke and Ferguson also found, to date both state and provincial governments are the key policymakers in the climate control sector. Indeed, Bakvis and Brown found an unexpected degree of coordination in Canada through decentralized processes which they attribute to Quebec insistence on “decentralization.” They think that the United States lacks a centrifugal force comparable to what Quebec exerts, i.e. in the three policy fields chosen by the authors states’ rights play no comparable role.

## Barriers to Effective Comparative Federalism Research

One barrier to reliable comparative research, even for fiscal federalism scholars, is the paucity of accessible, comparable data, especially for meso-level institutions. Several interesting papers from the Toronto workshop had to be omitted because of the time it would take authors to gather essential data regarding meso-level governments. Because the international agencies which create comparative measures incorrectly view federal-level institutions as comparable to “national” institutions in unitary states, they do not collect comparable data about meso-level governments in federations. Until such data problems are resolved, comparative work regarding questions about de/centralization in different policy sectors cannot progress very far beyond “it depends.”

While most comparative federalism studies provide (limited) discussion of how meso-level institutions relate to federal governments, their real focus is central or federal-level institutions. The articles in this special issue, however, show the value of focusing on meso-level decision-making. One possible source of new insights is the multi-level governance (MLG) approach. Studlar explicitly compares the value of MLG and comparative federalism approaches in explaining the unexpected U.S. and Canadian patterns of tobacco-control policy-making. He believes an MLG approach provides better insights because it does not assume top-down hierarchical relations between governments, as comparative federalism approaches do; and because it can include nongovernment decision-makers. MLG approaches let scholars study up to five governance levels, with nonhierarchical relations between some or all of them, and some nongovernment actors. Moreover, which levels participate in making decisions can vary by policy sector; i.e. they are not theoretically fixed. Nonetheless, although MLG approaches often result in more extensive, and more subtle descriptions, they did not help Studlar explain his findings; nor do they provide explanations for other decision-making patterns.

### Beyond “It Depends”

In concluding, we considered what form future efforts might take to encourage more sustained, systematic, and theoretically-driven comparative federalism scholarship beyond these two North American federations. What might emerge from collaboration among scholars comparing federalism in the United States and India, the world’s largest stable democracies? And, although many western scholars believe “developing” nations and new democracies lack the governance capacities needed to manage federalism, perhaps it is time for comparative scholars to test this (possibly patronizing) presumption. What insights might result if scholars systematically compared the founding and development of federations across such

artificial boundaries? We hope the articles in this special issue will excite you, as it did us, to imagine the impact such exciting and demanding projects could have on the field.

## Notes

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1. The conference was funded by The U.S. Department of Education Fund for the Improvement of Post-Secondary Education.
2. Dr Katherine Harrison, University of British Columbia, Vancouver, who participated in the conference as a commentator contributed the concept of “it depends” to describe her sense that in the end all of our comparative schemas depend on each federation’s unique combination of characteristics.
3. Fiscal relations are postulated as competitive when it is expected that higher taxes by one level of government in a federation will result in lower taxes at the other levels. Alternatively, fiscal intergovernmental relations would be complementary if taxes at different levels of government move in the same direction.
4. Equalization system in Canada provide a subsidy for poorer (“have not”) provinces which the authors claim may let them raise taxes and also may partly offset the competitive relations (this remains to be empirically examined)
5. A comparable Canadian empirical study could not be implemented due to availability of similar data to the ones used for the U.S. study.

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